

FILE NO. 140944

Petitions and Communications received from August 29, 2014, through September 8, 2014, for reference by the President to Committee considering related matters, or to be ordered filed by the Clerk on September 16, 2014.

**Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information will not be redacted.**

From Clerk of the Board, regarding consolidated response for the following departments to 2013-2014 Civil Grand Jury Report, "Ethics in the City: Promise, Practice or Pretense." File No. 140941. Copy: Each Supervisor. (1)

- District Attorney
- Ethics Commission
- Ethics Commission Executive Director
- City Attorney
- Office of the Mayor and the Chief Data Officer
- Sunshine Ordinance Task Force

From Human Services Agency, regarding Human Services Care Fund FY2013-2014 Report. Copy: Each Supervisor. (2)

From Judge Quentin L. Kopp (Ret.), regarding lease for Gleneagles Golf Course at McLaren Park. File No. 130702. Copy: Each Supervisor. (3)

From concerned citizen, regarding cameras for police officers. Copy: Each Supervisor. (4)

From Clerk of the Board, regarding consolidated response for the following departments to 2013-2014 Civil Grand Jury Report, "Inquiry into the Operation and Programs of the San Francisco Jails." File No. 140942. Copy: Each Supervisor. (5)

- Police
- Human Resources
- Sheriff
- Public Health

From Ron Miguel, regarding 110 The Embarcadero/113-115 Steuart Street. Copy: Each Supervisor. (6)

From Clerk of the Board, regarding Public Utilities Commission FYE 2015 Excess Water Use Charges. Copy: Each Supervisor. (7)

From Soriba.org, regarding application to Public Utilities Commission for transportation services. Copy: Each Supervisor. (8)

From Clerk of the Board, reporting that the following individual has submitted a Form 700 Statement. (9)

Beth Rubenstein - Legislative Aide - Assuming

From Mayor Lee, submitting a memo designating Supervisor London Breed as Acting Mayor from September 7, 2014, to September 9, 2014. Copy: Each Supervisor. (10)

From Police Commission, announcing election of the following officers: (11)

Suzy Loftus - President

L. Julius Turman - Vice President

From Clerk of the Board, the following agencies have submitted a 2014 Local Agency Biennial Conflict of Interest Code Review Report: (12)

Department of Technology

Port of San Francisco

From concerned citizens, regarding Transbay Transit Center and community facilities district. 3 letters. File Nos. 140836, 140814, 140815, 140816. Copy: Each Supervisor. (13)

C:LOB

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: September 2, 2014  
TO: Members of the Board of Supervisors  
FROM: *ACC* Angela Calvillo, Clerk of the Board  
SUBJECT: 2013-2014 Civil Grand Jury Report "Ethics in the City: Promise, Practice or Pretense"

We are in receipt of the following required responses to the San Francisco Civil Grand Jury report released June 26, 2014, entitled: **Ethics in the City: Promise, Practice or Pretense**. Pursuant to California Penal Code, Sections 933 and 933.05, the City Departments shall respond to the report within 60 days of receipt, or no later than August 25, 2014.

For each finding the Department response shall:  
1) agree with the finding; or  
2) disagree with it, wholly or partially, and explain why.

As to each recommendation the Department shall 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.

The Civil Grand Jury Report identified the following City Departments to submit responses (attached):

- Office of the District Attorney  
(Received August 21, 2014, for Findings 1a through 1f and Recommendation 1)
- Ethics Commission  
(Received August 25, 2014, for Findings 1a through 1f, 3 through 5, 6a through 6e, 7 through 16, 17a through 17c, 19, 20, 21a, 21b, 22, 23, 24a through 24c, 25a, 25b, 26, 27, 28a, 28b, and 29 and Recommendations 1 through 5, 6a, 6b, 7 through 13, 14a through 14d, 15, 16, 17a, 17b, 19, 20a, 20b, and 21 through 29)
- Ethics Commission Executive Director  
(Received August 25, 2014, for Findings 4, 5, 7, 12 through 15, 17a through 17c, 21a, 21b, 23, 25a, 25b, 26, and 27 and Recommendations 4, 5, 7, 12, 13, 14a through 14d, 15, 17a, 17b, 21, 23, and 25 through 27)
- Office of the City Attorney  
(Received August 25, 2014, for Findings 1a through 1f, 2, 3, 11, 17a through 17c, 23, and 27 and Recommendations 1, 2, 3, 11, 17a, 17b, 23, and 27)

- Office of the Mayor and the Chief Data Officer  
(Received August 25, 2014, for Findings 4, 5, 20, 24a through 24c, and 26 and Recommendations 4, 5, 20a, 20b, 24, and 26)
- Sunshine Ordinance Task Force  
(Received August 28, 2014, for Findings 11, 12, 17a through 17c, and 20 and Recommendations 11, 12, 17a, 17b, 20a, and 20b)

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Section 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at an upcoming hearing and will prepare the Board’s official response by Resolution for the full Board’s consideration.

c:

Honorable Cynthia Ming-mei Lee, Presiding Judge  
Elena Schmid, Foreperson, 2013-2014 San Francisco Civil Grand Jury  
Antonio Guerra, Mayor’s Office  
Roger Kim, Mayor’s Office  
Joy Bonaguro, Chief Data Officer  
Ben Rosenfield, Controller  
Asja Steeves, Controller’s Office  
George Gascon, District Attorney  
Sharon Woo, District Attorney’s Office  
Jon Givner, Deputy City Attorney  
Rick Caldeira, Legislative Deputy  
Severin Campbell, Budget and Legislative Analyst’s Office  
Matt Jaime, Budget and Legislative Analyst’s Office  
John St. Croix, Ethics Commission  
Allyson Washburn, Sunshine Ordinance Task Force  
Victor Young, Office of the Clerk of the Board



George Gascón  
District Attorney

JUNE D. CRAVETT  
Assistant Chief District Attorney  
DIRECT DIAL: (415) 551-9537  
E-MAIL: JUNE.CRAVETT@SFGOV.ORG

August 21, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California  
City and County of San Francisco  
400 McAllister Street, Room 008  
San Francisco, CA 94102-4512

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 AUG 21 PM 3:09

Re: In the Matter of the 2013-2014 Civil Grand Jury Report "Ethics in the City: Promise, Practice or Pretense"—District Attorney's Response

Dear Judge Lee:

Pursuant to California Penal Code sections 933 and 933.05, I write to provide the District Attorney's response to Findings 1a through 1f, and to Recommendation 1, of the Civil Grand Jury's report entitled "Ethics in the City: Promise, Practice or Pretense," issued in June 2014.

**Finding No. 1a:** The Ethics Commission lacks resources to handle major enforcement cases. These include, for example, cases alleging misconduct, conflict of interest, violating campaign finance and lobbying laws, and violating post-employment restrictions.

**Response to Finding No. 1a:** The District Attorney defers to the Ethics Commission's response to this finding.

**Finding No. 1b:** The Ethics Commission has only two investigators.

**Response to Finding No. 1b:** The District Attorney agrees with this finding.

**Finding No. 1c:** The confidentiality required of Ethics Commission investigations runs counter to the Commission's other duties to make information more public and to increase the transparency of government.

**Response to Finding No. 1c:** The District Attorney disagrees with this finding. The Commission is in the same position with respect to the timing of any public disclosure of violations whether the investigation is conducted by the Commission, the City Attorney, the District Attorney or the Fair Political Practices Commission. In order to insure that the investigation of an ethics complaint is not compromised, public disclosure typically must wait until the investigation is complete.

Letter to The Honorable Cynthia Ming-mei Lee  
Page 2  
August 21, 2014

**Finding No. 1d:** The District Attorney, City Attorney and the Fair Political Practices Commission have more substantial investigative staffs.

**Response to Finding No. 1d:** The District Attorney agrees with this finding.

**Finding No. 1e:** The Fair Political Practices Commission has been very active in bringing enforcement actions, and handles enforcement for some local units of California government.

**Response to Finding No. 1e:** The District Attorney has insufficient information to agree or disagree with this finding.

**Finding No. 1f:** Enforcement is best handled outside of the environment of political partisanship and preferences.

**Response to Finding No. 1f:** The District Attorney agrees that enforcement of ethics violations should be free from political partisanship and preferences. The District Attorney does not agree with this finding to the extent it implies this cannot be accomplished when enforcement is handled by local agencies.

**Recommendation No. 1:** The Jury recommends a contract with the Fair Political Practices Commission for at least a two-year pilot basis to enforce both state and related San Francisco law violations.

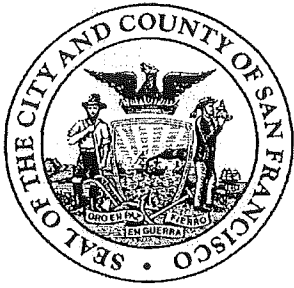
**Response to Recommendation No. 1a:** The recommendation will not be implemented by the District Attorney. The District Attorney has no role in contracting on behalf of the City. Additionally, the enforcement authority of the Ethics Commission is governed by the San Francisco Charter (see Section 3.699-12).

Respectfully,

George Gascón  
District Attorney



June D. Cravett  
Assistant Chief District Attorney



# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

BENEDICT Y. HUR  
CHAIRPERSON

PAUL A. RENNE  
VICE-CHAIRPERSON

BRETT ANDREWS  
COMMISSIONER

BEVERLY HAYON  
COMMISSIONER

PETER KEANE  
COMMISSIONER

JOHN ST. CROIX  
EXECUTIVE DIRECTOR

August 22, 2014

The Honorable Presiding Judge Cynthia Ming-mei Lee  
400 McAllister Street, Department 206  
San Francisco, CA 94102

Re: Civil Grand Jury Report: Ethics in the City

Dear Judge Lee:

The Ethics Commission recognizes the sincere efforts of the 2013-14 Civil Grand Jury and the amount of work put into their report, which covers a broad range of issues. The Commission also appreciates that the Civil Grand Jury has made a number of positive and helpful suggestions for improvement in the regulation and enforcement of the City's campaign and conflict-of-interest laws.

The Commissions response to the Civil Grand Jury report is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Hur", with a long horizontal flourish extending to the right.

Benedict Y. Hur  
Chairperson

Cc: Board of Supervisors

## **Ethics in the City: Promise Practice or Pretense**

### **Response to Findings and Recommendations**

#### **California Penal Code, section 933.05**

#### **San Francisco Ethics Commission**

**Finding 1a:** The Ethics Commission lacks resources to handle major enforcement cases. These include, for example, cases alleging misconduct, conflict of interest, violating campaign finance and lobbying laws, and violating post-employment restrictions.

**Finding 1b:** The Ethics Commission has only two investigators.

**Finding 1c:** The confidentiality required of Ethics Commission investigations runs counter to the Commission's other duties to make information more public and to increase the transparency of government.

**Finding 1d:** The District Attorney, City Attorney and the Fair Political Practices Commission have more substantial investigative staffs and larger budgets.

**Finding 1e:** The Fair Political Practices Commission has been very active in bringing enforcement actions, and handles enforcement for some local units of California government.

**Finding 1f:** Enforcement is best handled outside of the environment of political partisanship and preferences.

**Recommendation 1:** The Jury recommends a contract with the Fair Political Practices Commission for at least a two-year pilot basis to enforce both state and related San Francisco law violations.

*Findings 1a: Agree. While the Ethics Commission acknowledges that, like many agencies, it does not have the full resources it could use in carrying out its mission, it is productive in resolving its enforcement cases.*

*Finding 1b: Agree. The Ethics Commission currently has two investigators; a third position exists but remains vacant because it is unfunded.*

*Finding 1c: Disagree. There is nothing inconsistent with the confidentiality requirements relating to enforcement actions and the Ethics Commission's role in making information public and promoting transparency of government. The confidentiality of investigations is required by the Charter; it has no impact on the other duties of the Commission not related to investigations/enforcement.*



*Finding 1d: Agree. Other, larger law enforcement entities do have more investigative staffs; they also generally have a larger workload than their resources can easily accommodate.*

*Finding 1e: Agree, partially. While the FPPC handles enforcement matters for the County of San Bernardino, and otherwise initiates some enforcement actions in local jurisdictions, they generally do not enforce local laws.*

*Finding 1f: Agree. However, the budget process is the primary attachment of the Ethics Commission to the City; the Commission has not experienced undue influence as a result of this relationship.*

*Recommendation 1: Will not be implemented. The Ethics Commission sees no need for this and it is possible that the Charter would prohibit such a contract. Currently, the FPPC is not allowed to do this under state law (a pilot program exists between the FPPC and the County of San Bernardino, but this is the only jurisdiction allowed under existing statute).*

**Finding 2:** In some instances, improper campaign contributions were returned to the contributor rather than forfeited to the City as required by City law. The Jury found no record of the Commission acting to waive or reduce the forfeiture.

**Recommendation 2:** The Board of Supervisors should request an independent audit by the City Attorney to determine whether prohibited contributions were forfeited to the City as required by law.

*While the Commission does not have knowledge of any improper contributions, it does recommend that the Board of Supervisors request an independent audit by the City Attorney.*

**Finding 3:** A broader Citizen's Right of Action to enforce ethics laws will provide assurance to the public that the laws will be enforced.

**Recommendation 3:** The Jury recommends that the Ethics Commission and the Board of Supervisors act to enhance the Citizen's Right of Action to enforce all of the City's ethics laws, with an award of attorney fees and a share of any penalties going to the City for a successful filer, as was provided by Proposition J.

*Finding 3: Agree.*

*Recommendation 3: Will be implemented. The Ethics Commission will investigate to determine whether an enhancement to a Citizens Right of Action would accomplish the further assurance to the public that the laws would be enforced.*

**Finding 4:** Some information currently reported and posted is not put into the standard searchable electronic format. The Jury specifically finds that contract approval forms, Form 700

forms, behested payments forms, and Lobbyists on Behalf of the City forms can be converted to a searchable format before they are posted.

**Recommendation 4:** That contract approval forms be converted to a format which allows searches by the name of the official, by the name of the contractor, the value of contracts and the date the contract was signed. Behested payments information should be filed electronically in a format that allows for searches and data aggregation. Form 700s should be formatted to allow data to be searched on income sources, outside employment, gift sources and travel.

*Finding 4: Partially agree. There is some information filed with the Ethics Commission not currently in searchable electronic format.*

*Recommendation 4: Partially implemented/partially will not be implemented. Converting each type of form into such a format requires expensive development of software platforms. This particular recommendation would be extremely expensive. Over time, the Commission plans to develop such platforms for most if not all of the filings it administers. Lack of funding for development means that the addition of the various forms will be done as resources are made available. It should be noted, for example, that 2014 is the first time ever that all Form 700 financial disclosures filed with the Ethics Commission had to be submitted electronically. This was an important, but technically difficult step. Since there is no specified state electronic schema for these forms, creating a searchable database would be risky as it might not conform to state standards when they are eventually promulgated. But it is a desirable goal and will be accomplished eventually. Absent the proper software, data would have to be entered manually. This is unrealistic as the cost would be higher in terms of staff time and attendant issues would arise such as transfer error.*

*The Commission has already made great progress in moving its many filings into electronic databases, and there should be no doubt that this will continue. San Francisco is ahead of the majority of jurisdictions in this area. For example, The New York Times recently noted that the Federal Election Commission takes weeks and in some cases more than a month to process campaign finance filings of federal candidates, whereas in San Francisco this information is processed in a matter of minutes.*

*Note: this recommendation includes Behested Payment Forms, which are not filed with the Ethics Commission.*

**Finding 5:** Required filings are treated independently and cannot easily be cross searched electronically using common data reference fields like name and organization to access and aggregate information types, such as dollar amounts, that cross between filings.

**Recommendation 5:** The Ethics Commission work to develop a common format database for data posted to DataSF, initially aiming to combine campaign, lobbying and Form 700 data.

*Finding 5: Disagree partially. This assertion is not completely accurate. The Commission compiles all campaign and lobbyist filings on DataSF so that the information may be searched and aggregated. In fact, the Commission uses the campaign and lobbyist data on DataSF to aggregate and visualize the data on the Commission's web dashboards.*

*A recent report by the Mayor's Office describes "how the San Francisco Ethics Commission uses DataSF to increase transparency by summarizing and creating visualizations related to ethics data and reports." Further, the report states "Our top referrer is the Ethics Commission, see Figure 12, which has made extensive use of DataSF not only as a publishing platform but as a means to create dashboards and visualizations on its own site. See Figure 13 on the next page for a screenshot showing how the Ethics Commission creates visualizations using the DataSF platform and then embeds the visualizations into a web page. This makes them the top embedders, i.e. the top data visualizations that have been viewed within an external website."*

*Further, according to "Governing" magazine, the U.S. Open Data Census in March of this year rated San Francisco as the "best city for open data" in the country. The study involved gives both our lobbyist reporting system and our campaign finance system perfect scores.*

*Recommendation 5: Partially implemented/partially awaiting state action. The Commission notes that the campaign and lobbyist data are already available in a common database format on DataSF. Form 700 data is not on DataSF because a state data schema has yet to be defined by the Fair Political Practices Commission and the Commission will revisit this issue by February 2015.*

**Finding 6a:** City officials, both those in elective office and political appointees, may create separate committees to raise funds and campaign for political party office such as the Party Central Committees, as well as separate committees to raise funds and campaign for ballot measures or to contribute to other candidate. There are no limits on contributions to these committees.

**Finding 6b:** If candidates seek election to local political party committees during the same election cycle while also seeking election to an official City position, including supervisor, candidate committee rules do not apply. Thus while being limited to a \$500 cap in a City contest (or even an outright prohibition on contributions), donors may contribute additional funds through the back door of a political party contest.

**Finding 6c:** The rise of major donors, and the potential for further influence following the recent U.S. Supreme Court decisions may well influence elections far beyond what political party affiliation has historically done.

**Finding 6d:** Corporations may not contribute directly to a candidate for City office but may instead contribute to a business association that contributes to a candidate, or to a nonprofit that spends on behalf of a candidate, or to another committee controlled by the candidate or officeholder, or through an independent expenditure committee.

**Finding 6e:** Corporate money is being funneled into local campaigns through a web of nonprofit organizations. The Jury cannot determine whether the main effect is to hide the true source of contributions or if this shields illegal contributions from disclosure. The Ethics Commission has not discussed a disclosure strategy to make this information public.

**Recommendation 6a:** The Commission should proactively look at ways to track back 501(c) (3) & (4) money to real donors before the start of campaigns where this kind of money will be important; its true source should be identified.

**Recommendation 6b:** The Commission should propose ordinance amendments to require disclaimers in mailings, ads, door hangers and other voter outreach materials funded by committees whose individual donors are not identified to the satisfaction of a reasonable person which states, “this is paid for by (insert organization name) funded by anonymous donors in this campaign cycle.”

*Findings 6a – 6b: There is no disagreement with these statements.*

*Finding 6c: Agree. However there is no evidence provided in the report that proves this to be true locally (the trend in San Francisco in recent years has been a reduction in the number of Major Donors).*

*Finding 6d: Agree.*

*Finding 6e: Not enough information is provided in the report to agree.*

*Recommendation 6a: Newly implemented. Effective July 1, 2014, a new state law requires “Multipurpose Organizations,” including nonprofits and federal and out-of-state PACs spending on state and local elections to report as political committees and disclose those donors who are the sources of funds used for political purposes. However, absent qualifying as a campaign committee under state law, nonprofit organizations appear to be generally entitled to keep their donors confidential. (Ref. 26 USC 6103/6104/7431; NAACP vs. Alabama, 357 US 449 [1958]).*

*Recommendation 6b: The Ethics Commission require further analysis of this recommendation and will include a discussion of the merits as part of its upcoming consideration of a package of proposals for changes in the Campaign Finance Reform Ordinance (CFRO) anticipated later this year.*

**Finding 7:** The Ethics Commission provides written information only in English although San Francisco has strong political participation from communities and officials whose first language is not English and who require guides and educational materials relevant to their needs.

**Recommendation 7:** The Ethics Commission should make guides and educational materials available in the major languages as is done in other City Departments.

*Finding 7: Agree. This is correct for the time being.*

*Recommendation 7: Will be implemented. The Commission will make guides in education materials as is done in other departments.*

**Finding 8:** The current definition of “lobbyist” and “contacts” does not provide the public with sufficient information to understand how City Hall decisions are influenced despite the intent of the law.

**Recommendation 8:** The lobbyist ordinance should be reviewed and amended to provide clearer public disclosure of contacts with City officials regarding the interests of clients, and who should be required to register and make disclosures.

*Finding 8: Partially agree. The ordinance was recently amended and updated at the Board of Supervisors (changes not in effect at time Finding was written).*

*Recommendation 8: Currently under implementation. The new definitions and provisions have been drafted into regulations by the Ethics Commission staff and will be reviewed by the Commission at its regular July 2014 meeting. These new provisions and regulations should be in effect by the end of the calendar year.*

**Finding 9:** The effort to influence City Hall decisions is not limited to contacts with City officials but also includes outreach to community, political and nonprofit organizations as well as to the general public through television ads, mailers, robocalls, polling, and other strategies. In 2010 the Ethics Commission proposal was approved by the Board to eliminate reporting on these expenditures.

**Recommendation 9:** The requirement for disclosure of all expenditures aimed at influencing City Hall decisions should be reinstated in the law with full public disclosure.

*Finding 9: Agree. Under the change, which was part of a successful simplification of the lobbyist registration process, Expenditure Lobbyists would still have to register paid lobbyists, but the expenditures made to influence public opinion were no longer captured when the changes went into effect. Prior to the change, only five organizations had ever reported expenditure lobbying: In 2007, the California Urban Issues Project reported expenditures of \$46,400 and the Small Property Owners of SF reported spending \$1,000. In 2009, the California Urban Issues Project reported \$1,702, the SF Common Sense Coalition reported \$58,110 and the SF Firefighters Local 798 reported \$367,350. Because the actual number of such reported expenditures were so few, it was not*

*a controversial decision to drop this requirement due to the limited benefit provided; at the time, no public objection was made.*

*Recommendation 9: Will be implemented should the Board of Supervisors adopt a measure; the Commission will ensure that any such measure is enforced. Within the next 12 months the Ethics Commission will consider re-examining whether or not there is a need to make further changes to the lobbying ordinance to enhance public disclosure of expenditures aimed at influencing City Hall decisions.*

**Finding 10:** People holding themselves out as "strategic advisors" provide advice on ways to influence City decision-making.

**Recommendation 10:** Work of "strategic advisors" that provide guidance on winning approvals from City officials and/or the public should be reviewed by the Ethics Commission for possible inclusion in the lobbyist registration and/or campaign consultant law.

*Finding 10: Unable to agree. This finding is not adequately explained in the report making it difficult to respond.*

*Recommendation 10: Will not be implemented. Regulating activity that is not lobbying and that is not campaign consulting would appear to be outside of the Ethics Commission's jurisdiction since it would not involve government contacts or campaign activity.*

**Finding 11:** The role of e-mail and text messages in governmental decision-making has not been fully discussed and explored. Rules on preservation of e-mails in public records are very hazy and some departmental officials told the Jury they routinely delete e-mail. Guidance from the City Attorney on preservation of e-mail is non-specific. There is no guidance regarding text messages. There is no policy that applies to private e-mails and text messages that further public decision-making.

**Recommendation 11:** The Ethics Commission in conjunction with the City Attorney should develop a policy to ensure preservation of e-mails and text messages consistent with preservation of other public records. The policy, along with policies on preservation of public records, should be made available for public comment. Once it is completed and published it should be made available on City Attorney and Ethics Commission web pages that lists each Department, its policy, and how to obtain documents.

*Finding 11: Partially agree. The City document retention policy does not require retention of correspondence for any specific period of time; this would include e-mails. Departments are free to create more restrictive rules as they find necessary.*

*Recommendation 11: Needs further analysis subject to an upcoming Supreme Court ruling. The City's document retention policy does not appear hazy. The Administrative Code requires each department to have its own policy and schedule regarding retention. The concept regarding the regulation of text messages is understandable, but compares to the regulation of telephone calls. The process for overseeing these activities seems untenable and would likely require incredible resources, although it should be the subject of continued discussion. The questions and issues in the area of private texts and private e-mails are currently under debate in the California court system; the most current ruling states that these items are not in the public domain. However, the issue is now to be heard by the California Supreme Court; the subsequent ruling should dictate the City's course of action.*

**Finding 12:** Many departments have failed to post their sources of outside funding, as required by the Sunshine Ordinance.

**Recommendation 12:** The Jury recommends that the Ethics Commission and the Sunshine Ordinance Task Force review departmental web sites for compliance and notify non-compliant departments to immediately post their sources of outside funding, or face a show-cause before the Ethics Commission on why the information has not been posted.

*Finding 12: The Commission does not have enough information to respond to this finding so it cannot yet agree.*

*Recommendation 12: Will be partially implemented. The Commission Director will direct staff to notify all departments to remind officials and employees to follow this requirement and ensure that such postings are easy to locate on departmental web sites.*

**Finding 13:** When violations of the standards in a departmental Statements of Incompatible Activities are enforced departmentally as a disciplinary matter, the Ethics Commission is not notified and the discipline is not disclosed to the public.

**Recommendation 13:** All violations of departmental Statements of Incompatible Activities should be disclosed to the Ethics Commission and posted on the Commission's web site.

*Finding 13: Agree. Normally, departments are required to keep employee disciplinary measures confidential. In accordance with the Civil Service Commission's "Citywide Employee Personnel Records Guidelines," all employee personnel records—including records of completed/resolved/sustained disciplinary actions—must be maintained only in the employee's Official Employee Personnel File ("OEPF"). How long a disciplinary action remains in the OEPF and what is removed from an OEPF will vary depending on departmental policy and the applicable collective bargaining agreement. Employees' OEPFs are maintained in their departments; the Ethics Commission does not have access to those files. Thus, only the department head would have*

*information regarding disciplinary matters. Moreover, even if the Ethics Commission did have that information, the right of privacy in the California Constitution protects employees from unwarranted disclosure of confidential information. Cal. Const. Art. I, Section 1. Accordingly, as information regarding disciplinary actions taken against an employee is considered a confidential personnel matter/ confidential personnel information it is not normally disclosable. In addition, there are a number of other state laws protecting employee privacy not mentioned here.*

*Recommendation 13: Will not be implemented. The Commission's position is that this cannot be implemented when it violates employee privacy rights.*

*Additionally, only a narrow range of five types of employee misconduct is disclosable, and even then ONLY when such matters are "confirmed." The "Good Government Guide" indicates that the process for determining if such matters are confirmed is "unclear." Further, the Guide states that "The privacy issues pertaining to these types of personnel records can be complex, and other considerations in addition to privacy, such as the need to maintain effective investigations, may be relevant."*

*The categories not exempt from disclosure are: 1) personal dishonesty, 2) misappropriation of public funds, resources or benefits, 3) unlawful discrimination against another on the basis of status, 4) abuse of authority, and 5) violence.*

*The disclosable categories are not necessarily addressed in each departmental SLA. Therefore, in order to carry out this recommendation, the Ethics Commission would have to take each reported case of employee misconduct, analyze whether it meets the disclosable threshold under local law, and then compare it with the requirements of the individual departmental SLA. There are at least 53 different departmental SLAs in existence; administering this proposal would be both difficult and incredibly time consuming and possibly incite a legal challenge.*

**Finding 14:** The Ethics Commission has increased compliance by notifying any employee who fails to file Form 700 within 30 days after the deadline that he or she must file or face potential penalties.

**Recommendation 14a:** The Ethics Commission should continue to routinely notify all non-filers of their obligation within 30 days of the state filing deadline.

**Recommendation 14b:** The Ethics Commission should recommend dismissal for any officer or employee who fails to file 90 days after the deadline.

**Recommendation 14c:** The Ethics Commission should recommend dismissal for any officer or employee who files a Statement of Economic Interest (Form 700) that is inaccurate and relevant to the position they hold.



**Recommendation 14d:** Now that all Form 700 filers file electronically, the Ethics Commission should require that all Form 700s be filed with them as well as with the Department filing officer.

*Finding 14: Agree.*

*Recommendation 14a: Implemented. The Commission already does this.*

*Recommendation 14b & c: Will be implemented in amended form. If someone has failed to file within 90 days, the Ethics Commission will recommend to the appointing authority suspension of that person until they have filed.*

*Recommendation 14d: Will be implemented in the future. The Ethics Commission has already discussed doing this and it is an eventual goal. 2014 is the first year that Forms 700 filed with the Commission have been filed exclusively electronically. The Director notes that while this process was successful and resulted in only five non-filers as of this writing, it was also difficult to convert the many filers to a new process. The Commission needs a few years to settle into the new process but would like to introduce a change wherein all Form 700 filers in the City file directly with the Ethics Commission electronically. We envision doing this in the foreseeable future; a set timeframe is not possible because it will largely be determined by available funding.*

**Finding 15:** The disclosures in Form 700 filings also may reveal violations of San Francisco laws that are enforced locally. This includes compensated advocacy before other commissions and arrangements that violate the locally adopted and enacted Statements of Incompatible Activities for each department.

**Recommendation 15:** The Ethics Commission should audit and act on violations disclosed through Form 700 filings of local prohibitions such as compensated advocacy and incompatible activities, and enforce these violations with strong action.

*Finding 15: Agree.*

*Recommendation 15: Implemented. The Ethics Commission already does this. The Director notes that while we do not have the staffing resources to audit all Form 700 filings, we do review a portion of them based on investigative criteria, complaints filed and other information that is brought to our attention.*

**Finding 16:** City officials travel expenses can be covered by gifts made by individuals, lobbyists, business associations, corporations or any other source, including those with financial interests in matters to be decided by the official. The public disclosure is limited to a list of donors or donor organizations contributing \$500 or more, but without specifying the total

amount of the gift. Additionally, a significant amount of travel expenses are paid through organizations that do not disclose the names of the original donors.

**Recommendation 16:** The Ethics Commission should require full disclosure of contributions or payments for official travel of City officials, including the actual amount contributed and the names of the original donors. The official should also disclose what official business was conducted, including meetings, who participated in the meetings, topics, speeches given, ceremonies attended and other information.

*Finding 16: Agree. Gifts of travel are governed by a myriad of state and local rules; additional disclosure may be advisable.*

*Recommendation 16: Requires further analysis. The Ethics Commission will conduct more analysis on this item in its upcoming plans for proposed changes to the Governmental Ethics Ordinance (GEO) anticipated next year. The Board of Supervisors will need to concur.*

**Finding 17a:** There is useful information in the calendars of City Officials that should be readily available to the public.

**Finding 17b:** The Jury found calendar entries that did not meet the law's requirements, particularly in listing the meeting's subject matter and attendee names. As a result, it is not possible to crosscheck lobbyists' reports on their meetings with City officials with the calendar reports from the City officials.

**Finding 17c:** The training currently provided on the Sunshine Ordinance contains no materials on the keeping of official calendars as required by the Ordinance.

**Recommendation 17a:** The Ethics Commission staff should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.

**Recommendation 17b:** The City Attorney and the Ethics Commission ensure that those officials subject to the calendar requirement, and their administrative staff, be trained on the law's requirements.

*Findings 17a – 17c: Agree. Although there is a lack of explanatory information in the report, the Ethics Commission will not dispute these findings, except to note that the ordinance does not require attendee names.*

*Recommendation 17a: Will not be implemented. The Ethics Commission does not have the staffing resources to do this; other priorities are wanting already. The Ethics Commission recommends that departments should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.*

*Recommendation 17b: Will be implemented. The Director will work with the City Attorney's office to include this item in future annual Sunshine Trainings (although it does not apply to the vast majority of those who receive the training).*

**Finding 18:** The Board of Supervisors is not subject to this calendar requirement. Many members did provide their calendars upon request, and the information in their calendars will be helpful for public understanding of their work.

**Recommendation 18:** The Board of Supervisors should adopt a rule subjecting themselves to the public calendar requirement of the Sunshine Ordinance.

*N/A*

**Finding 19:** The public record will be better served if post-public employment restriction waivers are granted by Commission resolutions that indicate the specific grounds for granting the waiver. In at least one instance, the Ethics Commission inappropriately interpreted the "extreme hardship" standard to grant a post-public employment restriction waiver.

**Recommendation 19:** The Commission should grant or deny post-public employment restriction waiver applications by resolutions that indicate specifically how the decision meets the conditions of the ordinance.

*Finding 19: While in agreement with the first sentence of this finding, the Ethics Commission did not misinterpret the standard and disagrees with that part of the statement.*

*Recommendation 19: Will be implemented. The Commission approves of this idea and will issue written resolutions for future decisions when waivers are granted.*

**Finding 20:** Both the Ethics Commission and the Sunshine Ordinance Task Force act in good faith. They are authorized to come to similar ends—transparency in government. However, there are legal and procedural differences between their process and their legal requirements. Therefore, the results of their work are not in harmony with each other.

**Recommendation 20a:** The Mayor's Office should establish a blue-ribbon committee of experts and stakeholders in open government, sunshine, and transparency, including former Sunshine Task Force members. The Committee of Experts should review and update the Sunshine Ordinance as necessary and should report to both entities and the Board of Supervisors recommendations that would result in coordination and respect for the functions of each entity.

**Recommendation 20b:** For now, arrangements should be made jointly by the Ethics Commission and the Sunshine Ordinance Task Force to have complaints heard by an independent hearing officer who would develop a consistent legally sufficient record of the case

for the decision of each body. This would allow the meetings of the Task Force and the Commission to focus on broader policy issues.

*Finding 20: Generally agree. Unlike the Sunshine Ordinance Task Force, which is an advisory body, the Ethics Commission is a law enforcement agency with the ability to impose monetary and other sanctions and its procedures are more substantial. Often, differences are based more on interpretive actions.*

*Recommendation 20a: The Ethics Commission defers to the Mayor's office.*

*Recommendation 20b: Will not be implemented. The Ethics Commission does not agree with this finding and believes it is in the public's best interest to have the Commission continue to investigate and hear Sunshine Referrals and complaints. Further, there is no mechanism in the Sunshine Ordinance to do this.*

**Finding 21a:** The policy-making powers of the Ethics Commission are vested in the Commission itself, not in the Executive Director (absent express delegation by the Commission).

**Finding 21b:** The current structure where staff provides much of each Commission meeting's content creates the impression that the Commission is not an independent policy-making body.

**Recommendation 21:** The Board of Supervisors should provide the Commissioners an Executive Secretary separate from the existing Commission's employee base who will, among other duties, prepare the Commission's agendas, maintain minutes, lists of complaints, serve as a liaison for public input and interested persons meetings and assist a Commission member to be the parliamentarian.

*Finding 21a: Agree.*

*Finding 21b: Disagree.*

*Recommendation 21: Will not be implemented in the foreseeable future. The Ethics Commission's staffing priorities are for more investigators and auditors. The Commission notes that, while in an ideal world a Commission Secretary is desirable, for a commission this small it is not an urgent need.*

**Finding 22:** While the Commission's Bylaws authorize committees, no committees have been established or meet. One result is that all matters requiring deliberation by the Commission are heard only once a month, in a process that can extend for many months and sometimes for years. If the Commission acts through its committee structure, issues can be explored and brought to the full Commission in a more developed state, thus providing a better basis for the Commission's actions.

**Recommendation 22:** The Commissioners should use their committee structure to focus on Ethics Commission issues. In the weeks between monthly meetings, each commissioner could

take the lead on issues of concern to the Ethics Commission, such as developing policies on emerging campaign finance issues, transparency matters, complaint processing and training. This structure would allow for more interaction with the public and the regulated community.

*Finding 22: Partially agree. Some Commission deliberations have extended for months but not for years, notwithstanding one case of extended delay created at the request of and as a courtesy to the Sunshine Ordinance Task Force.*

*Recommendation 22: May be implemented. The Commission will consider using committees on an as-needed basis. The committee system was designed for larger bodies. A commission of only five members using a committee system would likely entail a larger number of meetings unwieldy for such a small body and would result in redundant sessions. Commissioners are volunteers donating a great deal of their time and wisdom to the city and have managed to conduct business appropriately. As needed, special meetings have been conducted to move more sizable or difficult issues before the Commission. Even Roberts Rules of Order states that the formality necessary in a large assembly would hinder the business of a small board.*

**Finding 23:** While the Charter mandates the City Attorney represent the Ethics Commission, conflicts have arisen repeatedly and the Ethics Commission has had to obtain outside counsel. We find these instances of conflict are likely to continue and that the Commission is best represented by a consistent set of lawyers who are not City employees.

**Recommendation 23:** That the Ethics Commission apply to the City Attorney for permission to engage outside counsel for advice and recommendations.

*Finding 23: Mostly disagree. The Ethics Commission has obtained outside counsel only three times.*

*Recommendation 23: Needs further analysis. This Ethics Commission is willing to discuss the merits of this with the City Attorney, but has concerns about continuity and costs. Under the Charter, it is ultimately not the Commission's decision to make.*

**Finding 24a:** The Jury was unable to locate and the Ethics Commission was unable to provide copies of any reports or notes of oral presentations to the Mayor or to the Board of Supervisors as required in the Charter to report annually on the effectiveness of San Francisco's ethics laws.

**Finding 24b:** The Jury was unable to locate any reports that reviewed changes in laws aimed at transparency and ethical conduct adopted in other jurisdictions that might be relevant to San Francisco. The only references were to changes based on court decisions that lessened public disclosure and protections against the influence of money in politics, even when those decisions were not based on San Francisco cases.

**Finding 24c:** The proper standard to judge the effectiveness of laws is to consider their ability to achieve the purposes set forth in each law when it was enacted.

**Recommendation 24:** The Mayor and the Board of Supervisors should request an annual written report from the Ethics Commission that meets the standards set out in the Charter for annual reviews of the effectiveness of the City's laws. This report should be posted on the Ethics Commission web site.

*Finding 24a - c: No disagreement. Although the report states the need for constant adaptation of pertinent laws to deal with changing circumstances, it also fails to report that the Ethics Commission has vigorously reviewed the laws under its purview on an ongoing basis for just these reasons.*

*Recommendation 24: Will be implemented. The Commission will provide a report.*

**Finding 25a:** Periodic reviews of filed information are essential to ensure its validity.

**Finding 25b:** The Ethics Commission has undertaken little to no monitoring and auditing of the content of Lobbyists, Campaign Consultants, Conflict of Interest and Governmental Ethics filings beyond fines for late filing of statements; nor have they actively monitored whether former City employees abide by the restrictions on dealing with their former departments.

**Recommendation 25:** The Ethics Commission should begin to focus staff resources on monitoring and auditing other items within the Ethics Commission jurisdiction unrelated to campaigns such as the following ordinances: Conflict of Interest, Governmental Ethics, The Lobbyist Ordinance, Campaign Consultant Ordinance, and the Sunshine Ordinance.

*Finding 25a – b: While true, this finding describes a huge volume of work. We disagree with the characterization of "little to no."*

*Recommendation 25: Partially implemented. Provided with sufficient resources, more work in the area will be accomplished. The Commission staff does much more of this work than the finding indicates, but lacks the staff and resources to do this work on a comprehensive basis. As it is, the staff can only audit a few non-publicly financed campaigns each year due to resource limitations. The Commission notes that additional auditors are needed just for campaign finance; extending the audit reach is a desirable notion, but like many of these recommendations, this one comes with costs but no suggestions on how to meet them. Note: recent changes in the lobbyist ordinance will require audits of lobbyists in the future.*

**Finding 26:** The Ethics Commission, though its staff, can catalog information reported elsewhere that is relevant for supplemental understanding of information currently reported locally. Links to this information would be a logical addition to the Ethics Commission web site.

**Recommendation 26:** The Ethics Commission should determine information reported elsewhere that is relevant for supplemental understanding of information currently reported locally, and provide links to it on the Ethics Commission web site, if it cannot be imported and posted.

*Finding 26: Disagree. The concept is too broad to understand appreciably.*

*Recommendation 26: Already implemented. The Commission already provides links to the Secretary of State's CAL-Access database and material on the Fair Political Practices Commission web site. The Ethics Commission Staff will continue to link to other relevant web sites where appropriate. The Commission adds that it should be noted that the Commission's website is already considered among the best and most comprehensive sites in the country.*

**Finding 27:** The Charter requires that proposals to amend campaign finance and ethics laws explain how the change will assist in furthering the purpose of the law. The Ethics Commission proposals have not included any statements showing that its proposals will further the purposes of the law.

**Recommendation 27:** When a bill is proposed or passed to amend campaign finance and ethics laws, it should specify how it "furtheres the purposes of this Chapter".

*Finding 27: Disagree. There is no basis for this finding.*

*Recommendation 27: Already implemented. All proposed changes to existing ordinances are accompanied by comprehensive staff memoranda explaining the details and purposes of the proposed changes.*

**Finding 28a:** The Commission has not taken an active role in questioning the propriety of actions that skirt the edges of legality. This inquiry can feed into reports on the effectiveness of laws, and also remind public officials that they can be called to account for the appearance of impropriety.

**Finding 28b:** The general public needs an opportunity to talk to the Ethics Commission about their expectations and beliefs on ethical behavior of public officials. This initial discussion may help to highlight matters that appear to be improper.

**Recommendation 28:** That the Commission hold hearings, whether through their committees or in the full Commission, to ask the public to report matters that appear improper, then call the responsible officials before the Commission to account for and defend their actions.

*Finding 28a: Disagree. There is no basis for this finding. The Ethics Commission staff frequently discusses the appropriateness of the behavior of public officials and whether such behavior warrants investigation. Such discussion often prompts changes to ordinances, rules and regulations.*

*Finding 28b: No disagreement. The public is free to, and very frequently does, communicate to the Commission through public comments and written and electronic messages.*

*Recommendation 28: Will not be implemented. Allowing anyone to force public officials to appear before the Ethics Commission to defend themselves against such charges invites anyone with personal agendas to create punitive actions against public officials – at will – whether there is a basis or not for such accusations. This proposal does not regard actual law-breaking, but merely the appearance of impropriety and calls Constitutional issues directly into consideration.*

**Finding 29:** The Findings and Declarations of Proposition J clearly articulate many public concerns with role of money in politics and should be re-adopted, perhaps adapted to be part of the general conflict of interest law - Chapter 2 of Article III of the C&GCC.

**Recommendation 29:** That the Ethics Commission hold a hearing on "Proposition J Revisited" to consider how some of its concepts apply today and whether the "public benefit" definition includes elements that should be incorporated into sections of the C&GCC, and specifically consider offering amendments to C&GCC which re-incorporate its Findings and Declarations into current San Francisco law, and to consider placing these amendments on the ballot.

*Finding 29: Disagree. The intents and purposes of Proposition J were redrafted, clarified and expanded by Proposition E in 2003, in apparent response to concerns that existing law was outdated, inadequate and confusing (and, as noted below, subject to a court challenge). The Board of Supervisors unanimously voted to place the measure on the ballot by a vote of 10-0, and all eleven supported the measure (Ammiano, Daly, Dufty, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval and Ma. Ma was not present for the vote.). This measure was also supported by Common Cause. The measure was also supported unanimously at the Ethics Commission by Commissioners Melbostad, Planthold, Garcia and McCoy. Proposition E was adopted with support from 62% of the voters.*

*Recommendation 29: Needs further analysis. City laws prevent all City officials and employees from accepting anything of value for the duties they perform. In addition, local ordinance identifies a number of "restricted sources" who may not make donations to candidates and office holders. Note: The language in Proposition J was determined to be unconstitutional by the Los Angeles Superior Court in 2002. That ruling still stands and there is no reason to believe that it would fare differently in San Francisco, indicating that a measure to readopt Proposition J, as written, would be fruitless. The Commission intends to include this issue as part of a larger discussion of the conflict-of-interest and campaign finance rules.*





# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

BENEDICT Y. HUR  
CHAIRPERSON

PAUL A. RENNE  
VICE-CHAIRPERSON

BRETT ANDREWS  
COMMISSIONER

BEVERLY HAYON  
COMMISSIONER

PETER KEANE  
COMMISSIONER

JOHN ST. CROIX  
EXECUTIVE DIRECTOR

August 22, 2014

The Honorable Presiding Judge Cynthia Ming-mei Lee  
400 McAllister Street, Department 206  
San Francisco, CA 94102

Re: Civil Grand Jury Report: Ethics in the City

Dear Judge Lee:

The 2014 Civil Grand Jury produced a report regarding the Ethics Commission. In 13 of their findings/recommendations, they requested that both the Ethics Commission and the Ethics Commission Executive Director respond to those sections.

My responses must concur with those of my Commissioners. They are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "John St. Croix", written over a horizontal line.

John St. Croix  
Executive Director

Cc: Board of Supervisors

**Ethics in the City: Promise Practice or Pretense**  
Response to Findings and Recommendations  
California Penal Code, section 933.05  
San Francisco Ethics Commission Executive Director

**Finding 4:** Some information currently reported and posted is not put into the standard searchable electronic format. The Jury specifically finds that contract approval forms, Form 700 forms, behested payments forms, and Lobbyists on Behalf of the City forms can be converted to a searchable format before they are posted.

**Recommendation 4:** That contract approval forms be converted to a format which allows searches by the name of the official, by the name of the contractor, the value of contracts and the date the contract was signed. Behested payments information should be filed electronically in a format that allows for searches and data aggregation. Form 700s should be formatted to allow data to be searched on income sources, outside employment, gift sources and travel.

*Finding 4: Partially agree. There is some information filed with the Ethics Commission not currently in searchable electronic format.*

*Recommendation 4: Partially implemented/partially will not be implemented. Converting each type of form into such a format requires expensive development of software platforms. This particular recommendation would be extremely expensive. Over time, the Commission plans to develop such platforms for most if not all of the filings it administers. Lack of funding for development means that the addition of the various forms will be done as resources are made available. It should be noted, for example, that 2014 is the first time ever that all Form 700 financial disclosures filed with the Ethics Commission had to be submitted electronically. This was an important, but technically difficult step. Since there is no specified state electronic schema for these forms, creating a searchable database would be risky as it might not conform to state standards when they are eventually promulgated. But it is a desirable goal and will be accomplished eventually. Absent the proper software, data would have to be entered manually. This is unrealistic as the cost would be higher in terms of staff time and attendant issues would arise such as transfer error.*

*The Commission has already made great progress in moving its many filings into electronic databases, and there should be no doubt that this will continue. San Francisco is ahead of the majority of jurisdictions in this area. For example, The New York Times recently noted that the Federal Election Commission takes weeks and in some cases more than a month to process campaign finance filings of federal candidates, whereas in San Francisco this information is processed in a matter of minutes.*

*Note: this recommendation includes Behested Payment Forms, which are not filed with the Ethics Commission.*

**Finding 5:** Required filings are treated independently and cannot easily be cross searched electronically using common data reference fields like name and organization to access and aggregate information types, such as dollar amounts, that cross between filings.

**Recommendation 5:** The Ethics Commission work to develop a common format database for data posted to DataSF, initially aiming to combine campaign, lobbying and Form 700 data.

*Finding 5: Disagree partially. This assertion is not completely accurate. The Commission compiles all campaign and lobbyist filings on DataSF so that the information may be searched and aggregated. In fact, the Commission uses the campaign and lobbyist data on DataSF to aggregate and visualize the data on the Commission's web dashboards.*

*A recent report by the Mayor's Office describes "how the San Francisco Ethics Commission uses DataSF to increase transparency by summarizing and creating visualizations related to ethics data and reports." Further, the report states "Our top referrer is the Ethics Commission, see Figure 12, which has made extensive use of DataSF not only as a publishing platform but as a means to create dashboards and visualizations on its own site. See Figure 13 on the next page for a screenshot showing how the Ethics Commission creates visualizations using the DataSF platform and then embeds the visualizations into a web page. This makes them the top embedders, i.e. the top data visualizations that have been viewed within an external website."*

*Further, according to "Governing" magazine, the U.S. Open Data Census in March of this year rated San Francisco as the "best city for open data" in the country. The study involved gives both our lobbyist reporting system and our campaign finance system perfect scores.*

*Recommendation 5: Partially implemented/partially awaiting state action. The Commission notes that the campaign and lobbyist data are already available in a common database format on DataSF. Form 700 data is not on DataSF because a state data schema has yet to be defined by the Fair Political Practices Commission and the Commission will revisit this issue by February 2015.*

**Finding 7:** The Ethics Commission provides written information only in English although San Francisco has strong political participation from communities and officials whose first language is not English and who require guides and educational materials relevant to their needs.

**Recommendation 7:** The Ethics Commission should make guides and educational materials available in the major languages as is done in other City Departments.

*Finding 7: Agree. This is correct for the time being.*

*Recommendation 7: Will be implemented. The Commission will make guides in education materials as is done in other departments.*

**Finding 12:** Many departments have failed to post their sources of outside funding, as required by the Sunshine Ordinance.

**Recommendation 12:** The Jury recommends that the Ethics Commission and the Sunshine Ordinance Task Force review departmental web sites for compliance and notify non-compliant departments to immediately post their sources of outside funding, or face a show-cause before the Ethics Commission on why the information has not been posted.

*Finding 12: The Commission does not have enough information to respond to this finding so it cannot yet agree.*

*Recommendation 12: Will be partially implemented. The Commission Director will direct staff to notify all departments to remind officials and employees to follow this requirement and ensure that such postings are easy to locate on departmental web sites.*

**Finding 13:** When violations of the standards in a departmental Statements of Incompatible Activities are enforced departmentally as a disciplinary matter, the Ethics Commission is not notified and the discipline is not disclosed to the public.

**Recommendation 13:** All violations of departmental Statements of Incompatible Activities should be disclosed to the Ethics Commission and posted on the Commission's web site.

*Finding 13: Agree. Normally, departments are required to keep employee disciplinary measures confidential. In accordance with the Civil Service Commission's "Citywide Employee Personnel Records Guidelines," all employee personnel records—including records of completed/resolved/sustained disciplinary actions—must be maintained only in the employee's Official Employee Personnel File ("OEPF"). How long a disciplinary action remains in the OEPF and what is removed from an OEPF will vary depending on departmental policy and the applicable collective bargaining agreement. Employees' OEPFs are maintained in their departments; the Ethics Commission does not have access to those files. Thus, only the department head would have information regarding disciplinary matters. Moreover, even if the Ethics Commission did have that information, the right of privacy in the California Constitution protects employees from unwarranted disclosure of confidential information. Cal. Const. Art. I, Section 1. Accordingly, as information regarding disciplinary actions taken against an employee is considered a confidential personnel matter/confidential personnel information it is not normally disclosable. In addition, there are a number of other state laws protecting employee privacy not mentioned here.*

*Recommendation 13: Will not be implemented. The Commission's position is that this cannot be implemented when it violates employee privacy rights.*

*Additionally, only a narrow range of five types of employee misconduct is disclosable, and even then ONLY when such matters are "confirmed." The "Good Government Guide" indicates that the process for determining if such matters are confirmed is "unclear." Further, the Guide states that "The privacy issues pertaining to these types of personnel records can be complex, and other considerations in addition to privacy, such as the need to maintain effective investigations, may be relevant."*

*The categories not exempt from disclosure are: 1) personal dishonesty, 2) misappropriation of public funds, resources or benefits, 3) unlawful discrimination against another on the basis of status, 4) abuse of authority, and 5) violence.*

*The disclosable categories are not necessarily addressed in each departmental SLA. Therefore, in order to carry out this recommendation, the Ethics Commission would have to take each reported case of employee misconduct, analyze whether it meets the disclosable threshold under local law, and then compare it with the requirements of the individual departmental SLA. There are at least 53 different departmental SLAs in existence; administering this proposal would be both difficult and incredibly time consuming and possibly incite a legal challenge.*

**Finding 14:** The Ethics Commission has increased compliance by notifying any employee who fails to file Form 700 within 30 days after the deadline that he or she must file or face potential penalties.

**Recommendation 14a:** The Ethics Commission should continue to routinely notify all non-filers of their obligation within 30 days of the state filing deadline.

**Recommendation 14b:** The Ethics Commission should recommend dismissal for any officer or employee who fails to file 90 days after the deadline.

**Recommendation 14c:** The Ethics Commission should recommend dismissal for any officer or employee who files a Statement of Economic Interest (Form 700) that is inaccurate and relevant to the position they hold.

**Recommendation 14d:** Now that all Form 700 filers file electronically, the Ethics Commission should require that all Form 700s be filed with them as well as with the Department filing officer.

*Finding 14: Agree.*

*Recommendation 14a: Implemented. The Commission already does this.*

*Recommendation 14b & c: Will be implemented in amended form. If someone has failed to file within 90 days, the Ethics Commission will recommend to the appointing authority suspension of that person until they have filed.*

*Recommendation 14d: Will be implemented in the future. The Ethics Commission has already discussed doing this and it is an eventual goal. 2014 is the first year that Forms 700 filed with the Commission have been filed exclusively electronically. The Director notes that while this process was successful and resulted in only five non-filers as of this writing, it was also difficult to convert the many filers to a new process. The Commission needs a few years to settle into the new process but would like to introduce a change wherein all Form 700 filers in the City file directly with the Ethics Commission electronically. We envision doing this in the foreseeable future; a set timeframe is not possible because it will largely be determined by available funding.*

**Finding 15:** The disclosures in Form 700 filings also may reveal violations of San Francisco laws that are enforced locally. This includes compensated advocacy before other commissions and arrangements that violate the locally adopted and enacted Statements of Incompatible Activities for each department.

**Recommendation 15:** The Ethics Commission should audit and act on violations disclosed through Form 700 filings of local prohibitions such as compensated advocacy and incompatible activities, and enforce these violations with strong action.

*Finding 15: Agree.*

*Recommendation 15: Implemented. The Ethics Commission already does this. The Director notes that while we do not have the staffing resources to audit all Form 700 filings, we do review a portion of them based on investigative criteria, complaints filed and other information that is brought to our attention.*

**Finding 17a:** There is useful information in the calendars of City Officials that should be readily available to the public.

**Finding 17b:** The Jury found calendar entries that did not meet the law's requirements, particularly in listing the meeting's subject matter and attendee names. As a result, it is not possible to crosscheck lobbyists' reports on their meetings with City officials with the calendar reports from the City officials.

**Finding 17c:** The training currently provided on the Sunshine Ordinance contains no materials on the keeping of official calendars as required by the Ordinance.

**Recommendation 17a:** The Ethics Commission staff should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.

**Recommendation 17b:** The City Attorney and the Ethics Commission ensure that those officials subject to the calendar requirement, and their administrative staff, be trained on the law's requirements.

*Findings 17a – 17c: Agree. Although there is a lack of explanatory information in the report, the Ethics Commission will not dispute these findings, except to note that the ordinance does not require attendee names.*

*Recommendation 17a: Will not be implemented. The Ethics Commission does not have the staffing resources to do this; other priorities are wanting already. The Ethics Commission recommends that departments should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.*

*Recommendation 17b: Will be implemented. The Director will work with the City Attorney's office to include this item in future annual Sunshine Trainings (although it does not apply to the vast majority of those who receive the training).*

**Finding 21a:** The policy-making powers of the Ethics Commission are vested in the Commission itself, not in the Executive Director (absent express delegation by the Commission).

**Finding 21b:** The current structure where staff provides much of each Commission meeting's content creates the impression that the Commission is not an independent policy-making body.

**Recommendation 21:** The Board of Supervisors should provide the Commissioners an Executive Secretary separate from the existing Commission's employee base who will, among other duties, prepare the Commission's agendas, maintain minutes, lists of complaints, serve as a liaison for public input and interested persons meetings and assist a Commission member to be the parliamentarian.

*Finding 21a: Agree.*

*Finding 21b: Disagree.*

*Recommendation 21: Will not be implemented in the foreseeable future. The Ethics Commission's staffing priorities are for more investigators and auditors. The Commission notes that, while in an ideal world a Commission Secretary is desirable, for a commission this small it is not an urgent need.*

**Finding 23:** While the Charter mandates the City Attorney represent the Ethics Commission, conflicts have arisen repeatedly and the Ethics Commission has had to obtain outside counsel. We find these instances of conflict are likely to continue and that the Commission is best represented by a consistent set of lawyers who are not City employees.

**Recommendation 23:** That the Ethics Commission apply to the City Attorney for permission to engage outside counsel for advice and recommendations.

*Finding 23: Mostly disagree. The Ethics Commission has obtained outside counsel only three times.*

*Recommendation 23: Needs further analysis. This Ethics Commission is willing to discuss the merits of this with the City Attorney, but has concerns about continuity and costs. Under the Charter, it is ultimately not the Commission's decision to make.*

**Finding 25a:** Periodic reviews of filed information are essential to ensure its validity.

**Finding 25b:** The Ethics Commission has undertaken little to no monitoring and auditing of the content of Lobbyists, Campaign Consultants, Conflict of Interest and Governmental Ethics filings beyond fines for late filing of statements; nor have they actively monitored whether former City employees abide by the restrictions on dealing with their former departments.

**Recommendation 25:** The Ethics Commission should begin to focus staff resources on monitoring and auditing other items within the Ethics Commission jurisdiction unrelated to campaigns such as the following ordinances: Conflict of Interest, Governmental Ethics, The Lobbyist Ordinance, Campaign Consultant Ordinance, and the Sunshine Ordinance.

*Finding 25a – b: While true, this finding describes a huge volume of work. We disagree with the characterization of “little to no.”*

*Recommendation 25: Partially implemented. Provided with sufficient resources, more work in the area will be accomplished. The Commission staff does much more of this work than the finding indicates, but lacks the staff and resources to do this work on a comprehensive basis. As it is, the staff can only audit a few non-publicly financed campaigns each year due to resource limitations. The Commission notes that additional auditors are needed just for campaign finance; extending the audit reach is a desirable notion, but like many of these recommendations, this one comes with costs but no suggestions on how to meet them. Note: recent changes in the lobbyist ordinance will require audits of lobbyists in the future.*

**Finding 26:** The Ethics Commission, though its staff, can catalog information reported elsewhere that is relevant for supplemental understanding of information currently reported locally. Links to this information would be a logical addition to the Ethics Commission web site.

**Recommendation 26:** The Ethics Commission should determine information reported elsewhere that is relevant for supplemental understanding of information currently reported locally, and provide links to it on the Ethics Commission web site, if it cannot be imported and posted.

*Finding 26: Disagree. The concept is too broad to understand appreciably.*



*Recommendation 26: Already implemented. The Commission already provides links to the Secretary of State's CAL-Access database and material on the Fair Political Practices Commission web site. The Ethics Commission Staff will continue to link to other relevant web sites where appropriate. The Commission adds that it should be noted that the Commission's website is already considered among the best and most comprehensive sites in the country.*

**Finding 27:** The Charter requires that proposals to amend campaign finance and ethics laws explain how the change will assist in furthering the purpose of the law. The Ethics Commission proposals have not included any statements showing that its proposals will further the purposes of the law.

**Recommendation 27:** When a bill is proposed or passed to amend campaign finance and ethics laws, it should specify how it "furthers the purposes of this Chapter".

*Finding 27: Disagree. There is no basis for this finding.*

*Recommendation 27: Already implemented. All proposed changes to existing ordinances are accompanied by comprehensive staff memoranda explaining the details and purposes of the proposed changes.*



DENNIS J. HERRERA  
City Attorney

August 25, 2014

Hon. Cynthia Ming-Mei Lee  
Presiding Judge  
San Francisco Superior Court  
400 McAllister Street, Room 8  
San Francisco, California 94102

Re: City Attorney Office's response to the June 26, 2014 Civil Grand Jury Report entitled, "Ethics in the City: Promise, Practice or Pretense"

Dear Judge Lee:

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, "Ethics in the City: Promise, Practice or Pretense" issued on June 26, 2014. 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. 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.

Accordingly, the City Attorney's Office responds as follows:

**Finding/Recommendation No. 1:**

**Finding 1a.**

The Ethics Commission lacks resources to handle major enforcement cases. These include, for example, cases alleging misconduct, conflict of interest, violating campaign finance and lobbying laws, and violating post-employment restrictions.

Page 2  
August 25, 2014

**City Attorney's Office Response to Finding 1a.**

Partially disagree. The City Attorney's Office defers to the Ethics Commission's agreement with this finding, but this Office is not aware of any specific major enforcement case that the Ethics Commission, due to a lack of resources, has declined to bring where there was otherwise sufficient evidence of a violation. Regardless, the Ethics Commission would benefit from additional resources to increase its ability to handle major enforcement matters without impacting the Commission's ability to handle its other duties and responsibilities.

**Finding 1b.**

The Ethics Commission has only two investigators.

**City Attorney's Office Response to Finding 1b.**

Agree.

**Finding 1c.**

The confidentiality required of Ethics Commission investigations runs counter to the Commission's other duties to make information more public and to increase the transparency of government.

**City Attorney's Office Response to Finding 1c.**

Disagree. The San Francisco Charter requires the Ethics Commission to conduct its investigations "in a confidential manner," and provides that certain records relating to investigations must be kept confidential to the extent permitted by state law. Charter § C3.699-13(a). Despite this Charter restriction on how it must conduct its investigations, the Ethics Commission must still comply with the same public meeting and records laws that apply to all City agencies, including providing advance public notice of its meetings and taking its actions publicly.

**Finding 1d.**

The District Attorney, City Attorney and the Fair Political Practices Commission have more substantial investigative staffs.

**City Attorney's Office Response to Finding 1d.**

Agree.

**Finding 1e.**

The Fair Political Practices Commission has been very active in bringing enforcement actions, and handles enforcement for some local units of California government.

**City Attorney's Office Response to Finding 1e.**

Agree.

**Finding 1f.**

Enforcement is best handled outside of the environment of political partisanship and preferences.

**City Attorney's Office Response to Findings 1f.**

Agree.

**Recommendation 1.**

The Jury recommends a contract with the Fair Political Practices Commission for at least a two-year pilot basis to enforce both state and related San Francisco law violations.

Page 3  
August 25, 2014

**City Attorney's Office Response to Recommendation 1.**

The City Attorney's Office does not have the authority to implement Recommendation 1. If requested, the City Attorney's Office will assist the Ethics Commission with implementing this recommendation, though this recommendation may first require an amendment to state law, *see* Cal. Govt. Code section 83123.5.

**Finding/Recommendation No. 2:**

**Finding 2.**

In some instances, improper campaign contributions were returned to the contributor rather than forfeited to the City as required by City law. The Jury found no record of the Commission acting to waive or reduce the forfeiture.

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

Disagree. The Civil Grand Jury has not provided any specific facts about the improper contributions that the Ethics Commission allegedly mishandled. In the absence of more specific allegations, the City Attorney's Office has no basis for concluding that the Ethics Commission has inappropriately returned contributions and must presume that the Ethics Commission has appropriately followed City law.

**Recommendation 2.**

The Board of Supervisors should request an independent audit by the City Attorney to determine whether prohibited contributions were forfeited to the City as required by law.

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

Recommendation 2 is a policy matter for the Board of Supervisors. If requested, the City Attorney's Office will assist the Board of Supervisors with implementing this recommendation (assuming sufficient budget authorization is provided to the City Attorney's Office to cover the costs of that review).

**Finding/Recommendation No. 3:**

**Finding 3.**

A broader citizen's right of action to enforce ethics laws will provide assurance to the public that the laws will be enforced.

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

Partially disagree. The City Attorney's Office partially disagrees with Finding 3 because the Campaign and Governmental Conduct Code currently provides a qualified private right of action to San Francisco residents that may already provide sufficient assurance to the public. Section 3.242(c) states: "any resident may bring a civil action on behalf of the people of San Francisco to enjoin violations of or compel compliance with a conflict of interest or governmental ethics law," after notifying the City Attorney of the resident's intent to file and providing an opportunity for the City Attorney to pursue the same matter.

Page 4  
August 25, 2014

### **Recommendation 3.**

The Jury recommends that the Ethics Commission and the Board of Supervisors act to enhance the Citizen's Right of Action to enforce all of the City's ethics laws, with an award of attorney fees and a share of any penalties going to the City for a successful filer, as was provided by Proposition J.

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

Recommendation 3 is a policy matter for the Ethics Commission, the Board of Supervisors, and the Mayor. If requested, the City Attorney's Office will assist the Ethics Commission, the Board of Supervisors, and the Mayor with implementing this recommendation.

### **Finding/Recommendation No. 11:**

#### **Finding 11.**

The role of e-mail and text messages in governmental decision-making has not been fully discussed and explored. Rules on preservation of e-mails in public records are very hazy and some departmental officials told the Jury they routinely delete e-mail. Guidance from the City Attorney on preservation of e-mail is non-specific. There is no guidance regarding text messages. There is no policy that applies to private e-mails and text messages that further public decision-making.

#### **City Attorney's Office Response to Finding 11.**

Disagree. The City Attorney's Office has provided guidance on the issues addressed in this finding. The Office's Good Government Guide has provided guidance on these issues for several years. The most recently released update of the Guide, published online on August 18, 2014, provides the following guidance regarding record retention requirements and e-mail (on page 116):

E-mail and other electronic records are subject to the records retention laws. As with paper records, some electronic records fit the definition of "records" in the retention context. But most do not.

The vast majority of public records in the City's possession do not fall under the definition of "records" within the meaning of records retention law. Therefore, the City may destroy these records at any time. For example, as a general rule, employees may immediately dispose of phone message slips, notes of meetings, research notes prepared for the personal use of the employee creating them, and the large majority of e-mail communications..

The Good Government Guide also provides the following guidance regarding text messages and emails, including those on personal electronic devices (on pages 88-89):

The first element of the definition of public record—that it is a "writing"—is immensely expansive. It encompasses any handwriting, typewriting, printing, photostating, photographing, photocopying, transmission by e-mail or fax, and every other means of recording on any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols. Cal. Govt. Code § 6252(g).

Page 5  
August 25, 2014

This concept of a writing goes beyond the traditional written form. It may consist of communications in any medium that contains encoded information, such as a computer tape, video recording, cassette recording, voicemail, text message, photograph, or movie. E-mails including attachments are writings within the meaning of the Public Records Act. Yet, while it is clear that electronic records are “writings” under the Act, many principles developed under the Act preceded the current era of electronic communications, and those principles and others are in some respects still evolving to catch up with this sweeping technological change.

\* \* \*

The third element of the definition—that a public record is “prepared, owned, used, or retained by a state or local agency”—is expansive, too. In particular, there may be instances where the City does not own a record that is nonetheless considered a public record. For example, while courts have not definitively resolved the issue, City officials and employees, in an abundance of caution, should assume that work they perform for the City on personal computers or other personal communications devices may be subject to disclosure under the public records laws. Such a record meets the first two elements of the definition of public record; the remaining question is whether, under the circumstances, the law would consider the record prepared or used by the City.

Lastly, the Good Government Guide also provides the following additional guidance on text messages (on page 141):

Neither the Brown Act nor Sunshine Ordinance addresses text messaging during meetings, and there is no definitive case law on the subject. The City Attorney’s Office strongly discourages the practice.

Text messaging or use of other personal electronic communications devices during meetings is especially problematic when the policy body is holding an adjudicative hearing, such as a hearing to grant or suspend a permit, that will affect individual private interests. Text messaging during such a hearing could enable a member to surreptitiously communicate with one of the parties, or receive evidence or direction as to how to vote, from an outside party, that other members of the body and the parties do not see. These circumstances may undermine the integrity of the proceeding and raise due process concerns.

Even outside the adjudicative context, text messaging or use of other personal electronic communications devices during any meeting of a policy body presents serious problems. The Brown Act and Sunshine Ordinance presume that public input during a meeting will be “on the record” and visible to those who attend or view a tape of the meeting. But members of the public will not observe the text messages that members of the policy body receive during the meeting. Hence the public will not be able to raise all reasonable questions regarding the basis for the policy body’s actions. And text messaging among members of the policy body concerning an agenda item or other business of the body could lead to an unlawful *seriatim* meeting in the midst of a formal meeting.

Page 6  
August 25, 2014

Text messages that policy body members send or receive during a meeting may in fact have nothing to do with the body's business. But a member of the public observing the meeting, not knowing the contents of the text messages, may assume otherwise. To avoid the problems associated with text messaging or similar electronic communications during meetings, we recommend that policy bodies adopt a rule prohibiting or regulating the practice.

It is an open question whether text messages, or similar communications over a personal electronic device, that a member of a policy body sends or receives either during or outside a meeting, that relate to the conduct of the body's business, are public records. There is a strong argument that they are, and out of an abundance of caution, members of policy bodies should assume that communications on personal electronic devices may be subject to disclosure if the communication would otherwise be a public record subject to disclosure.

As these excerpts demonstrate, the City Attorney's Office has provided guidance on preservation of e-mail, text messages, and e-mails and text messages sent using personal communication devices. But as these excerpts acknowledge, the law concerning these issues is unclear and continues to develop. For example, on June 25, 2014, the California Supreme Court agreed to review a decision holding that messages sent by public officials using personal communication devices are not subject to the California Public Records Act, *see City of San Jose v. Superior Court*, 225 Cal.App.4th 75 (Mar. 27, 2014). We expect the Supreme Court will provide its ruling sometime in the next year. The City Attorney's Office will monitor this appeal and will continue to provide guidance on legal developments on these issues to its clients and the public at-large.

#### **Recommendation 11.**

The Ethics Commission in conjunction with the City Attorney should develop a policy to ensure preservation of e-mails and text messages consistent with preservation of other public records. The policy, along with policies on preservation of public records, should be made available for public comment. Once it is completed and published it should be made available on City Attorney and Ethics Commission web pages that lists each Department, its policy, and how to obtain documents.

#### **City Attorney's Office Response to Recommendation 11.**

Recommendation 11 is a policy matter for the Ethics Commission and other appropriate City agencies, such as the Board of Supervisors and the Mayor. If requested, the City Attorney's Office will assist the Ethics Commission and other appropriate City agencies with the implementation of this recommendation, likely through legislation that would establish a City-wide protocol regarding preservation of public records.

#### **Finding/Recommendation No. 17:**

##### **Finding 17a.**

There is useful information in the calendars of City Officials that should be readily available to the public.

Page 7  
August 25, 2014

**City Attorney's Office Response to Finding 17a.**

Agree.

**Finding 17b.**

The Jury found calendar entries that did not meet the law's requirements, particularly in listing the meeting's subject matter and attendee names. As a result, it is not possible to crosscheck lobbyists' reports on their meetings with City officials with the calendar reports from the City officials.

**City Attorney's Office Response to Finding 17b.**

Partially disagree. The Sunshine Ordinance requires the calendars maintained by the Mayor, the City Attorney, and department heads to include "the time and place of each meeting or event attended" and "a general statement of issues discussed," but it does not require the listing of attendee names. *See* Admin. Code § 67.29-5. This Office agrees that the lack of attendee names may make it difficult to crosscheck lobbyists' disclosure reports with these official calendars. But the Sunshine Ordinance does not require officials subject to the calendar requirement to include this additional information in their calendar entries, although those officials may do so voluntarily.

**Finding 17c.**

The training currently provided on the Sunshine Ordinance contains no materials on the keeping of official calendars as required by the Ordinance.

**City Attorney's Office Response to Finding 17c.**

Partially disagree. The City Attorney's Office's bi-annual Sunshine Ordinance training has not addressed the issue because most of the attendees, such as members of City boards and commissions, are not subject to this calendar requirement. But, for a number of years, the City Attorney's Office's Good Government Guide has provided the following guidance on the Sunshine Ordinance's calendar requirement:

The Mayor, City Attorney, and department heads must keep and maintain a daily calendar. Admin. Code § 67.29-5. The calendar must record the time and place of each meeting or event the official attended, excluding purely personal or social events at which no City business is discussed that did not take place at City offices or the offices or residences of people who do substantial business with the City or are substantially financially affected by City actions. For meetings not otherwise publicly recorded, the calendar must include a general statement of the issues discussed. The Sunshine Ordinance does not require the official to include on the calendar the names of individuals attending the meeting.

Calendars must be available to any requester three business days after the "calendar entry date." Admin. Code § 67.29-5. The calendar entry date is not when the meeting or event was physically entered into the calendar, but rather is the date that the meeting or event actually took place. The official need not disclose calendars in advance of the calendar entry date.



Page 8  
August 25, 2014

This excerpt appears on pages 114-115 of the Good Government Guide, updated most recently on August 18, 2014.

**Recommendation 17a.**

The Ethics Commission staff should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.

**City Attorney's Office Response to Recommendation 17a.**

Recommendation 17a is a policy matter for the Ethics Commission. If requested, the City Attorney's Office will assist the Ethics Commission with the implementation of this recommendation.

**Recommendation 17b.**

The City Attorney and the Ethics Commission ensure that those officials subject to the calendar requirement, and their administrative staff, be trained on the law's requirements.

**City Attorney's Office Response to Recommendation 17b.**

In cooperation with the Ethics Commission, the City Attorney's Office will implement this recommendation by including a discussion of the Sunshine Ordinance's calendar requirements in its bi-annual ethics and sunshine training.

**Finding/Recommendation No. 23:**

**Finding 23.**

While the Charter mandates the City Attorney represent the Ethics Commission, conflicts have arisen repeatedly, and the Ethics Commission has had to obtain outside counsel. We find these instances of conflict are likely to continue, and that the Commission is best represented by a consistent set of lawyers who are not City employees.

**City Attorney's Office Response to Finding 23.**

Disagree. This Finding does not consider the central role of the City Attorney in advising the City and its constituent agencies. Charter section 6.102 designates the elected City Attorney as the legal representative of the City as a whole. With one City Attorney representing the City, the City speaks with one voice on legal issues and avoids the chaos, as well as tremendous taxpayer expense, that would result if each City department could freely hire its own counsel to represent its view of the City's interests. The more frequent use of outside counsel could have significant consequences on the consistency and continuity of legal advice provided to City agencies, boards, and commissions.

The Ethics Commission has not "repeatedly" obtained outside counsel due to conflicts of interest. In its separate response, the Ethics Commission stated that it has used outside counsel on only three occasions, and at the August 18, 2014 Commission meeting to discuss its responses, the Civil Grand Jury's representative did not dispute this figure. Rather, the Civil Grand Jury's representative explained that the Jury used the word "repeatedly" in this Finding because the Jury counted the number of meetings rather than the number of discrete matters

Page 9  
August 25, 2014

where the Commission used outside counsel. So, for example, when the City retained outside counsel for the official misconduct proceedings regarding Sheriff Mirkarimi, the Civil Grand Jury considered this matter as requiring the “repeated” use of outside counsel because the Ethics Commission held a number of meetings on the matter. In fact, the Ethics Commission has rarely used outside counsel for legal advice, nor is there any basis to conclude it is “likely” that the Ethics Commission will need to use outside counsel for future matters.

On the limited occasions when the City Attorney’s Office has agreed to provide the Ethics Commission with outside counsel, this Office has always relied on its reciprocal relationship with other Bay Area public law offices, such as the Oakland City Attorney’s Office and the Santa Clara County Counsel’s Office, to obtain such counsel for the Commission. These public law offices have substantial familiarity with the types of legal issues that face the Ethics Commission, and they typically do not require the Commission to expend any of its budget on these additional legal services. But, like the San Francisco City Attorney’s Office, their resources are limited.

### **Recommendation 23.**

That the Ethics Commission apply to the City Attorney for permission to engage outside counsel for advice and recommendations.

### **City Attorney’s Office Response to Recommendation 23.**

Partially disagree. As explained above, the Ethics Commission has rarely requested or relied on outside counsel to step into the shoes of the City Attorney’s Office for particular matters. As this history reflects, there is no need for the Ethics Commission to apply to the City Attorney for permission to engage outside counsel, except in extremely rare circumstances.

Notably, the Ethics Commission cannot freely engage its own outside counsel. Charter section 15.102 mandates that the City Attorney serve as “the legal advisor of the Commission.” The Charter also sets out a specific procedure by which any elected official, department head, board or commission may request outside counsel. The Ethics Commission may employ this process, but only if it has reason to believe that the City Attorney has “a prohibited financial conflict of interest under California law or a prohibited ethical conflict of interest under the California Rules of Professional Conduct.” *See* S.F. Charter § 6.102(1). Since the voters adopted section 6.102 in 2001, the Ethics Commission has not invoked this procedure.

### **Finding/Recommendation No. 27:**

#### **Finding 27.**

The Charter requires that proposals to amend campaign finance and ethics laws explain how the change will assist in furthering the purpose of the law. The Ethics Commission proposals have not included any statements showing that its proposals will further the purposes of the law.

#### **City Attorney’s Office Response to Finding 27.**

Partially disagree. The Campaign and Governmental Conduct Code (not the Charter) provides that the Board of Supervisors may amend the Campaign Finance Reform Ordinance or the Government Ethics Ordinance if any such amendment “further the purposes” of those laws.

Page 10  
August 25, 2014

See Campaign & Governmental Conduct Code §§ 1.103, 3.204. Neither section requires the proposed amendments to explicitly explain how the amendments would further those purposes.

**Recommendation 27.**

When a bill is proposed or passed to amend campaign finance and ethics laws, it should specify how it “furtheres the purposes of this Chapter.”

**City Attorney’s Office Response to Recommendation 27.**

Recommendation 27 is a policy matter for the Ethics Commission and the Board of Supervisors. If requested, the City Attorney’s Office will assist the Ethics Commission and the Board of Supervisors with the implementation of this recommendation.

We hope this information is helpful.

Very truly yours,



DENNIS J. HERRERA  
City Attorney

- cc: Angela Calvillo, Clerk of the Board of Supervisors (via e-mail)  
Elena Schmid, Foreperson, San Francisco Civil Grand Jury  
John St.Croix, Executive Director, Ethics Commission (via e-mail)  
Jesse Smith, Chief Assistant City Attorney (via e-mail)  
Jon Givner, General Counsel to the Board of Supervisors (via e-mail)  
Andrew Shen, Deputy City Attorney (via e-mail)  
Joshua White, Deputy City Attorney (via e-mail)



August 25, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Judge Lee:

Pursuant to Penal Code sections 933 and 933.05, the following is in reply to the 2013-2014 Civil Grand Jury report, *Ethics in the City: Promise, Practice or Pretense*.

First, I would like to thank the Jury for their interest in ethics and their work in drafting this report. Residents deserve ethical government decision-making and administration. When ethical behavior is absent, trust in government to perform effectively and in the public interest is lost.

It should be noted that the Jury states that "officials at all levels have impeded actions intended to establish a culture of ethical behavior" and that "Jury members were concerned about reports of apparent improper actions by City officials and departments with little or no evident enforcement responses." I respectfully disagree with these statements – no actual misdeeds or examples are provided as evidence in the report.

Citizens should understand that City leaders and staff conduct themselves responsibly, professionally, and ethically. Officeholders and decision makers must follow extensive local and state regulations and disclosure requirements which include the following:

- Public access to meetings
- Public records access
- Campaign finance disclosures
- Statement of economic interests disclosure
- Gift disclosures
- Gift of travel disclosures
- Behested payments disclosures
- Lobbyist disclosures
- Annual ethics and sunshine training
- Sources of outside funding disclosures
- Post-public employment restrictions
- Public officials calendar disclosure
- Whistleblower protections
- San Francisco Ethics Commission and Sunshine Reform Task Force enforcement
- State enforcement of the Political Reform Act through the Fair Political Practices Commission

Leaders and staff regularly comply with these requirements. On the rare occasions when those required to comply do not, remedy and enforcement can be sought through the Ethics Commission, Sunshine Reform Task Force, and Fair Political Practices Commission.

Thoughtful suggestions to improve the many laws, regulations, and procedures already in the Charter and administrative code are welcome. Just recently, the Board of Supervisors strengthened the lobbying ordinance. But it should be restated that the ethics laws in San Francisco are already comprehensive and wide in scope.

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

**Finding 4:** Some information currently reported and posted is not put into the standard searchable electronic format. The Jury specifically finds that contract approval forms, Form 700 forms, behested payments forms, and Lobbyists On Behalf Of the City forms can be converted to a searchable format before they are posted.

Response: *Agree.* Some information filed with the Ethics Commission is not currently in a searchable electronic format.

**Recommendation 4:** That contract approval forms be converted to a format which allows searches by the name of the official, by the name of the contractor, the value of contracts and the date the contract was signed. Behested payments information should be filed electronically in a format that allows for searches and data aggregation. Form 700s should be formatted to allow data to be searched on income sources, outside employment, gift sources and travel.

Response: *Recommendation partially implemented. (Recommendation will not be implemented for behested payments which are not filed with the Ethics Commission.)*

The Ethics Commission notes that they plan on implementing this recommendation over time as resources become available. Converting each type of form into a searchable format requires the development of software platforms. Absent the proper software, data would have to be entered manually. Manual entry is an unattractive option for the Ethics Commission due to the cost of staff time and the potential for transfer error.

It should be noted that 2014 is the first time that all Form 700 financial disclosures filed with the Ethics Commission had to be submitted electronically. Since there is no specified state electronic schema for these forms, creating a searchable database would be risky as it might not conform to state standards when they are eventually promulgated.

San Francisco is ahead of the majority of jurisdictions in this area and processes filings in a matter of minutes. The Federal Election Commission takes weeks and in some cases more than a month to process campaign finance filings of federal candidates.

**Finding 5:** Required filings are treated independently and cannot easily be cross searched electronically using common data reference fields like name and organization to access and aggregate information types, such as dollar amounts, that cross between filings.

Response: *Disagree in part.* Required filings are treated independently. However, campaign and lobbyist filings are compiled on DataSF and the information can be searched, aggregated, and visualized for effect.

**Recommendation 5:** The Ethics Commission work to develop a common format database for data posted to DataSF, initially aiming to combine campaign, lobbying and Form 700 data.

Response: *Recommendation partially implemented/partially awaiting state action.* The Ethics Commission and its Executive Director note in their response that campaign and lobbyist data are already available in a common database format on DataSF. Form 700 data is not on DataSF because a state data schema has yet to be defined by the Fair Political Practices Commission.

**Finding 20:** Both the Ethics Commission and the Sunshine Ordinance Task Force act in good faith. They are authorized to come to similar ends – transparency in government. However, there are legal and procedural differences between their process and their legal requirements. Therefore, the results of their work are not in harmony with each other.

Response: *Agree.* Unlike the Sunshine Ordinance Task Force, which is an advisory body, the Ethics Commission is a law enforcement agency with the ability to impose monetary and other sanctions and its procedures are more substantial. Often, differences are based more on interpretive actions.

**Recommendation 20a:** The Mayor's Office should establish a blue-ribbon committee of experts and stakeholders in open government, sunshine and transparency, including former Sunshine Task Force members. The Committee of Experts should review and update the Sunshine Ordinance as necessary and should report to both entities and the Board of Supervisors recommendations that would result in coordination and respect for the functions of each entity.

Response: *Recommendation will not be implemented, not warranted.* The establishment of a new committee is not necessary to revise San Francisco campaign and ethics laws. The Ethics Commission can submit legislation directly to the Board of Supervisors. Additionally, proposed revisions to the Sunshine Ordinance can be offered by experts and stakeholders outside of the committee process. Most recently, Supervisor David Chiu proposed changes to the lobbying ordinance that were eventually approved by the Board of Supervisors.

**Recommendation 20b:** For now, arrangements should be made jointly by the Ethics Commission and the Sunshine Ordinance Task Force to have complaints heard by an independent hearing officer who would develop a consistent legally sufficient record of the case for the decision of each body. This would allow the meetings of the Task Force and the Commission to focus on broader policy issues.

Response: *Recommendation will not be implemented.* There is no procedure in the voter adopted Sunshine Ordinance to allow for adjudication of complaints by an independent hearing officer. The Ethics Commission is the officially appointed body that investigates referrals and complaints from the Sunshine Reform Task Force.

**Finding 24a:** The Jury was unable to locate and the Ethics Commission was unable to provide copies of any reports or notes of oral presentations to the Mayor or to the Board of Supervisors as required in the Charter to report annually on the effectiveness of San Francisco's ethics laws.

**Finding 24b:** The Jury was unable to locate any reports that reviewed changes in laws aimed at transparency and ethical conduct adopted in other jurisdictions that might be relevant to San Francisco. The only references were to changes based on court decisions that resulted in less public disclosure and less protection against the influence of money in politics even when those decisions were not based on San Francisco cases.

Response (24a and 24b): *Disagree in part.* The Executive Director of Ethics Commission is in regular contact with both the Legislative and Executive Branch. The Ethics Commission provides comment and analysis of the legislative changes proposed by the Board of Supervisors.

**Finding 24c:** The proper standard to judge the effectiveness of laws is to consider their ability to achieve the purposes set forth when they were enacted.

Response: *Agree.*

**Recommendation 24:** The Mayor and the Board of Supervisors should request an annual written report from the Ethics Commission that meets the standards set out in the Charter for annual reviews of the effectiveness of the City's laws. This report should be posted on the Ethics Commission web site.

Response: *Recommendation will not be implemented, not warranted.* This recommendation appears unnecessary. The City Charter mandates an annual review of law effectiveness, not a written review. The Ethics Commission and the Executive Director communicate to the Mayor and Board through memos, oral testimony, in-person meetings and the Annual Report.

**Finding 26:** The Ethics Commission, though its staff, can catalog information reported elsewhere that is relevant for supplemental understanding of information currently reported locally. Links to this information would be a logical addition to the Ethics Commission web site.

Response: *Agree in part.* The Ethics Commission already provides links to information not reported in San Francisco.

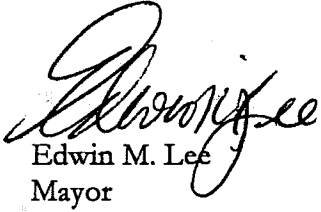
**Recommendation 26:** The Ethics Commission should determine information reported elsewhere that is relevant for supplemental understanding of information currently reported locally, and provide links to it on the Ethics Commission web site, if it cannot be imported and posted.

Response: *Recommendation already implemented.* The Commission's website is already considered among the best and most comprehensive sites in the country. Links to the Secretary of State's CAL-Access database and material on the Fair Political Practices Commission web site are easy to access. The website will continue to link to other relevant web sites where appropriate.

Mayoral Response to the Civil Grand Jury – Ethics in the City  
August 25, 2014

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

Sincerely,



Edwin M. Lee  
Mayor



Joy Bonaguro  
Mayor's Chief Data Officer



SUNSHINE ORDINANCE  
TASK FORCE



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. (415) 554-7854  
TDD/TTY No. (415) 554-5227

August 28, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street, Room 008  
San Francisco, CA 94102-4512

RE: Response – 2013-2014 Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense

Dear Judge Lee:

Pursuant to California Penal Code Sections 933 and 933.5 please find listed below the Sunshine Ordinance Task Force (SOTF) response to the Civil Grand Jury Report – Ethics in the City: Promise, Practice and Pretense.

**Finding 11:** The role of e-mail and text messages in governmental decision-making has not been fully discussed and explored. Rules on preservation of e-mails in public records are very hazy and some departmental officials told the Jury they routinely delete e-mail. Guidance from the City Attorney on preservation of e-mail is non-specific. There is no guidance regarding text messages. There is no policy that applies to private e-mails and text messages that further public decision-making.

**The SOTF partially disagrees with finding No. 11.**

E-mail messages related to City business that are received or sent by City officers and employees are public records and should be retained under a Department's record retention policy and schedule approved pursuant to San Francisco Administrative Code Section 8.3, which provides, *inter alia*: "Current records and storage records less than five years old may be destroyed or otherwise disposed of if their destruction or other disposition within a shorter length of time will not be detrimental to the City and County or defeat any public purpose." (San Francisco Administrative Code Section 8.3.) The SOTF is mindful that public business may increasingly be conducted via mixed private/public e-mail accounts, and that this simultaneously raises privacy and ethical concerns as well as challenges for enforcing public records regulations as to these quasi-public accounts. Text messages may or may not be public "records"; a court case (*City of*

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 AUG 28 PM 4:26  
4/9

*San Jose v. Santa Clara County Superior Court* [Smith], S218066) is now considering that issue.

There is no uniform retention requirement for e-mail communications, let alone text messages. Department heads are permitted to destroy records, provided that "the retention period applicable to them [is] set forth in a schedule for the systematic retention and destruction of records that is prepared by the department head, approved by the Mayor or the Mayor's designee, or the board or commission concerned." (San Francisco Administrative Code Section 8.3.)

As noted by the Grand Jury, guidance from the City Attorney as to both e-mail and text messages could be more clear. The SOTF may issue its own guidance to City Departments as to e-mail and text message retention and production under its power to "provide information to other City departments on appropriate ways to implement the Sunshine Ordinance" (Sunshine Ordinance Section 67.30(c).)

**Recommendation 11:** The Ethics Commission in conjunction with the City Attorney should develop a policy to ensure preservation of e-mails and text messages consistent with preservation of other public records. The policy, along with policies on preservation of public records, should be made available for public comment. Once it is completed and published it should be made available on City Attorney and Ethics Commission web pages that list each Department, its policy, and how to obtain documents.

**The recommendation requires further analysis.**

The Sunshine Ordinance Task Force, in conjunction with the City Attorney's Office and Ethics Commission, should develop policies to ensure preservation of e-mails and text messages consistent with preservation of other public records. Before adoption, these policies would be made available for public comment. The finalized policies would then be sent to all City agencies, boards, commissions, and departments and made available on the SOTF's website. Each City agency, board, commission, and department web site should include, in a similar section (i.e., "About Us" or "For More Information"), the applicable Record Retention Policy and Schedule and information about how to request public records, including contact information and forms, if applicable. The SOTF, through the Compliance and Amendments Committee and the Education, Outreach, and Training Committee, intends to review these issues in the next 6 months.

In addition, it should be noted that California Government Code Section 34090 states that the destruction of records less than two years old is not authorized. Section 8.3 of San Francisco Administrative Code, however, authorizes destruction of records in less than two years if this would not be detrimental to the City and County or defeat any public purpose. This section of the Administrative Code should be amended to comply with California Government Code Section 34090.

**Finding 12:** Many departments have failed to post their sources of outside funding, as required by the Sunshine Ordinance.

**The SOTF agrees with finding No. 12.**

Sunshine Ordinance Section 67.29-6 plainly states, “No official or employee or agent of the city shall accept, allow to be collected, or direct or influence the spending of, any money, or any goods or services worth more than one hundred dollars in aggregate, for the purpose of carrying out or assisting any City function *unless the amount and source of all such funds is disclosed as a public record and made available on the website for the department to which the funds are directed*”.

**Recommendation 12:** The Jury recommends that the Ethics Commission and the Sunshine Ordinance Task Force review departmental websites for compliance and notify non-compliant departments to immediately post their sources of outside funding, or face a show-cause hearing before the Ethics Commission on why the information has not been posted.

**The recommendation requires further analysis.**

The SOTF, through its Compliance and Amendments Committee and/or its Education, Outreach, and Training Committee, shall review the web sites of each City agency, board, commission, and department for compliance and shall develop a model for content required by Sunshine Ordinance Section 67.29-6. This said, the SOTF is mindful of its limited resources to regularly review and monitor each departmental web site for compliance with this provision alone and to notify non-compliant departments. The SOTF is also skeptical that the Ethics Commission has the power to order a show-cause hearing in the manner that the Jury recommends.

**Finding 17a:** There is useful information in the calendars of City Officials that should be readily available to the public.

**The SOTF agrees with finding No. 17a.**

Sunshine Ordinance Section 67.29-5 provides, *inter alia*, “The Mayor, The City Attorney, and every Department Head shall keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended by that official.”

**Recommendation 17a:** The Ethics Commission staff should collect the official calendars prepared under the Sunshine Ordinance monthly, convert them to electronic form and post them online.

**The recommendation will not be implemented because it is not warranted or reasonable.**

Having official calendars available at one central place or website – e.g., via the Ethics Commission’s collection of official calendars, or on a central open data API – would facilitate the public’s ability to locate those official calendars. This recommendation would shift responsibility from Department Heads to the Ethics Commission. However, there is no reason why various departments should not be responsible for making

calendars on their own websites as well. Additionally, barring possible technology and resource barriers that are presently unknown to the SOTF, the SOTF can provide static links on its own website to the public calendars of all city departments and agencies. The SOTF, through its Compliance and Amendments Committee and/or its Education, Outreach, and Training Committee, intends in the next 6 months to review departments' and agencies' compliance and urge department heads to maintain their calendars permanently and post them on their websites no later than "three business days subsequent to the calendar entry date." The Task Force will also incorporate the Sunshine Ordinance's public calendar requirements into its education and outreach materials.

**Finding 17b:** The Jury found calendar entries that did not meet the law's requirements, particularly in listing the meeting's subject matter and attendee names. As a result, it is not possible to crosscheck lobbyists' reports on their meetings with City officials with the calendar reports from the City officials.

**The SOTF agrees with finding No. 17b.**

**Recommendation 17b:** The City Attorney and the Ethics Commission ensure that those officials subject to the calendar requirement, and their administrative staff, be trained on the law's requirements.

**The recommendation requires further analysis.**

The SOTF, through its Education, Outreach, and Training Committee, assists with the annual training provided by the City Attorney under the Sunshine Ordinance. As noted above, the Task Force's Compliance and Amendments Committee and/or the Education, Outreach, and Training Committee intends in the next 6 months to review compliance with the Sunshine Ordinance's calendar requirements and to conduct a larger review of all existing Sunshine Ordinance training materials and programs, with the intent of better tailoring these training materials and programs to the audience (Elected Officials, Members of Board and Commissions, Commission Secretaries, Department Heads, Department Head Secretaries, Public Information Officers, etc.). Efforts by the City Attorney and the Ethics Commission with respect to this recommendation should be coordinated with the SOTF. Keeping with the best practices of open government, the SOTF also urges that the Board of Supervisors adhere to the public calendar requirements of other city departments and agencies.

**Finding 17c:** The training currently provided on Sunshine Ordinance contains no materials on the keeping of official calendars as required by the Ordinance.

**The SOTF agrees with finding No. 17c.**

**Finding 20:** Both the Ethics Commission and the Sunshine Ordinance Task Force act in good faith. They are authorized to come to similar ends - transparency in government. However, there are legal and procedural differences between their process and their legal requirements. Therefore, the results of their work are not in harmony with each other.

**The SOTF partially disagrees with finding No. 20.**

The SOTF refers very few matters to the Ethics Commission for enforcement. Although this reflects in part a view that not all Sunshine Ordinance violations merit referral for enforcement, it has also not fostered a greater agreement or understanding as to the appropriate burden to show or enforce a violation, willful or not. As illustrated by earlier SOTF responses, there remains ample terrain for collaboration and coordination between these separate but overlapping bodies.

**Recommendation 20a:** The Mayor's Office should establish a blue-ribbon committee of experts and stakeholders in open government, sunshine, and transparency, including former Sunshine Ordinance Task Force members. The Committee of Experts should review and update the Sunshine Ordinance as necessary and should report to both entities and the Board of Supervisors recommendations that would result in coordination and respect for the functions of each entity.

**The recommendation requires further analysis.**

The SOTF strongly encourages efforts by any office or entity to further the aims of transparent and open government. Nonetheless, whether a blue-ribbon committee is created or not, the SOTF has the power and duty to "propose to the Board of Supervisors amendments to the Sunshine Ordinance" pursuant to San Francisco Administrative Code Section 67.30(c). The SOTF, through its Compliance and Amendments Committee, intends in the next 6 months to initiate a new review of the Sunshine Ordinance to, in part: (1) identify sections of the Sunshine Ordinance which overlap and/or conflict with the rules governing the city's Ethics Commission, and (2) identify areas of the Sunshine Ordinance that should be updated to reflect new technologies implemented since its passing. Such a review should consider the views of City agencies, boards, commissions, and departments as to both policy goals and practical implementation issues; the views of "experts and stakeholders in open government, sunshine, and transparency, including former Sunshine Ordinance Task Force members;" and the views of the City Attorney and the Ethics Commission in order to foster greater harmony among those entities involved.

**Recommendation 20b:** For now, arrangements should be made jointly by the Ethics Commission and the Sunshine Ordinance Task Force to have complaints heard by an independent hearing officer who would develop a consistent legally sufficient record of the case for the decision of each body. This would allow the meetings of the Task Force and the Commission to focus on broader policy issues.

**The recommendation requires further analysis.**

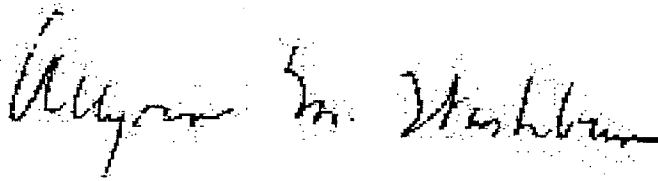
The SOTF would be interested in fully vetting a proposal to have particularly complex cases heard by an independent hearing officer in order to develop complete and legally sufficient records.

Regarding whether this recommendation is warranted at this time: The SOTF is keenly aware of the backlog in its caseload and concerted efforts are already underway to address it. In particular, the SOTF has scheduled an additional full SOTF meeting each month through the end of this year and has reinstated a complaint procedure to focus and narrow the issues in dispute. Further, the SOTF intends in the next 6 months to review and update its bylaws and complaint procedures, review due process regarding SOTF complaints and referrals, and review SOTF and Ethics Commission procedures regarding referrals. The SOTF will seek public comment on any proposed changes to the bylaws and complaint procedures.

Regarding whether the recommendation is feasible: SOTF members have raised several concerns, including how this hearing officer would be selected in order to ensure expertise and impartiality, how this hearing officer would be compensated, and how his or her independence would be assured.

The Sunshine Ordinance Task Force would like to thank the Civil Grand Jury. If there is any follow up needed, please let us know.

Sincerely,

A handwritten signature in black ink that reads "Allyson M. Washburn". The signature is written in a cursive style with some ink bleed-through from the reverse side of the page.

Allyson Washburn, Chair  
Sunshine Ordinance Task Force

- c. Members, Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Government Audit and Oversight Committee Clerk

City and County of San Francisco

Human Services Agency

Department of Human Services  
Department of Aging and Adult Services



Edwin M. Lee, Mayor

Trent Rhorer, Executive Director

BOS-11  
cpage

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -2 PM 4: 24  
AK

MEMORANDUM

August 29, 2014

TO: Angela Calvillo, Clerk of the San Francisco Board of Supervisors  
Ben Rosenfield, Controller of the City and County of San Francisco

THROUGH: Human Services Commission

FROM: Trent Rhorer, Executive Director  
Emily Gerth, Senior Budget Analyst

SUBJECT: **Human Services Care Fund: FY13-14 Report**

This memo is intended to notify the Board of Supervisors and the Office of the Controller that pursuant to Administrative Code Section 10.100-77(e), the Human Services Commission has approved the Human Services Agency's final FY13-14 savings for the Human Services Care Fund.

The FY13-14 savings in homeless CAAP aid payments resulting from the implementation of *Care Not Cash* is **\$13,883,713**, which is approximately one hundred eighty-eight thousand more than estimated at the start of the fiscal year. The savings are roughly one hundred eighty-four thousand dollars more than the budgeted amount for FY13-14.

*(memo continued on next page)*

The table below shows the detailed monthly projections made at the start of the fiscal year and compares them with the actual figures for FY13-14.

Month	Projected Care Fund Savings	Actual Care Fund Savings	Difference
Jul-13	\$1,141,283	\$1,138,160	(\$3,123)
Aug-13	\$1,141,283	\$1,138,386	(\$2,896)
Sep-13	\$1,141,283	\$1,119,522	(\$21,761)
Oct-13	\$1,141,283	\$1,143,687	\$2,405
Nov-13	\$1,141,283	\$1,142,349	\$1,066
Dec-13	\$1,141,283	\$1,143,879	\$2,597
Jan-14	\$1,141,283	\$1,143,716	\$2,434
Feb-14	\$1,141,283	\$1,138,937	(\$2,346)
Mar-14	\$1,141,283	\$1,201,211	\$59,928
Apr-14	\$1,141,283	\$1,201,481	\$60,198
May-14	\$1,141,283	\$1,187,408	\$46,125
Jun-14	\$1,141,283	\$1,184,977	\$43,694
<b>Total FY13-14</b>	<b>\$13,695,394</b>	<b>\$13,883,713</b>	<b>\$188,320</b>

In March 2014, the CAAP grant amounts were raised due to a cost of living adjustment. The maximum GA monthly grant amount increased from \$342 to \$360, and the maximum PAES/SSIP/CALM monthly grant amount increased from \$422 to \$444. The larger grant amounts caused a corresponding rise in the Care Fund savings (note the increased actual savings and difference between projected and actual figures for March through June 2014 in the table above).

The FY13-14 budgeted amount for the Human Services Care Fund is \$13,699,335. As shown below, the actual savings for FY13-14 equaled \$184,378 more than this budgeted amount.

**FY13-14 Human Services Care Fund Budget Comparison**

Budget	\$13,699,335
Actual	\$13,883,713
Amount Under-Funded	\$184,378



File 130702

BDS-11, B/F clerk  
CPAGE

Judge Quentin L. Kopp (Ret.)

380 West Portal Avenue San Francisco, CA 94127 Ph: 415-681-5555

---

August 29, 2014

Ms. Angela Calvillo  
Clerk of the Board  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -9 PM 2:39  
AK

Dear Ms. Calvillo,

Please distribute the enclosed letter to all members of the Board of Supervisors. Thank you very much.

Yours truly,

  
Judge Quentin L. Kopp (Ret.)

Enclosure

Judge Quentin L. Kopp (Ret.)

380 West Portal Avenue San Francisco, CA 94127 Ph: 415-681-5555

August 29, 2014

President David Chiu  
and Members of the San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

RE: Gleneagles Golf Course at McLaren Park

Dear Mr. Chiu and Members of the San Francisco Board of Supervisors,

As the author in 1974 of the legislation that requires a competitive bid procedure for the lease of real property under the jurisdiction of the Recreation and Parks Department ("RPD"), I write to urge the Board of Supervisors to reject the proposed lease extension or award of a new lease at Gleneagles Golf Course. The proposed lease extension was made under the incorrect premise that the current operator had a contractual option to a second term under its original lease. In fact, the lease was expressly and undeniably terminated at the election of the current operator and San Francisco law required RPD to employ an open public bidding process in awarding any new lease agreement.

Administrative Code Section 23.33 requires the RPD to award the lease for Gleneagles pursuant to a competitive bidding procedure. The circumstance presented here demonstrates the precise rationale for the ordinance which I sponsored nearly 40 years ago. A politically connected City Hall "insider" and prominent member of the Democratic County Central Committee is using special access and connections to gain an economic benefit at the expense of the public.

The current operator voluntarily surrendered his leasehold interest by way of a written notice that expired at the end of July. There is at least one alternative entity which wishes to submit a proposal and bid for Gleneagles. RPD staff knows the credentials and managerial ability of that prospective entity. Other entities may also bid. The public interest and legislative intent of the Administrative Code would be well served by a competitive bidding procedure as it would ultimately result in RPD selecting the better of at least two proposals. The invalid, improper reinstatement of the option term on below-market terms, without a public competitive bidding procedure, violates the public trust and results in an unlawful gift of public property. The Board should require a competitive bidding procedure as required by local and state law.

Yours truly,

  
Judge Quentin L. Kopp (Ret.)

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -3 PM 2:39  
AK

## Up grading& adding a new tool in fighting crime

The advent of technology has enhanced our quality of life in many ways that were thought to have been unthinkable as early as twenty years ago.

I wanted to this opportunity to urge our supervisors to examine the benefits of equipping SFPD vehicles and officers with surveillance cameras.

Police officers risk their lives everyday to make our community a safer place to live. While enforcing and executing law in the line of duty, they often become targets of public outcry or lawsuits, citing misconduct, abuse, or excessive use of force as causes of action.

By fitting SFPD vehicles and officers with cameras, events can be captured and archived leaving little doubt as to what actually transpired, including whether misconduct, abuse, or excessive use of force was evident.

I believe this is a powerful tool that should be added to the arsenal of the SFPD, and urge you to make room in the budget from General Funds, to facilitate this. Thank you for your concern and attention to this matter.

Thevoice.Fitch3@gmail.com

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -4 PM 12:39  
AK

C:LOB

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: September 3, 2014  
TO: Members of the Board of Supervisors  
FROM: *ACE* Angela Calvillo, Clerk of the Board  
SUBJECT: 2013-2014 Civil Grand Jury Report "Inquiry into the Operation and Programs of the San Francisco Jails"

We are in receipt of the following required responses to the San Francisco Civil Grand Jury report released July 3, 2014, entitled: **Inquiry into the Operation and Programs of the San Francisco Jails**. Pursuant to California Penal Code, Sections 933 and 933.05, the City Departments shall respond to the report within 60 days of receipt, or no later than September 1, 2014.

For each finding the Department response shall:

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

As to each recommendation the Department shall 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.

The Civil Grand Jury Report identified the following City Departments to submit responses (attached):

- San Francisco Police Department  
(Received August 19, 2014, for Finding 2 and Recommendation 2c)
- Department of Human Resources  
(Received August 26, 2014, for Finding 1 and Recommendations 1a, 1c, 1d)
- Sheriff's Department  
(Received August 29, 2014, for Findings 1 through 4 and Recommendations 1a through 1d, 2a through 2d, 3a, 3b, 4a, and 4b)
- Department of Public Health  
(Received September 2, 2014, for Finding 2 and Recommendations 2b through 2d)

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Section 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at an upcoming hearing and will prepare the Board’s official response by Resolution for the full Board’s consideration.

c:

Honorable Cynthia Ming-mei Lee, Presiding Judge  
Elena Schmid, Foreperson, 2013-2014 San Francisco Civil Grand Jury  
Ben Rosenfield, Controller  
Asja Steeves, Controller’s Office  
Jon Givner, Deputy City Attorney  
Rick Caldeira, Legislative Deputy  
Severin Campbell, Budget and Legislative Analyst’s Office  
Matt Jaime, Budget and Legislative Analyst’s Office  
Ross Mirkarimi, Sheriff  
Katherine Gorwood, Sheriff’s Department  
Susan Fahey, Sheriff’s Department  
Micki Callahan, Director, Department of Human Resources  
Barbara Garcia, Director, Department of Public Health  
Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health  
Greg Suhr, Chief of Police, San Francisco Police Department  
Christine Fountain, San Francisco Police Department



EDWIN M. LEE  
MAYOR

POLICE DEPARTMENT  
CITY AND COUNTY OF SAN FRANCISCO

THOMAS J. CAHILL HALL OF JUSTICE  
850 BRYANT STREET  
SAN FRANCISCO, CALIFORNIA 94103-4603



GREGORY P. SUHR  
CHIEF OF POLICE

August 14, 2014


The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California  
County of San Francisco  
400 McAllister Street, Room 008  
San Francisco, CA 94102-4512

Dear Judge Lee:

I am pleased to offer the San Francisco Police Department's (SFPD) response to the 2013 – 2014 Civil Grand Jury report entitled "Inquiry into the Operation and Programs of the San Francisco Jails." The SFPD's response to the report's findings and recommendations are set forth in the accompanying attachment.

The SFPD appreciates the work done by the Civil Grand Jury as it relates to the safety of our city's public. I thank the 2013 - 2014 Civil Grand Jury for its efforts in improving San Francisco government, the public's safety, and the overall quality of life in our city. I am grateful for the opportunity for the SFPD to participate in this initiative.

Sincerely,

  
GREGORY P. SUHR  
Chief of Police

/cf

Attachment

c: Elena Schmid, Foreperson, Civil Grand Jury  
✓ Government Audit Clerk, Office of the Clerk of the Board  
Mayor's Office of Public Policy and Finance

**SAN FRANCISCO POLICE DEPARTMENT  
RESPONSE TO THE CIVIL GRAND JURY REPORT  
“Inquiry into the Operation and Programs of the  
San Francisco Jails”**

**FINDINGS**

**Finding 2: Title 15 requires that jails establish policies and procedures for conducting daily activities and that it plans and prepare for emergencies. This is particularly necessary during times of transfer of custody or when custody duties are shared between departments.**

**RECOMMENDATION:**

**2c. Inmates are transferred between SFPD stations and when necessary, to San Francisco General Hospital. Procedures for any transfers should be clarified and established as a Policy & Procedure document.**

Response: Agree/Implemented

The San Francisco Police Department (SFPD) has established policies and procedures for the handling of inmates that comply with California Board of Corrections, Title 15, California Code of Regulations; Booking and Detention Manual, DM-12, and Department Bulletin A12-227, Prisoner Handling and Transportation (Issued 10/22/2012). In addition, all facilities governed by Title 15 under the control of the SFPD are audited by the State as required, and any discrepancies or notable violations cited in the audit are immediately remedied to remain in compliance.

The San Francisco Sheriff's Department (SFSD) and the SFPD entered into a Letter of Agreement (LOA) for a six-month pilot project that began July 19, 2014, for district station transportation services at two stations, Tenderloin and Mission.

Section 1.4 “Scope of Service” of the LOA sets out the parameters under which the SFSD assumes responsibility for SFPD custodies from Mission and Tenderloin stations. Until SFSD personnel assume responsibility for a custody, SFPD members are required to adhere to all established SFPD policies, procedures and protocols relating to booking, detention and handling of inmates.



Aug. 26, 2014

The Honorable Cynthia Ming-Mei Lee, Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Presiding Judge Ming-Mei Lee:

The Civil Grand Jury issued its report entitled, "Inquiry into the Operation and Programs of the San Francisco Jails," in June of 2014.

One of the findings from the reports states:

"More than 50 deputies are presently out on long term disability. Their positions are being held, preventing the hiring of new deputies. This results in serious overtime costs and additional responsibilities and workload for staff. The City has a policy of limiting the time an employee receives temporary disability payments, which leads to eventual permanent disability status and financial closure, thereby opening up positions for new hires."

The City and County of San Francisco (City) Department of Human Resources (DHR) agrees with this finding, with clarifications to Recommendations 1a and 1b as noted later in this response. Programs administered by DHR are specifically mentioned in two other recommendations related to that finding:

"Recommendation 1c: The Sheriff's Department should review its safety programs with the Workforce Development Division, analyze the cause of worker injuries, and update safety education programs for both staff and inmates."

"Recommendation 1d: Communication between the Sheriff's Department and the appropriate City personnel in the Worker's Compensation Division who adjust workers' compensation claims should occur on a regular basis to review ongoing status of all outstanding claims."

In regard to Recommendation 1c:

The DHR Workers' Compensation Division (as opposed to the Workforce Development Division) is well-suited to work with the Sheriff's Department on analysis of worker injuries and development of safety education programs for staff. The DHR Workers' Compensation Division will further analyze the cause of worker injuries and proactively assist the Sheriff's Department with this analysis. Neither the DHR Workers' Compensation Division, nor the Workforce Development Division have the necessary expertise in the specialized area of inmate health and safety to assist the Sheriff's Department in reviewing and updating safety education programs for inmates.

Disposition: DHR will implement the portions of Recommendation 1c within its purview.



In regard to Recommendation 1d:

Over the last year the DHR Workers' Compensation Division revamped its claims team for the Sheriff's Department and implemented a close communications process. The DHR Workers' Compensation Division claims team communicates on a weekly basis with the assigned staff at the Sheriff's Department to review ongoing status of outstanding claims, and regularly conducts claim reviews to ensure claims are being brought to closure.

Disposition: This recommendation has been implemented.

While DHR is not mentioned in any other recommendations, the following information may be helpful in further understanding the Sheriff's Department's workers' compensation parameters.

Recommendation 1a states:

“The City's policy for limited-time temporary disability payments should be followed for the Sheriff's Department, thereby eventually moving any work injury claim to permanent disability status and financial closure of those claims, opening positions for new hires.”

When employees are unable to perform their regular duties while recovering from work-related illnesses or injuries they are entitled to temporary total disability (TTD) benefits. The time during which an employee may receive TTD payments while recovering from a work-related injury or illness is governed by state workers' compensation law and medical opinion. State Labor Code section 4850 provides public safety employees with full salary for up to one year in the event they are unable to perform their duties while recovering from a compensable injury or illness. After that time, the law provides an additional year during which TTD payments may be made. As such, deputies may conceivably receive 104 weeks of payments during a period of temporary disability. The specific amount of time an individual employee is off work depends on a doctor's medical opinion as to when the employee may return to work.

If the employee becomes permanently disabled from the job, Labor Code Sections 4850.3 and 4850.4 require the department to provide advance disability pension payments to safety officers who are members of the Public Retirement System. Such payments must generally be made during the pendency of the industrial disability retirement application process. During this time, the Sheriff's Department is unable to move the employee out of his or her position and is thus prevented from filling the position.

While the City works to influence legislation, these laws are currently beyond the control of both the Sheriff's Department and the DHR Workers' Compensation Division.

Where the City can exercise more control over TTD costs is by helping departments bring employees back to work on modified duty. Even if an employee is unable to perform his or her regular duties, it may be possible for the employee to perform other work while recovering. The DHR Workers' Compensation Division has worked with the Sheriff's Department to help lower its TTD costs by bringing employees back to work on modified duty for longer periods while they recover from their injuries.

Recommendation 1b states:

“The Board of Supervisors should request an audit conducted by the Budget and Legislative Analyst of payments made on behalf of the Sheriff’s Department for workers compensation claims and related overtime costs.”

While not without challenges, it may be possible for the DHR Workers’ Compensation Division and the Sheriff’s Department to correlate workers’ compensation disability days with overtime costs.

I hope this information assists the Civil Grand Jury in its process.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Gard", with a long, sweeping underline.

Susan Gard, Chief of Policy  
City and County of San Francisco Human Resources Department

C: Government Audit and Oversight Clerk  
Sheriff’s Department  
DHR Workers’ Compensation Division Director



OFFICE OF THE SHERIFF  
CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE  
ROOM 456, CITY HALL  
SAN FRANCISCO, CALIFORNIA 94102

Orig: GAO Clerk  
c: COB  
Clage



Ross Mirkarimi  
SHERIFF

August 29, 2014  
Reference: AL 2014-100

Clerk of the Board of Supervisors  
City Hall, Room 248  
San Francisco, CA 94102

RE: 2013-2014 Civil Grand Jury Report  
"Inquiry into the Operation and Programs of the San Francisco Jails"

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
AUG 29 11 3:10 AM

Dear Government Audit and Oversight Clerk:

I have enclosed a copy of the sheriff's department response to the Civil Grand Jury Report.

I understand that the Board of Supervisors will hold a committee hearing sometime in September regarding this response. Please keep the sheriff's department updated on a date.

Sheriff Mirkarimi, along with designated staff, intends to attend the meeting and answer any questions raised.

Please contact me if you have any further questions. Specific policies and procedures or other department records are available at your request.

Sincerely,

MARK NICCO  
Assistant Legal Counsel



OFFICE OF THE SHERIFF  
CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE  
ROOM 456, CITY HALL  
SAN FRANCISCO, CALIFORNIA 94102



Ross Mirkarimi  
SHERIFF

August 29, 2014  
Reference: 2014-176

The Honorable Cynthia Ming-mei Lee  
Presiding Judge of the Superior Court  
400 McAllister Street, Room 008  
San Francisco, CA 94102

RE: 2013-2014 Civil Grand Jury Report  
"Inquiry into the Operation and Programs of the San Francisco Jails"

Dear Judge Lee:

I am responding to the above referenced Civil Grand Jury Report pursuant to Penal Code Section 933(c).

As required by Penal Code Section 933.05, I have provided a response to each finding and recommendation as follows:

For each finding I have provided a response that I agree with the finding or that I disagree with the finding, wholly or partially, and an explanation why.

For each recommendation I have provided a response indicating whether the recommendation has been implemented, has not yet been implemented, requires further analysis or will not be implemented because it is not warranted or reasonable.

**FINDING 1:** More than 50 deputies are presently out on long term disability. Their positions are being held, preventing the hiring of new deputies. This results in serious overtime costs and additional responsibilities and workload for staff. The City has a policy of limiting the time an employee receives temporary disability payments, which leads to eventual permanent disability status and financial closure, thereby opening up positions for new hires.

**Response:** *Agree (with correction)* This finding confirms an ongoing problem the department has identified and has been taking steps to resolve. It is important to note that the frustration and resulting problems the department faces regarding the disability procedure is not a problem created by or unique to the sheriff's department. The challenges caused by the workers' compensation process and pending disability retirement process have been a continued drain on this department's resources.

It is a citywide problem affecting other departments as well. As such, it is going to take citywide participation to properly address the changes needed to correct this process. However, recognizing that the system is in need of repair and involving proper city representatives to address the problem is a positive step.

The finding that the department has more than 50 deputies out on long-term disability is in error. For the record, the department has approximately 20-25 deputies out on long-term disability relevant to this finding. The remaining deputies counted for in the 50 total include deputies out on FMLA, military, and medical leave, which put them in a different classification and not in the same group contributing to the problems associated with this finding. These positions do contribute to the need to backfill for staff duties, requiring overtime pay.

The time and expense it takes to process these claims negatively impacts this department in many ways. First, employees awaiting a disability retirement determination occupy a position that cannot be filled by a new employee. Secondly, the department must utilize overtime to backfill the position of the staff member who is on disability. This causes both financial and operational impacts.

The most recent Biennial Inspection in July, 2013, by the Board of State and Community Corrections (BSCC) confirmed that this department staffing levels are alarmingly low due to staff absences. The BSCC report realized that this causes significant stress in overall jail operations in that when staffing at minimum levels, there is no room for emergency or unscheduled situations or transports. It is clear that the safety of all personnel and inmates are compromised due to reduced staffing levels.

The Sheriff's department situation is further compounded by the fact that the department lost approximately 70 positions which were deleted from our budget in 2010-2011 and 2011-2012 and have not yet been replaced. 2014 marked the first graduating academy class in five years to provide newly trained deputies.

This department is working with the Director of Workers' Compensation and Retirement System representatives to address this problem. I have met with the director and other representatives to discuss the issue and to determine strategies for future efficiency. This dialogue is ongoing with the hope to streamline the workers' compensation process.

**Recommendation 1a** *Requires Further Analysis* The City's policy for limited time temporary disability payments should be followed for the sheriff's department, thereby eventually moving any work injury claim to permanent disability status and financial closure of those claims, opening positions for new hires.

**Response:** The Sheriff's department welcomes this recommendation and has taken steps with Workers' Compensation director and San Francisco Retirement System representatives to discuss the problem and to streamline the process, including the possibility of pursuing shorter terms of disability status before retirement.

Further, the department has requested, through the budget process, additional positions to address the deputy shortage due to the number of deputies on workers' compensation. Although 14 deputy positions were approved during this process, no additional funding was allotted for the additional positions. Therefore, the department is prevented from hiring those positions and remains powerless to hire additional deputies and ease the negative effects of overtime costs and increased workloads.

Partly in response to a reduced in custody population, the sheriff's department closed the housing portion of County Jail #3 in November 2013. This closure resulted in the redistribution of sworn staff and provided some mitigation to current staffing constraints. However, the benefits are only temporary and a long term plan is needed to correct the problem. Further, it is important to note that approximately one third of department sworn staff is assigned to non-custody duties. Staffing shortages persist in those assignments.

**Recommendation 1c** *Requires Further Analysis* The Sheriff's department should review its safety programs with the Workforce Development Division, analyze the cause of worker injuries, and update safety education programs for both staff and inmates.

**Response:** The department continually reviews and updates its safety programs in order to reduce worker injuries and improve safety for all personnel and inmates in department facilities. Specifically, the department's safety committee reviews hazards and makes recommendations regarding safety issues and related training. This department addresses safety and training through such programs as safety videos, the existence of an anonymous safety hotline to report safety issues in the workplace, and an injury and illness prevention program.

The sheriff's department has begun an evaluation of workers' compensation injuries sustained in the first six months of 2014 as compared to injuries for the first six months of 2013 to determine the cause and types of injuries so that a more thorough understanding of safety issues can be determined and addressed.

Additionally, there is continuing review of department plant and facility design and maintenance issues that will address safety and training in these areas. Recent examples of repairs that have been made to reduce workplace injuries and improve safety include new correctional rated cell doors including food and cuff ports, new correctional shower doors, retrofitting exit signs, implementation of an earthquake anchoring program for all cabinets over 5' tall, installation of a water tank by-pass system at CJ#5 to gain access to additional water in an emergency, and an updated design for the ADA ward.

The Workforce Development Division will be contacted to review this information.

**Recommendation 1d** *Requires Further Analysis* Communication between the Sheriff's department and the appropriate city personnel in the Worker's Compensation

Division who adjust workers' compensation claims should occur on a regular basis to review ongoing status of all outstanding claims.

Response: This department communicates with and will continue to communicate with the Workers' Compensation Division and the Department of Human Resources regarding these issues.

**FINDING 2: Agree** Title 15 requires that jails establish policies and procedures for conducting daily activities and that it plans and prepare for emergencies. This is particularly necessary during times of transfer of custody or when custody duties are shared between departments.

**Recommendation 2a** *Implemented* The Sheriff's department should review and update all policies and procedures for conducting daily activities, and planning and preparing for emergencies every two years.

Response: The sheriff's department reviews and updates all recommended policies and procedures every two years as required by Board of State and Community Corrections (BSCC) and Title 15. This department currently meets or exceeds the requirements of Title 15 in related policies. In the last BSCC biennial facility inspection in July, 2013, BSCC reviewed the San Francisco Sheriff's Department Policy and Procedure Manual, the San Francisco Sheriff's Department Custody Division Manual, facility specific manuals, the Jail Psychiatric Services (JPS) Manual and the Jail Health Services Manual. BSCC found that the manuals were easy to use and that there were no findings of noncompliance with the Title 15 Regulations. Further, BSCC found that "the sheriff's custody policy and procedure manual is constantly reviewed and updated to ensure best practices in the custody setting".

**Recommendation 2b** *Implemented – ongoing* Inmates admitted to general wards at San Francisco General Hospital must be guarded. Procedures for both nighttime and daytime staffing should be immediately reviewed and all policy and procedure documents updated.

Response: All inmates admitted to general wards of San Francisco General Hospital are guarded, with rare exceptions, such as those situations provided for pursuant to Penal Code Section 4011.7 and 4011.9. Policy and procedures are reviewed and updated every two years as required by BSCC and Title 15. All inmates admitted to locked jail wards of San Francisco General Hospital (Wards 7D and 7L) are under the supervision of the sheriff's department personnel. A designated sheriff's sergeant is assigned to these wards and is in continuous contact with SFGH administration to determine and implement staffing and policy needs.

However, Ward 7D does not always remain open. For the period of February – August, 2014, Ward 7D was only open for 16 days. During the times when 7D is closed, as determined by the Department of Public Health (DPH), inmates are moved to other open hospital wards for medical care. A minimum of one deputy is assigned to

guard each inmate. Additional deputies are required to guard an inmate when the inmate has been determined to pose an increased public safety risk. When the jail ward is closed, the cost of the deputies to guard inmates in the open wards is usually paid on overtime, due to the changed staffing needs that this assignment requires.

County Jail #5 is the newest jail facility for San Francisco inmates and houses a medical unit that is not adequately utilized. Additional medical services should be administered through this facility which would reduce the number of inmates requiring transport to, and supervision at SFGH. Providing enhanced services at the facility level would mitigate the staffing challenges required to transport an inmate to SFGH. As the BSCC confirmed in their July 2013 inspection, "with staffing levels very low it becomes challenging to carry out everyday duties when staff is called upon unexpectedly to transport inmates."

**Recommendation 2c *Implemented - ongoing*** Inmates are transferred between SFPD stations and when necessary, to San Francisco General Hospital. Procedures for any transfers should be clarified and established as a policy and procedure document.

**Response:** Recent policy and procedures regarding inmates being transferred between SFPD stations and SFGH have been updated and implemented in coordination with the Station Transfer Unit program commenced in July, 2014.

The Station Transfer Unit program is a pilot program between the San Francisco Police Department and the sheriff's department for the sheriff to provide inmate transportation from the police station to the sheriff's intake facility or to SFGH, when needed. The pilot program includes transfers from Mission Station and Tenderloin Station. The pilot program runs through 2014.

Further, the department is in the process of preparing the Emergency Room Forensic Patient Policy for how individuals in custody are safely transported to SFGH emergency room from a custody facility or police station. This policy is expected to be finalized in October, 2014.

**Recommendation 2d *Implemented*** During transfers, inmates may be intoxicated or needing minor medical care. Procedures for handling this situation should be clarified with the Department of Public Health to establish a policy and procedure document.

**Response:** This department communicates with DPH regarding the need for medical or psychiatric care upon transfer to SFGH. DPH has their own policy and procedure regarding treatment of these individuals.

Individuals may be transferred directly to SFGH from the police station or may be transferred from the sheriff's department booking facility once the need for treatment is determined. Prior to booking an individual into the county jail, every individual is medically triaged by a DPH nurse. The triage process includes a medical and mental



health review to determine suitability for jail housing or transport to SFGH for further treatment.

Many of the individuals requiring transport to SFGH required services to treat mental illness and psychiatric conditions. Sheriff's department personnel are in communication with psychiatric emergency services at SFGH and Jail Psychiatric Services in the jails.

**FINDING 3:** Title 15 requires that inmates at intake and upon transfer to another jail facility receive written orientation materials. Current guidelines for incoming inmates regarding safety, behavior standards, and daily routines need review for content and for appropriate level of reading ability.

**Response:** **Agree** All inmates who will be housed in a jail facility receive an orientation booklet during the classification process. This booklet contains information regarding safety, behavior standards, and daily routines and is available in English, Spanish and Cantonese.

**Recommendation 3a** *Requires Further Analysis* The Sheriff's department should review and revise its written Orientation Guide for incoming inmates regarding safety, behavior standards, and daily routines.

**Response:** The lieutenant of the Custody Division has been assigned to review and update the current general orientation booklet.

The San Francisco Sheriff's Department is home to a one of a kind facility, the Reentry Pod. The Reentry Pod is a facility for local inmates and inmates transported from state prison who are to be released into the community, following their sentences. In collaboration with the San Francisco Adult Probation Department, the Reentry Pod provides a myriad of reentry services and counseling for those individuals soon to be released into the community. In response to AB 109 – Realignment, the Reentry Pod furthers the goal of reducing prison populations, providing services for reentry and reducing recidivism. The inmates housed in this pod also receive an orientation guide specific to reentry services. This guide was recently prepared specifically for the Reentry Pod.

**Recommendation 3b** *Requires Further Analysis* Appropriate reading level should be ascertained and applied to the guidelines in Recommendation 3a.

**Response:** The lieutenant of the Custody Division has been assigned to coordinate efforts to determine the appropriate reading level of the orientation guide. Education professionals will be included in this evaluation and update of the orientation guide.

**FINDING 4:** Title 15 states that if other public provisions are not available to educate those held in custody that the sheriff should develop education programs with whatever resources were available. The accomplishments of the Five Keys Charter School have

proven noteworthy. The recidivism rate is 44 per cent, compared to 68 per cent for inmates who do not participate in the program.

Response: **Agree** The department's Community Programs Division is renowned for its progressive and innovative programming for inmates and for formerly incarcerated individuals. The department continually seeks additional educational and vocational partners to provide programming.

The Five Keys Charter School is the first program offering a high school diploma to jail inmates. It is a respected and progressive program that has been replicated in other jurisdictions. In fact, Los Angeles County, with the largest inmate population in the state, is now home to the appropriately named San Francisco Sheriff's Department Five Keys Charter School.

The ability to earn a high school diploma, obtain vocational training, and obtain assistance in finding job opportunities and placement are available through the Sheriff's programs both in and out of custody.

**Recommendation 4a** *Requires Further Analysis* An Advisory committee of educators and industry professionals should be organized to advise each Five Keys program on further development of goals and practices to expand student attendance, academic studies, and job preparation.

Response: The Five Keys Charter School has a board of directors, including the sheriff and community members, who develop the program including the development of goals and practices to expand student attendance, academic studies, and job preparation.

Other programs have their own advisory committees. As an example, The Women's Resource Center, which provides services to women post release, is advised by the Gender Responsive Blueprint.

In addition to the varied educational programming offered by the Five Keys Charter School, the department is home to the following educational and newly implemented vocational programs:

Solar Design and Installation Training – participants learn solar design and installation techniques. The curriculum teaches information allowing participants to study for and eventually take the North American Board of Certified Energy Practitioners Exam and offers job placement assistance.

Digital Arts Training – participants learn digital media tools, including HD video cameras. All participants receive a one year membership to the Bay Area Video Coalition, allowing access to variety of technology and art classes.

Cisco Academy – participants receive computer networking essentials and instruction in computer troubleshooting, repair and installation. The curriculum teaches

information allowing participants to eventually take the Cisco Networking Essentials Certification exam.

San Francisco City College – City College, in a pilot program in collaboration with Five Keys Charter School, began offering two college courses in the Spring 2014. Current courses are prerequisites for their Drug and Alcohol Counseling and Prison Health Worker Certification programs.

Roots of Success – a new job readiness curriculum offered by Five Keys is being implemented which increases students' academic, professional, and leadership skills. This program is specifically designed for students who have barriers to employment and provides information about employment and social enterprise opportunities and provides training to increase job related search and interview skills.

Construction Training – a program is being created to provide training and a direct link to construction employment opportunities.

Culinary Arts – currently, the Serve Safe certification program is offered to male and female inmates. A student is provided training to take the exam to become a state certified food handler. A program is being created to further provide vocational training and supported employment opportunities for women, post release. This program will be located in the Women's Resource Center, a resource facility focused on assisting women post release.

Urban Gardening – a program combining classroom study and on-hands gardening experience at the sheriff's San Bruno property.

NoVA – No Violence Alliance. This program is an individual intensive case management program for males providing education, employment counseling, substance abuse counseling, therapy, and housing support. NoVA is offered at 70 Oak Grove, the post release facility for men.

Further analysis and discussion is needed in order to determine whether an advisory board would be an effective tool to further the accomplishments already being made by Five Keys, this department and the varied community partners.

**Recommendation 4b** *Requires Further Analysis* Further outreach into the community should be accomplished to incorporate more and varied job opportunities for graduates of Five Keys after their release.

The programs described in Recommendation 4a and the Five Keys Charter School continually seek the support of community based businesses and agencies to provide job opportunities to the graduates of Five Keys and the students of all the other programs offered by the San Francisco Sheriff's Department. These efforts have resulted in the continued success of the Five Keys Charter School programs and the many educational and vocational programs now offered and being created for inmates

and former inmates. This outreach is ongoing. As Sheriff, I welcome the input and attention the Civil Grand Jury has provided to this department in this report. The Civil Grand Jury's independent review has focused on several very important and timely issues facing the sheriff's department. All of the findings and recommendations relate to the everyday operations and responsibilities of the sheriff's department. However, not all of the noted concerns have an easy or quick remedy.

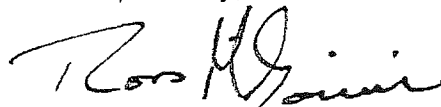
The Civil Grand Jury's findings and recommendations have shined a needed spotlight on several issues facing this department. This department's struggle with a reduced staff and resulting minimum staffing levels due to the long disability process is a situation that is in need of attention and repair.

The report will assist this department in updating and implementing policies and procedures to improve working conditions and inmate conditions. The safety and welfare of all personnel and inmates in the department's jails and facilities are always our main objective. Maintaining proper policies and procedures to carry out this objective is a department priority.

I am proud that the Civil Grand Jury has recognized and confirmed the accomplishments and incredible results of the Sheriff's Department Five Keys Charter School. The Sheriff's department is proud of the progressive programs offered to inmates in order to assist them in reintegrating into the community as productive citizens, thereby improving public safety.

Please contact me if you have any questions regarding this response, or if you wish to discuss this further. Specific policies and procedures or other department records are available at your request.

Respectfully,



ROSS MIRKARIMI  
Sheriff

cc: Clerk of the Board of Supervisors



# San Francisco Department of Public Health

Barbara A. Garcia, MPA  
Director of Health

City and County of San Francisco  
Edwin M. Lee  
Mayor

September 2, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -2 AM 11:08

Dear Judge Lee:

The following is the response of the San Francisco Department of Public Health (SFDPH) to the 2013-2014 Civil Grand Jury report, *"Inquiry into the Operation and Programs of the San Francisco Jails."*

SFDPH provides health and mental health services within the county jails and also provides care to inmates and arrestees at San Francisco General Hospital (SFGH). SFDPH works closely with the San Francisco Sheriff's Department (SFSD) and the San Francisco Police Department (SFPD) to ensure that individuals in custody receive the care they need in a safe and secure environment.

Following are SFDPH's responses to the findings and recommendations related to SFDPH contained in the Civil Grand Jury's report.

### FINDINGS RELATED TO SFDPH

**Finding 2.** Title 15 requires that jails establish policies and procedures for conducting daily activities and that it plans and prepare for emergencies. This is particularly necessary during times of transfer of custody or when custody duties are shared between departments.

**Response:** *Agree.* Transfers of custody patients from SFGH to Jail health or jail psychiatric services follow a very similar procedure to that followed when transferring patients to other hospitals or other units at SFGH. Once the clinical team has determined the custody patient is stable for discharge, jail medical or jail psych is contacted to coordinate the transfer. A clinical hand off is conducted and the patient is sent with the appropriate discharge paperwork. Policies and procedures within SFGH and Jail Health Services define the protocol for these transfers.

### RECOMMENDATIONS RELATED TO SFDPH

**Recommendation 2b:** Inmates admitted to general wards at San Francisco General Hospital must be guarded. Procedures for both nighttime and daytime staffing should be immediately reviewed and all policy and procedure documents updated.

**Response:** *Recommendation already implemented.* Per SFGH Administrative policies 6.06 *Care of Custody/Forensic patients at SFGH Acute Care Units* and 16.22 *Prisoner/Patient: Treatment*

and transport through SFGH, SFGH has specified policies and procedures in place for ensuring patients in custody are always guarded by the arresting agency or SFSD. SFGH Administrative policies 6.06 and 16.22 are attached.

**Recommendation 2c:** Inmates are transferred between SFPD stations and when necessary, to San Francisco General Hospital. Procedures for any transfers should be clarified and established as a Policy & Procedure document.

**Response:** *Recommendation already implemented.* Per SFSD Standing Procedure *Hospital Transport/Deputy Protocol* there is a specified procedure for ensuring patients in custody are safely transported between SFGH and the county jail.

In addition, the Inpatient Forensic Psychiatric Unit has specific guidelines they follow when transferring patients back to the county jail that includes a clinical handoff to Jail Psychiatric Services staff prior to transfer. These guidelines are documented in SFGH Administrative policies 6.03 *Jail Health Services: Emergency Psychiatric Evaluation and Treatment of Prisoner/Patients* and 6.04 *Forensic Service: Admission of the Prisoner/Patient to the 7L Psychiatric Unit at San Francisco General Hospital Medical Center*. SFGH Administrative policies 6.03 and 6.04 are attached.

The SFSD and SFPD are in the process of developing a policy and procedure to address the specific recommendation regarding how people in custody are safely transported between SFPD stations and when necessary to SFGH. This pending policy is in draft form and is expected to be finalized October, 2014.

**Recommendation 2d:** During transfers, inmates may be intoxicated or needing minor medical care. Procedures for handling this situation should be clarified with the Department of Health to establish a policy and procedure document.

**Response:** *Recommendation already implemented.* Policy and Procedure No. 111 of SFDPH's Jail Health Services section identifies patients who have medical conditions that could put them at risk, including the withdrawal from alcohol. Nurses follow standardized procedure for alcohol detoxification. Additionally, Policy and Procedure No. 302 addresses inmates needing minor medical care. Arrestees entering the County Jail for booking and/or housing are seen and evaluated by Jail Health Services staff before being housed in any area of the jails. Arrestees who have medical problems beyond the scope of the facility's medical staff to manage safely are referred to San Francisco General Hospital Medical Center. Policy and Procedure Nos. 111 and 302 are attached.

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

Sincerely,



Barbara A. Garcia, MPA  
Director of Health

cc: Clerk of the Board (City Hall, Room 244), Attn: Government Audit and Oversight Clerk

[Top] [\[Go to End\]](#)

**Administrative Policy Number: 16.22**

**TITLE: PRISONER/PATIENT: TREATMENT AND TRANSPORT THROUGH SAN FRANCISCO GENERAL HOSPITAL AND TRAUMA CENTER (SFGH)**

**PURPOSE**

The purpose of this policy is to

- provide guidelines for directing the efficient movement of prisoners/patients through the Hospital system,
- enhance security and safety for the staff, patients and visitors of SFGH, and
- facilitate communication between the staff and the law enforcement agents.

**STATEMENT OF POLICY**

It is the policy of SFGH that:

1. Prisoner/patients will be given priority for treatment and services in the interest of safety, security and resource utilization. **Exception:** An exception to this priority expectation is when the prisoner/patient is admitted to an in-patient unit. The care needs of prisoner/patient on the in-patient unit will be prioritized in the context of the needs of the entire unit population.
2. All prisoners in the custody of a law enforcement agency shall be under the supervision of a representative of that agency when receiving treatment or when physically being transported through the Hospital system.
3. All prisoners in law enforcement restraints will be in the constant attendance of the agent. The prisoner/patient must never be shackled to a fixed object and left unattended.
4. Sidearm is the preferred armament of law enforcement personnel. If the law enforcement agent feels that rifles or shotguns are necessary, the agency's supervisor shall notify the San Francisco Sheriff's Department (SFSD) at SFGH. SFSD shall facilitate the resolution of any armament issues identified by Hospital staff.

**PROCEDURE**

**I. Safety and Security Measures**

- A. SFGH staff and the law enforcement agent will discuss any medical aspects that may preclude the correct use of any law enforcement restraining devices. Precluding aspects may be injury/edema/swelling of extremities, sutures, wounds, dressings and/or casts.
- B. Staff will maintain the safety of the prisoner/patient's environment by:
  1. taking reasonable steps to reduce potential risks such as removing equipment and supplies that could be potential weapons or contraband.
  2. ensuring that the prisoner/patient is in constant observation by the law enforcement agent.
  3. immediately informing the department manager if the law enforcement agent abandons their post for any reason.
- C. Any difficulties in implementing this policy and procedures should be brought to the attention of the department manager, Administrator on Duty/House Supervisor (AOD/HS), the law enforcement agency supervisor, the SFSD Watch Commander, and/or the Attending physician (if applicable).
- D. Staff shall not release any information concerning the current or future appointments of a prisoner/patient to either the prisoner/patient, their families or visitor.

**II. Prisoner/Patient Department Specific Issues**

Department specific issues are available in the following table.

**PRISONER/PATIENT DEPARTMENT SPECIFIC ISSUES**

DEPARTMENT	SERVICE/ APPOINTMENTS	WAITING AREA	PRISONER ISSUES	LAW ENFORCEMENT AGENT ISSUES	RESTRAINTS
EMERGENCY DEPT	Prisoner/patients will be given priority when it is possible to do so without jeopardizing other patient care services.	Prisoners do not wait in regular waiting room. Prisoner/patients will be put in a private room if available. When a room is unavailable, prisoner/patients will wait in the treatment area hallway.	ED entrance and ambulance dock face 23rd street. Multiple entrances and exits exist throughout the ED. Many escape routes are possible.	SFSD Personnel are located at Triage and the main desk areas. Inform them of all security concerns. Law enforcement agents may be armed when in the area.	Metal restraints can be used. Staff will inform agent of need to remove restraints when needed for treatment.
Intensive Care Units (ICUs)	Not applicable	Not applicable	Prisoner/patients may meet with family or friends.	Agent must remain outside the patient's room at all times. Exceptions must be approved by the Nurse Manager. Emergencies can occur so agents must be prepared to move out of the way of staff.	
LABOR AND DELIVERY	When possible, infant should room with mother on 6C	Prisoner/patients will be assigned to a room or an exam room.	Deliveries could occur in the Birth Center or 6G OR	Agent will normally wait outside room but access will be granted when security reasons arise. Agents will not go into the sterile core area or into the delivery room unless special arrangements have been made with the charge nurse. Agent may be armed while in the delivery area.	Pregnant prisoner/patients are not restrained during labor, delivery or post-partum recovery, other than usual medical restraints used for all patients. At other points in pregnancy, restraints by wrists, ankles or both will not be used unless deemed necessary for safety and security of inmate, staff or public. Leg



					irons, waist chains, and handcuffs behind the back will not be used. In a medical emergency, when a medical professional determines that removal of restraints is medically necessary, restraints shall be removed.
NURSERY	While infant is in nursery, prisoner/patient is to be taken to the nursery at least once per shift to visit infant. Time of visit will be arranged with the nursery's and agent's schedules. Visit should be a minimum of fifteen minutes.	N/A	Prisoner/patient will need to have a cover gown put over clothing in order to hold her infant. Prisoner/patient will need to wash hands prior to holding infant.	Agent will need to wear a cover gown only if they will be touching the infant. Agent may be armed while in the clinical area.	Prisoner/patient will not be restrained unless deemed necessary for safety of inmate, staff, or public. Leg irons, waist chains and handcuffs behind the back will not be used.
SM CLINIC	Made through Forensics clerk.	Prisoner/patient will be assigned and directly go to an exam room.	Monitor room for potential weapons and contraband. Prisoner/patient should not be left alone in exam room. Staff or law enforcement agent should be with prisoner/patient at all times.	Agent should leave exam room for breast, genital or pelvic exam if not of the same sex. Agent is to be immediately available by waiting outside the door. Agent may be armed while in the clinic area.	Usual restraints. Pregnant prisoner/patients may have restraints. Leg irons, waist chains, and handcuffs around the back will not be used.
INPATIENT UNITS (Non 7D/7L)	N/A	N/A	Whenever possible, prisoner/patients should be assigned the bed that allows for the best visualization by the agent.	Agent will sit in chair outside of room where visual contact can be made at all times. Agent may be armed.	Restraints will be authorized by the Watch Commander. If restraints are used, the deputy or Watch Commander will notify the charge nurse.
RADIOLOGY	Made through	Prisoner/patient	Technologist	Agent must	Agent will

<p>General Diagnostic</p> <p>CT Scan</p> <p>MRI (Additional instructions below)</p>	<p>Forensics clerk at ext. 6-8855. For non-scheduled exams, arrangements are made with Charge Technologist at ext. 6-8020. All information regarding whether restraints can remain on prisoner/patient during procedure should be made at this time.</p>	<p>goes directly to procedure room whenever possible. If prisoner/patient must wait, Radiology staff will direct the agent to a secure waiting area where there are no other patients.</p>	<p>provides all necessary instructions to the prisoner/patient.</p>	<p>maintain visual contact with prisoner/patient at all times. This can be done behind leaded wall with technologist. Agent shall provide female prisoner/patients with visual privacy during mammography exams if not of the same sex. Agent may be armed while in the area.</p>	<p>determine at time of making arrangements whether metal restraints can remain on prisoner/patient during procedure.</p>
<p>MRI</p> <p>The current MRI has a far stronger magnetic field than the former one, and NO METAL is allowed in the MRI scan ante room or scanner room.</p>	<p>Prisoner/patients must be screened for metal in their body before establishing appointment. Screening forms are available in Radiology.</p>	<p>MRI dressing room will serve as waiting area.</p>	<p>Prisoner will be asked questions about any metal in their body. Prisoner can have no metal restraints when entering the actual scan anteroom. Plastic restraints must be brought to the scanner by the deputy.</p>	<p>Agent must understand that any metal on agent (arms, restraints, badge) cannot go into the magnet room. A lock-box is provided for securing these and credit cards.. Any metal object taken into the magnet room will likely be drawn into the magnet, inflicting severe injury and/or death to those in the pathway.</p> <p>There is a rear exit from the reading room to the courtyard.</p>	<p>Only plastic restraints may be used after entry into the control area. All metal, including restraints, must be removed prior to entering the magnet room.</p>
<p>NUCLEAR MEDICINE</p>	<p>Made through the Forensics clerk.</p>	<p>Technician will direct agent to a back hallway unless prisoner/patient can go directly into the procedure room.</p>	<p>Technician will give all needed instructions to the prisoner/patient.</p>	<p>Agent can be in the procedure room. The technician will give agent directions as to where to be in the room. Agent may be armed while in the area. There is a back exit to the Emergency Department parking lot so deputies should be aware of possible</p>	<p>Metal restraints can be used. Technician will give directions for any needed removal of restraints.</p>

				escape attempts.	
<b>PULMONARY LAB</b>	Appointments for all services are made through the Pulmonary Lab personnel, Pulmonary Fellows or consult nurse.	Prisoner/patients do not wait in the regular waiting area. Prisoner/patients will be placed in a private room if available. When not available, prisoner/patients will wait in the treatment area hallway.	Technologists provide all instructions to the prisoner/patient, except under special circumstances.	Agent can be in the procedure room. The technician will give agent directions as where to be in the room. If outside the procedure area, access will be granted when security reasons arise.	Metal restraints can be used. Technician will give directions for any needed removal of restraints.
<b>GI DIAGNOSTICS</b>	Prisoner/patient will be given priority when it is possible to do so without jeopardizing other patient care services.  The GI staff will call 7D staff in the morning to arrange for day's scheduled appointments.	Prisoner/patient will go to an empty procedure/clinic room for their exam ASAP. If patient must wait, they will be placed in 3D11 with escort until next procedure/clinic room is available.	Agent should remain with prisoner/patient during procedure or until sedated.  Agent must stay with prisoner/patient during recovery period or clinic visit process.	Agent will practice Universal Precautions procedures when in room during endoscopic procedure. 3D staff will assist with Universal Precautions practices.	Metal restraints may be used. 3D staff will inform agent of need to release or reposition restraints if needed to change prisoner/patient's position for procedure or treatment.
<b>ALL CLINICS</b>	Made through the Forensics clerk. Prisoner/patients should be given priority.	Prisoner/patient will go directly into an exam room.	Monitor room for potential weapons and contraband. Prisoner/patient should not be left alone in exam room. Staff or law enforcement agent should be with prisoner/patient at all times.	Agent can wait in room unless a private exam is done and agent is of the opposite sex. If agent is to leave room, he/she must be immediately available by waiting outside the door. Agents may be armed while in the area.	Metal restraints can be used.
<b>OPERATING ROOM</b>	Routinely scheduled as a "To Follow" case unless special arrangements have been made between the department and the law enforcement agency on the previous day.	Prisoner/patients will go to the Holding Room prior to entering the actual operating room.	Prisoner/patients may not meet with family or friends.	Agent will need to wear scrub suits with a cover gown over their scrub suit. Gun belts must be kept under the cover gown for infection control purposes. Agent will wait in the OR until prisoner/patient is completely	Will have routine hospital restraints in place when anesthetized. Can use metal restraints prior to then.

				anesthetized or will remain in the OR for regional anesthesia. Agent may leave the department when the prisoner/patient is completely anesthetized and will be notified when prisoner/patient is transferred to the PACU.	
POST ANESTHESIA CARE UNIT (PACU)	Not applicable.	Not applicable.	Prisoner/patient will not be restrained during the recovery phase of the operative procedure except for medically indicated restraints.	Agent must be in the recovery room and in visual contact with the prisoner/patient at all times. The agent needs to be aware that the area is very crowded and many people are in the room. Emergencies can occur so agents must be prepared to move out of the way of staff. Agents may be armed while in the area.	Metal restraints can be applied when hospital restraints are removed but plastic restraints may be preferred.
DIALYSIS	Made through the Forensics clerk.	Prisoner/patient will be taken directly to Dialysis Center (Building 100) and escorted to dialysis chair.	Prisoner/patients should be put in the room with the two machines in the back of Dialysis when at all possible.	Dialysis is a high contraband area. Staff should not give prisoner/patients any requested items without the agent's approval. Agents may be armed while in the area.	Metal restraints can be used. Care needs to be taken if leg irons are used as swelling of the lower extremities can occur during the dialysis.
ORAL SURGERY CLINIC	Made through the Forensic clerk.	Prisoner/patient will go directly into the procedure room.	Prisoners may be drowsy if they have received medications as a preparation for the procedure.	Agent may have to wait in the doorway. Rooms are small. Agent must always have visual contact with the prisoner/patient. Agent may be armed while in the area.	Metal restraints can be used. Wrists need to be restrained in front or beside the prisoner/patient.

**APPENDICES**

Appendix A: Prisoner Advisement: Penal Code §3407

Appendix B: Custody Division, Chapter 4: Security and Control Policy

**CROSS REFERENCES**

SFGH Administrative Policy:

1.06 Admission of Youth Guidance Clients

9.04 Prisoner/Patient Scheduling of Medical Appointments at SFGH

13.09 Prisoner/Patient Medical Information Security and Transport

16.04 Prisoner/Patient: Female Requesting Personal Physician for Pregnancy Related Issues

Emergency Department Policy:

*Emergency Treatment of Prisoner/Patients (pending review)*

San Francisco Sheriff's Department Policy and Procedure:

*E-10 Off-Ward Prisoner Security (pending review)*

**APPROVAL**

Nursing Executive Committee: 10/1/13

Medical Executive Committee: 10/17/13

Quality Council: 10/15/13

**Date Adopted:** 3/95

**Reviewed:** 10/10

**Revised:** 12/98, 07/2001, 4/2004, 08/07, 9/13

**[End] [\[Go To Top\]](#) [\[Go To Search Page\]](#)**

[Go to End]

**Administrative Policy Number: 6.06**

**TITLE: CARE OF CUSTODY/FORENSIC PATIENTS AT SFGH ACUTE CARE UNITS**

**PURPOSE:**

The purpose of this policy is to provide nursing care consistent with Law Enforcement Agency safety standards when forensic patients are treated on a general nursing unit.

**STATEMENT OF POLICY:**

San Francisco General Hospital Medical Center (SFGH) staff provides comprehensive nursing care to all forensic patients in compliance with the following law enforcement agency safety standards.

**PROCEDURE:**

**Admission Standards**

**A. All forensic custody admissions will be identified as such before being admitted to a general nursing unit.**

1. Emergency Department staff will identify all custody patients as such prior to admission to the general floors, and will inform Bed Control and the receiving unit of custody status prior to the patient's arrival on the unit.
2. All custody patients admitted to general nursing units will have a restriction placed on their name upon admission; no information on the patient's placement will be released without the express consent of supervising law enforcement personnel.
3. Emergency Department staff will refer all inquiries on custody patients to custody officers or their designee.
4. At no time during the admission process will the custody officer leave the custody patient in the care of hospital personnel.

**B. When the custody patient arrives on the unit, the Charge Nurse will meet with supervising law enforcement personnel to determine:**

1. Indications for additional on-unit security measures (e.g., unit 'lockdown')
2. The agency/number to which patient inquiries should be referred (e.g., San Mateo County Police Department, California Highway Patrol, San Francisco Police Department, San Francisco Sheriff's Department, California Department of Corrections). Telephone calls and inquiries about patients in the San Francisco Sheriff's custody will be referred to the Watch Commander Ward 7D (ext. 8483).
  - a). The information given will be written on the patient Kardex.

- b). All calls will be forwarded to this number/agency.
- c). Visitation regulations/limits will be noted on the Kardex.
- d). Potential visitors will be referred to the designated contact number for /clearance prior to visitation.
- e). In critical care units, the Charge Nurse will liaison with the custody officer to determine if/when visitors will be allowed. Any/all visitors must comply with the custody agency's clearance requirements before visits are allowed.

C. Throughout the patient stay on the general nursing unit, the Charge Nurse will collaborate with the custody officers in compliance with law enforcement requirements regarding security, information and visitation.

D. SFGH personnel will maintain strict confidentiality about the custody patient's movements within the nursing unit, to another unit (including inpatient, outpatient and diagnostic units), or discharge from the hospital.

E. SFGH personnel may not tell the patient about pending intra-unit or inter-unit transfers as well as pending discharge plans.

## II. Visiting Hours:

A. 7D/7L forensic units allow visitors only with the approval of the Sheriff's Deputies on duty.

1. Visiting hours are 1:30-2:30 pm. Each visit is limited to ten minutes.
2. All visitors must undergo security clearance by the Sheriff's Deputies on duty.

B. Custody patients cared for off-ward may be allowed supervised visits with the approval of the custody Law Enforcement Agency.

1. The 7D Unit Commander or designee must check/clear all visitor's to off-ward patients in the custody of the San Francisco Sheriff's Department (SFSD). Nursing staff will direct all visitors to 7D for clearance, both on the initial and all subsequent visits.
2. Visiting is allowed daily from 1:30-2:30 pm. Each visit is limited to ten minutes
3. Each patient may have two visits per day by up to two persons over the age of 18.
4. Visitors may neither touch custody patients, nor bring items directly to the patient. Items brought in for custody patients must be given to the Sheriff's Deputy.

C. Exceptions to visiting rules may be granted only by the Watch Commander in Ward 7D for the Sheriff's Deputy custody patients in the Critical Care units (4E, 5E/R). Exceptions to the visiting rules for patients in custody of the San Francisco Police Department, San Mateo Police Department, California Department of Correction, or California Highway Patrol must be presented to the custody-officer on duty for clearance .

**CROSS REFERENCE**

SFGH Administrative Policy and Procedures:

- 3.09 Prisoner/Patient Medical Information Security and Transport
- 16.22 Prisoner/Patient Treatment and Transport Through SFGH
- 6.03 Forensic Service: Emergency Psychiatric Evaluation and Treatment of Prisoner/Patients
- 22.1 Inpatient Visiting Guidelines

**APPROVAL**

NEC: 11/1/11  
MEC: 11/3/11  
Quality Council: 11/15/11

**Date Adopted:** 08/05  
**Reviewed:** 10/08, 11/11  
**Revised:** 10/05

[GO TO TOP] [END]



[GO TO END]

**Administrative Policy Number: 6.03**

**TITLE: Jail Health Services: Emergency Psychiatric Evaluation and Treatment of Prisoner/Patients**

**PURPOSE**

The purpose of this policy is to provide guidelines for emergency psychiatric evaluation and treatment of the prisoner/patient who meets the criteria for a psychiatric hold.

**STATEMENT OF POLICY**

It is the policy of San Francisco General Hospital & Trauma Center (SFGH) to provide emergency psychiatric evaluation and treatment to San Francisco Police Department (SFPD) and San Francisco Sheriff's Department prisoner who appears to meet the criteria for a psychiatric hold.

**PROCEDURES**

Direct Admission to 7L-SFGH Psychiatric Unit

- A. If emergency medical evaluation and treatment is not indicated, the Jail Psychiatric Services (JPS) staff will notify the staff from 7L and make arrangements to directly admit the prisoner/patient.
  1. If JPS staff is in the facility, a 5150 Welfare and Institution Code (WIC) hold will be generated.
- B. If an emergency medical evaluation and treatment is needed, the prisoner must be transferred directly to the SFGH Emergency Department (ED).
  1. For Jail prisoners, staff from the Jail Health Service (JHS) must notify the SFGH ED Attending-in-Charge (206-8111) of the pending transfer.
  2. If JPS can see the prisoner/patient prior to transfer and the prisoner/patient meets 5150 Welfare and Institution Code criteria, JPS will generate the hold and notify the SFGH Psychiatric Emergency Services (PES) of the hold and 7L of the pending transfer.
  3. If JPS is unable to evaluate the prisoner/patient, JPS request PES to provide a psychiatric consult in the ED, and notify 7L of the pending transfer. Once the prisoner/patient is admitted to the ED, the attending physician will request a psychiatric evaluation from the PES psychiatrist.
    - a. If the prisoner/patient for the jail is evaluated by PES and not placed on a psychiatric hold, the PES physician must call the JPS clinician (415) 575-4350 and discuss the situation before the prisoner/patient is returned to jail.

- During normal business hours (8:00 am- 10:00 pm/ 7 days a week), call JPS (415) 575-4350 before the prisoner/patient is returned to jail.
  - If the prisoner/patient is returned outside of these specified hours, call the JHS to provide the staff with a clinical report. In addition, call the Medical Director for JPS (415)-878-6377) to provide collateral information and receive acceptance of the prisoner/patient back to jail.
- b. If the PES physician believes the prisoner/patient meets hold criteria, he/she will:
- request that the prisoner/patient be transferred to 7L, when medically cleared;
  - call (415) 206-8483, and inform the Watch Commander that a prisoner/patient on 7L needs an "absentia booking."
- c. If 7L is unable to accept the prisoner/patient for clinical reasons, the prisoner/patient will remain in PES with a Sheriff's Deputy until a bed becomes available in 7L.
- d. When the prisoner/patient is accepted by 7L, the admission orders are completed by the 7L attending psychiatrist or the House Officer.
- e. If the prisoner/patient on 7L needs to be admitted to a non-psychiatric setting, please refer to SFGH Administrative Policy 16.12 "Patients Placed on Psychiatric Holds in a Non-Psychiatric Setting."

#### **CROSS REFERENCES**

SFGH Administrative Policy and Procedures:

- 6.04 Forensic Service: Admission of the Prisoner/Patient to the 7L Psychiatric Unit at SFGH
- 13.09 Prisoner/Patient Medical Information Security and Transport
- 16.12 Patients Placed on Psychiatric Holds in a Non-Psychiatric Setting
- 16.22 Prisoner/Patient Treatment and Transport Through SFGH

#### **APPROVAL**

Nursing Administrative Forum	2/4/14
Medical Executive Committee	2/20/14
Quality Council	2/18/14

**Adopted:** 06/2000

**Reviewed:** 09/10

**Revised:** 02/2003, 01/06. 10/13

[\[BACK TO TOP\]](#)

[GO TO END]

**Administrative Policy Number:** 6.04

**TITLE: FORENSIC SERVICE: ADMISSION OF THE PRISONER/PATIENT TO THE 7L PSYCHIATRIC UNIT AT SAN FRANCISCO GENERAL HOSPITAL MEDICAL CENTER**

**PURPOSE**

The purpose of this policy is to ensure that an arrestee needing emergency mental health evaluation and treatment is properly assessed and/or admitted.

**STATEMENT OF POLICY**

Arrestees who prior to booking at the county jail are brought by the San Francisco Police Department (SFPD) to Psychiatric Emergency Services (PES) at San Francisco General Hospital & Trauma Center (SFGH) for evaluation of psychiatric symptoms or (2) the Emergency Department (ED) at SFGH for evaluation and treatment of a physical problem and who are also exhibiting psychiatric symptoms will be evaluated by PES, and if indicated, booked in absentia and admitted to Psychiatric 7L-Unit. If a bed is not available on 7L or if there are other patients waiting for a bed, either in the jail or at PES, PES staff will consult with Jail Psychiatric Staff in the jail (415-575-4350 or 415-562-6377), to determine the priority of the admissions based on clinical and operational factors.

**PROCEDURE**

1. If the arrestee is exhibiting psychiatric symptoms and does not have any physical problems requiring emergency evaluation and treatment, SFPD will bring the arrestee directly to PES.
2. If the arrestee is initially seen in the ED, The ED physician will request a consultation from PES if the arrestee requires emergency mental health evaluation and/or treatment. The arrestee must be transferred to PES accompanied by an officer for the assessment.
2. The PES psychiatrist will evaluate the need for a 5150 Welfare and Institution Code (WIC) hold. After the assessment, the PES psychiatrist will determine one of the following:
  - a. If the prisoner does not meet 5150 criteria, the prisoner will be released back to the SFPD.

If the prisoner meets 5150 criteria, the PES psychiatrist will request that the prisoner/patient be transferred to 7L, and he/she will call 7D (415 206-8483) and inform the Watch Commander that the prisoner/patient on 7L requires an "absentia booking." If a bed is not available on 7L or there are other patients waiting for a bed, either in the jail or at PES, PES staff will consult with Jail Psychiatric Staff, to determine the priority of the admissions based on clinical and operational factors.
3. Please refer to SFGH Administrative Policy, 16.12 "Patients Placed on Psychiatric Holds in a Non-Psychiatric Setting" if an arrestee needs to be admitted to a non-psychiatric setting.

**SFGH Administrative Policy and Procedures:**

- 4.6 Trauma Diversion
- 3.09 Prisoner/Patient Medical Information Security and Transport
- 16.12 Patients Placed on Psychiatric Holds in a Non-Psychiatric Setting
- 16.22 Prisoner/Patient Treatment and Transport Through SFGH
- 6.03 Forensic Service: Emergency Psychiatric Evaluation and Treatment of Prisoner/Patients

**APPROVAL:**

NEC: 6/6/12  
MEC: 6/1/12  
Quality Council: 6/20/12

**Adopted:** 06/2000  
**Reviewed:** 01/2006, 02/09  
**Revised:** 02/2003, 6/12

[\[Go To Top\]](#)



Policy and Procedure No.: 111

Effective Date: 09/88

Last Revision Date: 8/13

Next Scheduled Revision Date: 7/14

### HIGH-RISK PATIENTS

#### POLICY

Jail Health Services identifies patients who have medical conditions that could put them at risk. Patients identified as high-risk are listed on the Daily Report Form and the CHART high risk list and will receive daily welfare checks or other forms of monitoring.

#### PROCEDURES

- I. Staff will enter high risk patients into the CHART high risk list with the reason for the designation.
- II. The charge nurse or designee will review the CHART high risk list and update the Daily Report Form.
- III. A report on the status of high-risk patients is included in the routine report at each change of shift. The Charge Nurse on each shift is responsible for ensuring proper follow-up of high-risk patients.
- IV. High-risk patients include but are not limited to:
  - A. Withdrawing alcoholics:
    1. Monitor all parameters on the Intoxicated Inmate Record (FS #12) every 4 hours. (See Standardized Procedure for Registered Nurses: Alcohol Detoxification).
  - B. Patients withdrawing from opiates:
    1. Monitor daily per the Standardized Procedure for Registered Nurses: Opiate Withdrawal.
  - C. Patients with AIDS who are medically unstable:
    1. Monitor daily for signs of infectious process, changes in mental status, and/or respiratory distress until seen by FAP. FAP staff will determine whether high risk status should continue.
  - D. Patients with suspect or confirmed active tuberculosis:
    1. Monitor daily until completion of treatment for compliance in taking all prescribed medications, and for presence of symptoms of active disease indicating need for further evaluation of effectiveness of prescribed therapies (i.e. fever, chills, weight loss, cough, hemoptysis).

- E. Patients with poorly controlled asthma or COPD:
  - 1. Monitor daily for respiratory distress.
  
- F. Patients who have unstable cardiac disease or have had a recent (within 6 weeks) hospitalization for a cardiac event:
  - 1. Monitor daily for chest pain, respiratory distress and fatigue.
  
- G. Patients who have had a recent CVA (within 6 weeks), or who have significant intracranial lesions or disease:
  - 1. Monitor daily for changes in mental status or neurologic status, pain, signs of infection.
  
- H. Patients with wired jaws:
  - 1. Monitor daily for nutritional status, signs of nausea, vomiting, airway compromise, or problems with oral hygiene.
  
- I. Women with a history of recent (within 1 week) TAB or delivery.
  - 1. Monitor daily for three days for increased bleeding, abdominal pain, and signs of infection, depression.
  
- J. Patients over 65 years of age
  - 1. Monitor daily for mental status or neurological changes or cardiovascular/respiratory symptoms
  
- K. Any patient with an underlying medical condition that places them at increased risk of deterioration.

**REFERENCES:**

CMA Standard 111;

Board of Corrections, Title 15, Article 10, Section 1208 1209;

**REVIEW SCHEDULE:**

Annually



Policy and Procedure No.: 302

Effective Date: 10/88

Last Revision Date: 7/13

Next Scheduled Revision Date: 7/14

### RECEIVING TRIAGE AND INTAKE SCREENING

#### POLICY

Arrestees entering the County Jail for booking and/or housing are seen and evaluated by Jail Health Services (JHS) staff before being housed in any area of the jails. Arrestees who have medical problems beyond the scope of the facility's medical staff to manage safely are referred to San Francisco General Hospital Medical Center (SFGHMC) for evaluation prior to the Sheriff's Department (SFSD) accepting custody.

#### PROCEDURES

##### I. TRIAGE

A. Arrestees with the following problems/conditions will not be accepted into the jail until medically cleared at SFGH:

1. Signs, symptoms, or history suspicious for active TB
2. Lacerations requiring suturing
3. Unresponsiveness
4. Injuries which require X-ray evaluation
5. Serious head injuries
6. Pregnancy with:
  - a. Signs and symptoms of opiate withdrawal or history of opiate addiction (regular and recent use).
  - b. History of alcohol addiction and:
    - i. Pulse above 100 and
    - ii. Hallucinations, tremors, sweating, anxiety, or irritability.
  - c. History of crack/cocaine addiction and pulse above 120 and/or blood pressure above 140/90.
  - d. History of daily benzodiazepine use of 60mg or more of diazepam or equivalent (see Standardized Procedure for Registered Nurses, Benzodiazepine Withdrawal) and:
    - i. Pulse is above 100; and,
    - ii. Hallucinations, tremors, sweating, anxiety, or irritability.
  - e. Cramping or vaginal bleeding.



- f. Pulse above 100
  - g. Blood pressure above 140/90 x 2 and no known history of hypertension. (Contact Ob/Gyn on-call Resident to discuss prior to refusing. Pager (415) 443-415)
  7. Unstable cardiac chest pain
  8. Severe cellulites, abscesses requiring I&D, infected human bites
  9. Inability to walk or stand unassisted
  10. Peritoneal dialysis
  11. Respiratory distress of unknown and/or unmanageable etiology
  12. Reporting to have ingested narcotics or cocaine
  13. Reporting to have been raped within the last 72 hours
  14. Requiring life sustaining medical equipment not available
    - a. For patients requiring a CPAP machine the triage nurse should call CPod to make sure there is a bed available.
  15. Imminent danger to self or others.
  16. Diabetics with BS >500 or with BS between 250 and 500 with ketones.
  17. Any other serious medical condition requiring emergent care
- B. A note is made in the electronic medical record to document non-acceptance into the jails.
- C. For accepted arrestees, medical/psychiatric problems and assessments are documented using the Triage screen. Interventions that should not wait until Intake Screening are begun immediately. If indicated, detoxification procedures are initiated.
- D. Arrestees with the following problems/conditions will be referred to Jail Psychiatric Services (JPS):
1. Severe psychiatric impairment (i.e., history of psychotropic medication, prior JPS treatment, bizarre behavior, or other mental health concerns) will be referred to JPS for evaluation.
  2. Any of the following charges:
    - a. Murder (187 PC)
    - b. Attempted murder (664/187)
    - c. Lewd and Lascivious Behavior with a minor (288 PC)
    - d. Rape (261 PC)
  3. Any woman entering the jail that has given birth within the past year and is charged with murder or attempted murder of her infant child will be immediately referred to JPS. If JPS is not on site, the patient is assessed for suicide and housed in a safety cell until JPS is available.
- E. Female Arrestees
1. Pregnant women will have their blood pressure checked.
  2. Women will be asked the date of their last menstrual period (the date of the first day of their last normal period).

3. Women with the following conditions who report an LMP more than 30 days prior or unknown LMP will be tested for pregnancy before being accepted into the jail:

- a. IV opiate (heroin), crack/cocaine, benzodiazepine, or heavy alcohol use
- b. Cramps or vaginal bleeding
- c. Pulse above 100

A woman who is unable to submit a urine specimen will be hydrated for 30 minutes. A woman who refuses to submit a urine specimen, or is unable to submit one after 30 minutes of hydration, will be accepted and referred priority 1 to the Ob/Gyn clinician.

4. Any woman reporting an LMP more than 30 days prior, and who does not meet the above criteria for testing at Triage, will be referred to nursing clinic for pregnancy testing within 24 hours, with the following exceptions:

- a. Women 50 years of age or older unless they are still having menstrual periods.
- b. Women who give a reliable history of tubal ligation or hysterectomy.
- c. Women who have documentation in their jail medical record of a negative pregnancy test within the previous two weeks unless they report that they believe they could be pregnant.

Women may refuse pregnancy testing, but a refusal form must be completed.

5. Women will be asked if they have had unprotected sex in the 5 days prior to being arrested. If they answer yes, they will be offered emergency contraception or referred to the Ob/Gyn NP within 24 hours to discuss emergency contraception.
- F. Prescription medications brought in by an arrestee are documented in the medical record; the drug name, dosage, directions for use, prescribing physician, dispensing pharmacy (including telephone number) and date filled are recorded (see Policy and Procedure No. 401c, Prisoner's Personal Medications). The medications are then given to Sheriff's Department personnel for storage with the person's property.
  - G. Arrestees who have been sprayed with mace or pepper spray must have their eyes washed within one half hour of contact.
  - H. Medical clearance is noted by staff initialing and dating the appropriate space on the housing card.
  - I. Wheelchair-bound arrestees acceptable for jail housing are referred for Intake Screening prior to housing in Pod C at County Jail #8. Questions regarding the

appropriateness for housing in Pod C for other mobility impaired patients can be referred to the Medical Director or Assistant Medical Director.

- J. Arrestees who require housing in a safety cell are screened, using the Intake Screening questionnaire, to the extent that the person and circumstances allow. This is done prior to placement in the safety cell, or as soon as possible after placement.
- K. Arrestees refusing to cooperate with triage procedures or answer questions are assessed as well as possible based on their general appearance and degree of cooperation.
- L. Housing Codes
  - 1. The following codes will be placed on a patient's housing card
    - 1 – Refused;
    - 2 – Accepted with medical problem or need for further evaluation of electronic record;
    - 3 – Too combative or intoxicated to answer triage questions;
    - 4 – Accepted, no problems;
    - 5 – Paper triage is done and JHS waits for ID process to identify correct patient

## II. INTAKE SCREENING

- A. The Intake Screening questionnaire is completed and documented in the electronic medical record for all prisoners prior to being housed in the jail.
- B. Intake Screening dispositions include:
  - 1. Clearance for housing in general population
  - 2. Clearance for specific designated housing
  - 3. Referral to an appropriate JHS program on an urgent or routine basis
- C. Arrestees refusing to cooperate with screening procedures or answer screening questions are assessed as well as possible based on their general appearance and degree of cooperation. In coordination with custody staff, they are held in the intake facility and encouraged to participate in medical screening. An arrestee who refuses screening three times may then be transferred for housing but is referred to the site nursing for screening. All refusals are documented in the electronic medical record.
- D. When an arrestee's English language abilities prevent adequate screening, an interpreter is used, when available. When an interpreter is unavailable, screening is completed as well as possible and the person is appropriately housed. Screening is then completed as soon as possible, but in no case later than the next nursing clinic.

- E. Developmentally disabled patients are identified at screening based on observation and/or history. The assessment of possible developmental disability is documented in the medical record. All known or suspected developmentally disabled adults will be referred to JPS for follow-up.

**REFERENCES:**

CMA Standard 302;

California Code of Regulations, Title 15, Article 10, Section 1207 and 1207.5,1208;

Article 5, Section 1051;

JHS Policy: "Prisoner's Personal Medication," #401c;

"Reproductive Services," #314;

"Language Translation Services," #331;

JHS Registered Nurse Standardized Procedures: "Alcohol Detoxification"

"Benzodiazepine Withdrawal"

"Heroin Withdrawal"

**REVIEW SCHEDULE:**

Annually

---

**From:** Board of Supervisors (BOS)  
**To:** BOS-Supervisors  
**Subject:** FW: Appeal of Mitigated Negative Declaration  
**Attachments:** Ccommonwealth Club - Planning Commission 9.18.odt

**From:** Ron Miguel [<mailto:rm@well.com>]  
**Sent:** Wednesday, September 03, 2014 4:17 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** Appeal of Mitigated Negative Declaration

Angela Calvillo, Clerk of the Board

Please forward the attached to members of the Board.

Thank you,

Ron Miguel  
600 De Haro St.  
San Francisco, CA 94107  
415-601-0708

# RON MIGUEL

600 De Haro St., San Francisco, CA 94107  
T-415.285.0808 F-415.641.8621 E-rm@well.com C-415.601.0708

3 September 2014

San Francisco Planning Commission  
c/o Jonas Ionan, Secretary  
1650 Mission St., #400  
San Francisco, CA 94103

RE: 110 The Embarcadero / 113-115 Steuart St. [No. 2011-1388E] – 18 September 2014

Planning Commissioners:

I have reviewed the Commonwealth Club's plans in detail, as well as the Planning Department's Mitigated Negative Declaration (MND) of 6/25/14. In addition, I have read communications from the Rincon Point Neighbors Association (RPNA) (7/15/14), and The Coalition for San Francisco Neighborhoods (CSFN) (8/27/14) which challenge the MND. Although these organizations are well meaning in their opposition, they are woefully misinformed as to the location's history and the actual project, as well as completely inaccurate in their reasoning.

Without question, the Mitigated Negative Declaration is complete in its examination of the project and accurate in its conclusion. It should be upheld.

The Commonwealth Club has minutely detailed the site's history from its use as a coal yard in the 1880's, through the International Labor Association's (ILA) history - focused on the Steuart St. entrance in the 1930's, up to The Embarcadero ground floor's most recent glass front. (The current plywood face on The Embarcadero is all that is left there.) Even though the Steuart St. frontage is not architecturally significant, it will be restored and refurbished. This 100-year old Commonwealth Club, the oldest public forum in the country, is an amazing repository of San Francisco's historic heritage, and has extensive plans to highlight all of the site's history – something which has heretofore been unavailable to the public. Indeed, a perusal of the Club's speakers over the past century accurately conveys the story of California and of the United States – with most of the rest of the world thrown in. Now it will be even more available to the public.

In addition to the above, there seem to be two additional points of contention – allow me to address them:

Trees           The four trees on The Embarcadero, mentioned by both RPNA and CSFN, have been examined by a certified arborist and found to be defective. The Club's plans fully cover replacement of these trees and enhancement of the landscaping. A matter detailed in the MND. This is a standard solution and should be noncontroversial.

Embarcadero façade As I mentioned above, the ground floor façade on The Embarcadero, changed several times, is now nonexistent. This is no longer our Embarcadero of the 1880's or even of the 1930's, but one of the most important boulevards in San Francisco which should reflect the area's change in use since a time when the piers opposite were unloading break bulk cargo, or even when it was the host to a major freeway. The YMCA down the block no longer serves longshoremen and sailors; the hotel is now a major tourist destination; the restaurants are among the finest in San Francisco. The proposed glass façade will not only enable efficient cooling and air circulation, but will create the public face for this major San Francisco institution through its next 100 years. It architecturally engages the public as an open and welcoming entrance for this invaluable forum.

Thank you for your consideration,

Ron Miguel

CC: Commonwealth Club  
President David Chiu  
Angela Calvillo, Clerk of the Board

BOARD of SUPERVISORS



*Electronically*

*BOS-11, Aides, COS, Leg Dep  
Dep City Attny, Leg clerks  
Cpage, PVC  
File*

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

---

---

## MEMORANDUM

---

---

Date: September 3, 2014  
To: Honorable Members, Board of Supervisors  
From: *ACC* Angela Calvillo, Clerk of the Board  
Subject: San Francisco Public Utilities Commission (SFPUC)  
FYE 2015 Excess Water Use Charges

---

On August 29, 2014, the Office of the Clerk of the Board received a memo from the SFPUC with recently adopted excess use charges and regulations for administering the charges and the retail shortage allocation plan requirements applicable to the approximately 1600 retail potable water irrigation accounts. Explanatory documents are attached.

Under the Charter Section 8B.125, the SFPUC "shall set rates, fees and charges in connection with providing the utility services under its jurisdiction, subject to rejection – within 30 days of submission – by resolution of the Board of Supervisors. If the Board fails to act within 30 days, the rates shall become effective without further action."

If you would like to hold a hearing on this matter, please let me know in writing by 5:00pm, Monday, September 8, 2014.

**Please Note:**

This memo and all supporting SFPUC documents were emailed to each Board Member and Legislative Aide on September 3, 2014.





## MEMORANDUM

**Date:** August 27, 2014  
**To:** Angela Calvillo, Clerk of the Board of Supervisors  
**From:** Harlan L Kelly, General Manager, SFPUC  
**Through:** Todd L. Rydstrom, Assistant General Manager and Chief Financial Officer, SFPUC  
**Subject:** FYE 2015 Excess Water Use Charges

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 AUG 29 PM 4:53

At a duly noticed public hearing on August 26, 2014, the San Francisco Public Utilities Commission adopted excess water use charges and regulations for administering excess use charges and the retail shortage allocation plan requirements applicable to the approximately 1,600 retail potable water irrigation accounts. In accordance with section 8B.125 of the Charter of the City and County of San Francisco, the SFPUC "shall set rates, fees and other charges in connection with providing the utility services under its jurisdiction, subject to rejection – within 30 days of submission – by resolution of the Board of Supervisors. If the Board of Supervisors fails to act within 30 days the rates shall become effective without further action."

In response to regulations adopted by the State Water Resources Control Board, the SFPUC authorized the General Manager (Resolution 14-0121) to impose mandatory restrictions, consistent with the State Water Board's Emergency Regulations, on outdoor irrigation by reducing all outdoor irrigation of ornamental landscapes or turf with potable water by retail customers by at least 10%, for the period October 1, 2014 through June 30, 2015

As a result of the Commission's action to adopt excess water use charges, excess use charges may be applied to the Water Enterprise's approximately 1,600 retail potable water irrigation accounts to enforce the outdoor use restrictions. These irrigation accounts will be assigned water allocations set to 90% of their 2013 water use for the corresponding billing month. For each customer account, an excess use charge for water use above the 90% cumulative allocation for the entire restriction period will be assessed at two times the applicable water rate for that account.

Historically, assessing excess use charges has been an effective tool for the purpose of addressing the seriousness of water shortage impacts and educating users regarding the need for cutbacks. Furthermore, in extreme cases where outreach and education is not working, such charges will compel water use reductions. This system of charges has been successfully and effectively

implemented in prior drought circumstances, and is consistent with common statewide practices and the State Water Board's recent emergency regulations. While the expectation is that assessing such charges will not be necessary, the option needs to be available if necessary and to create a complete and effective shortage program.

Because the purpose and intent of the excess use charges is to achieve proper water use behavior through imposition of punitive assessments, the requirements of Proposition 26 regarding imposition of taxes do not apply. In addition, the excess use charges are not "property related fees," and thus the limitations of Proposition 218 and noticing requirements are likewise not applicable.

Irrigation account holders will, however, be notified through a letter included with their monthly water bills about their water allocation and their progress toward meeting the required 10% reduction in use. The requirement to reduce water consumption will become effective on October 1, 2014. No excess water use charges will be assessed to customers until they exceed their 90% allocation for the restriction period. The excess use charge will be applied to the amount of water used from October 1, 2014 to June 30, 2015, in excess of the applicable water allocation, at two-times the applicable water rate. Water use up to the 90% allocation will be billed at the current applicable rate.

Please find attached copies of the Commission agenda item and resolution proposing this rate action. Please also find attached copies of the Commission agenda item and resolution authorized the General Manager to impose mandatory restrictions. Should you have any questions, please contact San Francisco Public Utilities Commission Chief Financial Officer and Assistant General Manager Todd Rydstrom at 415-554-3155.

Attachments:

1. Resolution authorizing excess water use charges.
2. Resolution authorizing the General Manager to impose mandatory restrictions.
3. State Water Resource Control Board Resolution Adopting an emergency regulation for statewide urban water conservation.

# PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 14-0140

WHEREAS, On January 31, 2014, the San Francisco Public Utilities Commission (SFPUC) asked all SFPUC customers to voluntarily curtail water consumption by at least 10%; and

WHEREAS, On July 15, 2014, the State Water Resources Control Board adopted emergency regulations, Resolution 2014-0038, which require urban water suppliers to implement all requirements and actions of its water shortage contingency plan that impose mandatory restrictions on outdoor irrigation; and

WHEREAS, The Retail Water Shortage Allocation Plan (Plan) adopted by the SFPUC as part of the Urban Water Management Plan provides guidance for allocating water among SFPUC retail water customers in the event of a water shortage due to drought; and

WHEREAS, On August 12<sup>th</sup>, 2014, the SFPUC imposed mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water by retail customers of at least 10%; and

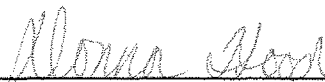
WHEREAS, The SFPUC caused a notice of public hearing on the proposed excessive use charges for the use of potable water on ornamental landscaping and turf to be published in the official newspaper on August 9<sup>th</sup> through August 13<sup>th</sup>, 2014, and posted as required by the Commission; and

WHEREAS, The Bureau of Environmental Management has determined enactment of the proposed excess use charges is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Section 15269 (Emergency Projects) and 15308 (Actions by Regulatory Agencies for Protection of the Environment); now, therefore, be it

RESOLVED, That this Commission hereby adopts excess water use charges, effective October 1, 2014, applicable to outdoor irrigation of ornamental landscapes or turf with potable water by retail customers, in excess of the allocations determined by the General Manager consistent with this Resolution, at two-times the applicable water rate; and be it

FURTHER RESOLVED, That this Commission hereby adopts the proposed regulations for administering the excess use charges, determining irrigation water use allocations, and considering allocation and exception determinations.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of August 26, 2014.*



Secretary, Public Utilities Commission

## PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 14-0121

WHEREAS, On July 15, 2014, the State Water Resources Control Board adopted emergency regulations, Resolution 2014-0038, which require urban water suppliers to implement all requirements and actions of its water shortage contingency plan that impose mandatory restrictions on outdoor irrigation; and

WHEREAS, On January 31, 2014, the San Francisco Public Utilities Commission (SFPUC) asked all SFPUC customers to voluntarily curtail water consumption by at least 10%; and

WHEREAS, The Retail Water Shortage Allocation Plan (Plan) was adopted by the SFPUC on December 11, 2001 to provide the SFPUC with a guidance tool to be used for allocating water among SFPUC retail customers in the event of a water shortage due to drought; and

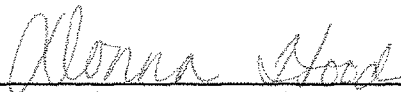
WHEREAS, The Plan allows the SFPUC to impose any additional water use prohibitions applicable to retail customers; and

WHEREAS, The Bureau of Environmental Management has determined enactment of the proposed emergency restrictions is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15269 (Emergency Projects) and 15308 (Actions by Regulatory Agencies for Protection of the Environment); now, therefore, be it

RESOLVED, That this Commission hereby authorizes the General Manager of the SFPUC to impose mandatory restrictions, consistent with the State Water Board's Emergency Regulations, on outdoor irrigation by reducing all outdoor irrigation of ornamental landscapes or turf with potable water by retail customers by at least 10%; and be it

FURTHER RESOLVED, that the Commission urges the San Francisco Board of Supervisors to adopt any legislation that is necessary in the view of the City Attorney to implement and enforce water use restrictions adopted by this Commission or the General Manager of the SFPUC.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of August 12, 2014.*



Secretary, Public Utilities Commission

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2014-0038**

**TO ADOPT AN EMERGENCY REGULATION  
FOR STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on all Californians to redouble their efforts to conserve water. The executive order finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. The National Integrated Drought Information System reported that nearly 80% of the state was reported to be under "extreme" drought conditions at the end of June;
2. The executive order refers to the Governor's Proclamation No. 1-17-2014, issued on January 17, 2014, declaring a State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals and the snowpack remain critically low. This follows two other dry or below average years, leaving reservoir storage at alarmingly low levels. The January Proclamation highlights the State's dry conditions, lack of precipitation and the resulting effects on drinking water supplies, the cultivation of crops, and the survival of animals and plants that rely on California's rivers and streams. The January Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. There is no guarantee that winter precipitation will alleviate the drought conditions that the executive orders address, which will lead to even more severe impacts across the state if the drought wears on;
4. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";
5. Over 400,000 acres of farmland are expected to be fallowed, thousands of people may be out of work, communities risk running out of drinking water, and fish and wildlife will suffer.

6. Many Californians have taken bold steps over the years and in this year to reduce water use; nevertheless, the dire nature of the current drought requires additional conservation actions from residents and businesses. Some severely affected communities have implemented water rationing, limiting water use in some cases to only 50 gallons per person per day, foregoing showers, laundry, toilet flushing, and all outdoor watering.
7. Water conservation is the easiest, most efficient and most cost effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances that water rationing is required ;
8. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water;
9. Public information and awareness is critical to achieving conservation goals and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>).
10. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
11. The emergency regulations set a minimum standard requiring only modest lifestyle changes across the state. Many communities are already doing more and have been for years. They should be commended, but can and should do more. Others are not yet doing so and should at least do this, but should do much more given the severity of the drought;
12. On July 8, 2014, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board's regularly-scheduled July 15, 2014 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
13. On April 25, 2014, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations pursuant to Water Code section 1058.5 to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation;
14. As discussed above, the State Water Board is adopting the emergency regulation because of emergency drought conditions, the need for prompt action, and current limitations in the existing enforcement process;

15. Disadvantaged communities may require assistance in increasing water conservation and state agencies should look for opportunities to provide assistance in promoting water conservation;
16. Nothing in the regulations or in the enforcement provisions of the regulations, preclude a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulations adopted by this resolution and local agencies retain their enforcement discretion in enforcing the regulations, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, sections 863, 864, and 865, as appended to this resolution as an emergency regulation;
2. The State Water Board staff will submit the regulation to the Office of Administrative Law (OAL) for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes;
4. These regulations shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulations due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulations and their effect;
6. Directs State Water Board staff to condition funding upon compliance with the emergency regulations, to the extent feasible;
7. Directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations; and
8. Directs State Water Board staff in developing an electronic reporting portal to include data fields so that local agencies may provide monthly reporting data on (i) conservation-related implementation measures or enforcement actions taken by the local agency and (ii) substitution during the drought of potable water with recycled water to extend water supplies.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board commends water suppliers that have increased conservation messaging and adopted innovative strategies to enhance customer awareness of water use, such as applications that let customers compare their water use to water use by others; reduce system losses, such as fixing system leaks which can deplete supplies by 10 percent or more; and establish incentives to reduce demand, such as tiered or drought rate structures. The State Water Board also commends all Californians that have already been working to maximize their conservation efforts, both at home and at work;
10. The State Water Board calls upon water suppliers to take the following actions:

*Educate customers and employees*

- Retail water suppliers should provide notice of the regulations in English and Spanish in one or more of the following ways: newspaper advertisements, bill inserts, website homepage, social media, notices in public libraries;
- Wholesale suppliers should include reference to the regulations in their customer communications;
- All water suppliers should train personnel on the regulations;
- All water suppliers should provide signage where recycled or reclaimed water is being used for activities that the emergency regulations prohibit with the use of potable water, such as operation of fountains and other water features;
- All water suppliers should redouble their efforts to disseminate information regarding opportunities and incentives to upgrade indoor fixtures and appliances;
- All water suppliers should use education and the tools available through the Save Our Water website (<http://saveourwater.com>); and
- All water suppliers should educate and prepare their boards and councils on the drought response actions contained in the emergency regulations and in this resolution, and to make sure that drought response items are placed on agendas as early as possible;

*Increasing local supplies*

- All water suppliers should accelerate the completion of projects that will conserve potable water by making use of non-potable supplies, such as recycled water, "greywater," and stormwater collection projects;
- All water suppliers should improve their leak reporting and response programs and request that police and fire departments and other local government personnel report leaks and water waste that they encounter during their routine duties/patrols;
- Smaller water suppliers – those with fewer than 3,000 service connections – should take proactive steps to secure their communities' water supplies and educate their customers about water conservation and the status of their supply reserves;
- All water suppliers should conduct water loss audits and make leak detection and repair a top priority for the duration of the drought; and
- All urban water suppliers should evaluate their rate structures and begin to implement needed changes as part of planning for another dry year. Information and assistance on setting and implementing drought rates is available from the Alliance for Water Efficiency. (<http://www.allianceforwaterefficiency.org/>).




11. The State Water Board calls on all Californians to take the following additional actions:
  - Further reduce water demand, whether by using less water in daily routines indoors and out, retrofitting appliances and installing greywater and rainwater catchment systems; and
  - Check residential and business water bills to see if there are high charges that may indicate a leak and to fix the leak, if they are able, or contact their local water utility if they need assistance.
  
12. The State Water Board encourages its staff, the Department of Water Resources, the Public Utilities Commission, urban water suppliers, and other local agencies to look for opportunities to encourage and promote new technologies that reduce water usage, including through timely access to water usage information and behavioral response.
  
13. The State Water Board encourages all state and local agencies to look for additional opportunities to minimize potable water use in outdoor spaces.
  
14. The State Water Board encourages investor-owned utilities to expeditiously submit applications for implementation of the regulations to the California Public Utilities Commission.

#### CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 15, 2014.

AYE:           Chair Felicia Marcus  
                   Vice Chair Frances Spivy-Weber  
                   Board Member Steven Moore  
                   Board Member Dorene D'Adamo  
  
 NAY:           None  
 ABSENT:       Board Member Tam M. Doduc  
 ABSTAIN:      None


---

 Jeanine Townsend  
 Clerk to the Board

# PROPOSED TEXT OF EMERGENCY REGULATIONS

## Article 22.5. Drought Emergency Water Conservation

### Sec. 863 Findings of Drought Emergency

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

### Sec. 864 Prohibited Activities in Promotion of Water Conservation

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(b) The taking of any action prohibited in subdivision (a) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

## PROPOSED TEXT OF EMERGENCY REGULATIONS

### Sec. 865 Mandatory Actions by Water Suppliers

(a) The term “urban water supplier,” when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15<sup>th</sup> of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105; 350; 10617; 10632.



**BOARD of SUPERVISORS**



**City Hall**  
**1 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: September 5, 2014  
To: Honorable Members, Board of Supervisors  
From: Angela Calvillo, Clerk of the Board  
Subject: Form 700

This is to inform you that the following individual has submitted a Form 700 Statement:

Beth Rubenstein – Legislative Aide - Assuming

OFFICE OF THE MAYOR  
SAN FRANCISCO



*C: 305-11, Aides, COB*

*Deputies,  
Dep City Attny  
N. Wheaton, Ac File  
Orig: cpage  
(Electronically)*

EDWIN M. LEE  
MAYOR

September 5, 2014

Ms. Angela Calvillo  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
14 SEP -5 PM 3:45  
*PL*

Dear Ms. Calvillo,

Pursuant to Charter Section 3.100, I hereby designate Supervisor London Breed as Acting-Mayor from the time I leave the State of California on Sunday, September 7th at 1:25 p.m., until Tuesday, September 9th at 11:25 p.m.

In the event I am delayed, I designate Supervisor London Breed to continue to be the Acting-Mayor until my return to California.

Sincerely,

*Edwin M. Lee*  
Edwin M. Lee  
Mayor

cc: Mr. Dennis Herrera, City Attorney  
All Members, Board of Supervisors



BOS-11, COB  
cpage

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2014 SEP -8 AM 9:55

# The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

September 4, 2014

Honorable Mayor Edwin M. Lee  
Mayor, City and County of San Francisco  
#1 Dr. Carlton B. Goodlett Place, Room 200  
San Francisco, CA 94102

Honorable Board of Supervisors  
#1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

SUZY LOFTUS  
President

L. JULIUS TURMAN  
Vice President

DR. JOE MARSHALL  
Commissioner

THOMAZ MAZZUCCO  
Commissioner

PETRA DeJESUS  
Commissioner

VICTOR HWANG  
Commissioner

SONIA MELARA  
Commissioner

Inspector John Monroe  
Secretary

Dear Mayor Lee and Supervisors:

At the meeting of the Police Commission on Wednesday, September 3, 2014, the following resolution was adopted:

**RESOLUTION NO. 14-43**

**ELECTION OF PRESIDENT OF THE POLICE COMMISSION**

RESOLVED, that Commissioner Suzy Loftus shall serve as President of the San Francisco Police Commission.

AYES: Commissioners Mazzucco, Turman, Marshall, DeJesus, Loftus, Hwang, Melara

**ELECTION OF VICE PRESIDENT OF THE POLICE COMMISSION**

RESOLVED, that Commissioner L. Julius Turman shall serve as Vice President of the San Francisco Police Commission.

AYES: Commissioners Mazzucco, Turman, Marshall, DeJesus, Loftus, Hwang, Melara

Very truly yours,

  
Inspector John Monroe  
Secretary  
San Francisco Police Commission

1345/rct

11

Sept. 16, 2014 Communications Page

From the Clerk of the Board, the following agencies have submitted a 2014 Local Agency Biennial Conflict of Interest Code Review Report:

Department of Technology  
Port of San Francisco



RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 SEP -4 AM 11:44  
PN  
bmeit

## 2014 Local Agency Biennial Notice Conflict of Interest Code Review Report

Name of Agency: Department of Technology  
Mailing Address: 1 So. Van Ness Ave., 2<sup>nd</sup> Floor  
Contact Person: Brian Roberts Office Phone No: 415-581-4061  
E-mail: brian.roberts@sfgov.org


This agency has reviewed its conflict-of-interest code and has determined that:

**An amendment is required. The following amendments are necessary:**  
(Check all that apply.)

- Include new positions (including consultants) that must be designated.
- Revise disclosure categories.
- Revise the titles of existing positions.
- Delete positions that have been abolished.
- Delete positions that no longer make or participate in making governmental decisions.
- Other (describe) \_\_\_\_\_

**No amendment is required.**

The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property, and sources of gifts and income that may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.

  
\_\_\_\_\_  
Signature of Acting Chief Administrative Officer

7/1/2014  
\_\_\_\_\_  
Date

Complete this notice regardless of how recently your code was approved or amended.

Please return this notice no later than August 4, 2014, via e-mail (PDF) or inter-office mail to:

Clerk of the Board of Supervisors  
ATTN: Peggy Nevin  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
E-mail: [peggy.nevin@sfgov.org](mailto:peggy.nevin@sfgov.org)

CP/AS

Disclosure Category 1. (Generic to City depts., not decided by DT.)

Persons in this category shall disclose income (including gifts) from any source, interests in real property, investments, and all business positions in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

Disclosure Category 2. (Specific to DT, can change or split into sub categorizations. I do not propose any change)

Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts to provide services, supplies, materials, machinery or equipment to the Department of Technology.

**Executive/Administration**

	Delete Heading
Executive Director	1 No change
Director of COIT	1 Delete
Chief Administrative Officer	1 Deputy Director, Project Management Office
Policy, Planning, and Compliance Manager	1 Deputy Director, Media
Financial Services Manager	1 Deputy Director, Finance and Administration
Director of Enterprise Agreements	1 Contracts, Procurement Manager
Contract Administrators	1 Change
Procurement Manager/Staff	1 Change
Storekeepers	2 No change
Accounting/Procurement Staff	2 Accounting
Director of Facilities/Telecom	1 No change

**Technology**

	Delete Heading
Chief Technology Officer	1 No Change
New Technology Managers	2 Delete

**Operations**

	Delete Heading
Chief Operations Officer	1 No Change
Communications Manager	1 Deputy Director Public Safety Operations
Communications Supervisor	1 No Change
Telecommunications Manager	1 No Change
Data Center Manager	1 No Change
Network Engineering Manager	1 No Change
Network Engineering Supervisor	2 No Change

Architecture Manager

1 No Change

**Applications**

Director of Applications

Delete Heading

1 No Change

Applications Manager

2 No Change

**Media**

Web Services Manager

Delete Heading

1 No Change

SFGTV Manager

1 No Change

Cable Franchise and Access Manager

1 Policy Analyst

2014 SEP -5 PM 3:05

PN

**2014 Local Agency Biennial Notice  
Conflict of Interest Code Review Report**

Name of Agency: PORT OF SAN FRANCISCO  
 Mailing Address: PIER 1, SAN FRANCISCO CA 94111  
 Contact Person: AMY QUESADA Office Phone No: 415-274-0405  
 E-mail: amy.quesada@sfport.com

This agency has reviewed its conflict-of-interest code and has determined that:

**An amendment is required. The following amendments are necessary:**  
 (Check all that apply.)

- Include new positions (including consultants) that must be designated.
- Revise disclosure categories.
- Revise the titles of existing positions.
- Delete positions that have been abolished.
- Delete positions that no longer make or participate in making governmental decisions.
- Other (describe) \_\_\_\_\_

**Edits to the List (changing the titles):**

OLD TITLE	NEW TITLE
Manager VI (Chief Harbor Engineer)	Deputy Director IV (Chief Harbor Engineer)
Manager III (Fiscal Officer)	Manager IV (Fiscal Manager)
Senior Building Inspector	Chief Building Inspector
Street Repairer Supervisor II	Street Environmental Services Operations Supervisor
Manager IV (Homeland Security Manager)	Manager V (Homeland Security Director)
Manager 1 (Emergency Response Training)	Planner III (Emergency Response Training)

**Additions to the List**

Project Manager 1	Disclosure Category 1
Project Manager II	Disclosure Category 1
Environmental Planner IV	Disclosure Category 2

**No amendment is required.**

The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property, and sources of gifts and income that may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.

  
 Signature of Chief Executive Officer

9-5-14  
 Date

Files: 140836 140836  
140814, 140815, 140816

*page*

---

**From:** David Schonbrunn [david@schonbrunn.org]  
**Sent:** Monday, September 08, 2014 10:09 AM  
**To:** Yee, Norman (BOS); Cohen, Malia (BOS); Avalos, John (BOS); Kim, Jane (BOS); Campos, David (BOS); Farrell, Mark (BOS); Mar, Eric (BOS); Tang, Katy (BOS); Wiener, Scott; Breed, London (BOS); Chiu, David (BOS); Board of Supervisors (BOS)  
**Subject:** letter re: Tuesday 9/9 Agenda  
**Attachments:** Community Facilities District-Transbay.doc

Please see attached letter regarding the Transbay Transit Center and the Community Facilities District.

It's time for Willie Brown's influence-peddling to end.

Thank you,

--David

David Schonbrunn, President  
Transportation Solutions Defense and Education Fund (TRANSDEF) P.O. Box 151439 San Rafael, CA  
94915-1439

415-331-1982

[David@Schonbrunn.org](mailto:David@Schonbrunn.org)

[www.transdef.org](http://www.transdef.org)

# Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

September 7, 2014  
By E-Mail

President David Chiu  
San Francisco Board of Supervisors  
San Francisco City Hall  
San Francisco, CA 94102

Re: Community Facilities District 2014-1 (Agenda items 15 - 18)

Dear President Chiu:

Our organization, the Transportation Solutions Defense and Education Fund or TRANSDEF, has been active for over two decades in advocating for the development of a regional transit hub at the Transbay Terminal site. We were instrumental in protecting the project by securing a stop-work order on a development on land identified for as essential to the project. We write to you today about a grievous threat to a key element of San Francisco's transportation future.

The Downtown extension of Caltrain to the Transbay Transit Center is very much needed to provide a convenient transit alternative for Peninsula commuters to the Financial District. The extension offers the promise of a dramatic mode shift from single-occupant auto to transit, thus benefitting the City's climate change programs and reducing congestion on streets and highways.

That project is threatened by cynical calls to delay the formation of the Community Facilities District. Property owners in the Transbay Transit Center's vicinity will receive tremendous windfall profits as a result of height bonuses and massive public infrastructure investment. In a disgusting show of bad faith and naked greed, some of them now threaten litigation over paying taxes commensurate with written agreements they signed. In response to these threats, we ask the Board to:

- Stand tall and proceed with the formation of the District, without further delay.
- Refuse to alter the tax rate methodology in the written agreements.
- Demonstrate that the Board strongly supports the Downtown Extension.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,  
President

File 140836,

**From:** Roland Salvato [rolandsalvato@hotmail.com] 140814, 140815, 140816  
**Sent:** Saturday, September 06, 2014 6:43 PM  
**To:** Farrell, Mark (BOS) cpage  
**Cc:** Chiu, David (BOS); Wiener, Scott; Mar, Eric (BOS); Kim, Jane (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Breed, London (BOS); Avalos, John (BOS); Cohen, Malia (BOS); Campos, David (BOS); Jennifer (SF Tomorrow) Clary; Denise (SF Tomorrow) D'Anne; Board of Supervisors (BOS)  
**Subject:** "Transit First's" Need For The CFD

Dear Supervisor,

Good news: Matching funds offered by San Francisco taxing authorities (including those levied under a special taxing district allowed to City College of San Francisco under the Community Facilities Act, aka "Mello-Roos") are available for State/Federal funding of the Transbay Terminal Project. That new tax district would increase the efficacy of the train/bus hub and play an important role in attaining San Francisco's transportation needs.

People could be induced out of their cars if there were an attractive alternative in the form of real downtown delivery via public mass transit. This means that the project needs to enable Caltrain to come to the downtown Transit Terminal. Enabling people to abandon their cars is one of the tenets of San Francisco's "Transit First" policy. But transportation choices must be *genuine* because many people won't be forced out of their cars just by higher parking fees.

Getting the local landowners to support this tax is only half of the equation. The other half is realizing that much of the value in their buildings was created by the development of the Transit Authority Zone and its guidance of a plan that includes open space and streetscape improvements.

Most importantly - a robust Transbay Transit Terminal would give hundreds of thousands of commuters a better way to ride and a real reason to step out of their cars.

Please vote with us on Tuesday.

*Well done is better than well said.*  
--Benjamin Franklin

---

**From:** nesad58@aol.com  
**Sent:** Saturday, September 06, 2014 4:58 AM  
**To:** Yee, Norman (BOS); Cohen, Malia (BOS); Avalos, John (BOS); Kim, Jane (BOS); Board of Supervisors (BOS); Campos, David (BOS); Farrell, Mark (BOS); Mar, Eric (BOS); Tang, Katy (BOS); Wiener, Scott; Chiu, David (BOS); Breed, London (BOS)  
**Subject:** Getting Caltrain Extended

**Dear Supervisors:**

**We hear you are being pressured to torpedo the Mello Roos district being set up to help pay for extending Caltrain.**

**On behalf of everyone who must fight his way into and out of San Francisco every day, we implore you not to delay setting up the District and not to reduce the amount of taxes to be collected.**

**North-South commuters need a better way to access downtown San Francisco. Nothing could be of more benefit to San Francisco and its congested streets than getting tens of thousands of Peninsula commuters a day out of their cars and into a classy commuter train extended to the new Transbay Terminal.**

**Steven Vahn  
Mark Green**

**San Francisco**