

File No. 100943

Committee Item No. 2
Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight Date July 22, 2010

Board of Supervisors Meeting Date 8/3/10

Cmte Board

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Completed by: Alisa Somera Date July 16, 2010

Completed by: *Stacie Stokes* Date July 23, 2010

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

98

1/1/10

1
2 [Board of Supervisors Response to the 2009-2010 Civil Grand Jury Report Entitled
3 "Americans With Disabilities Act: Is San Francisco In Compliance?"]

4 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
5 **and recommendations contained in the 2009-2010 Civil Grand Jury Report entitled**
6 **"Americans With Disabilities Act: Is San Francisco In Compliance?"**

7
8 WHEREAS, Under California Penal Code Section 933 et seq., the Board of
9 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
10 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

11 WHEREAS, In accordance with Penal Code Section 933.05(c), if a finding or
12 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
13 county agency or a department headed by an elected officer, the agency or department head
14 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
15 response of the Board of Supervisors shall address only budgetary or personnel matters over
16 which it has some decision making authority; and

17 WHEREAS, The 2009-2010 Civil Grand Jury Report entitled "Americans With
18 Disabilities Act: Is San Francisco In Compliance?" is on file with the Clerk of the Board of
19 Supervisors in File No. 100292, which is hereby declared to be a part of this resolution as if
20 set forth fully herein: and

21 WHEREAS, the Mayor's Office, the Mayor's Office on Disability, The Mayor's Disability
22 Council, the Department of Public Works, the City Attorney's Office, the Police Department
23 and the Municipal Transportation Agency have each submitted its response to the subject
24 Grand Jury Report, each departmental response is on file with the Clerk of the Board of
25 Supervisors in File No. 100943, each departmental response is hereby declared to be a part

1 of this resolution as if set forth fully herein, and the Board has reviewed and considered each
2 departmental response; and

3 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
4 to Findings Nos. 1, 2, 4, 5 and 6 as well as Recommendations Nos. 1, 2, 4, 5 and 6 contained
5 in the subject Civil Grand Jury report; and

6 WHEREAS, Finding No. 1 states: "San Francisco is vulnerable to litigation for non
7 compliance with Title II mandates of the ADA;" and

8 WHEREAS, Recommendation No. 1 states: "The City Attorney's Office should assess
9 the liability and risk to the City for the incomplete level of Title II compliance, and report its
10 findings to the Mayor and BOS by October 31, 2010;" and

11 WHEREAS, Finding No. 2 states: "In response to the ADA mandates, a Grievance
12 Procedure has been developed for intake, investigation, and referral of citizens' Title II
13 compliance issues. Complaints that are referred to the appropriate departments have already
14 been processed and verified as valid, and assistance to the affected departments in producing
15 appropriate responses is available. This process significantly reduces the cost of the
16 investigation of a complaint and the construction of a viable response by that department. The
17 level of complaints is expected to increase by as much as three fold as the availability of the
18 grievance process becomes better known in the community. The budget for this work was
19 reduced for the current fiscal year (2009-2010) resulting in the lengthening of the time to
20 complete the process and generating a backlog of cases. The sooner a complaint is
21 processed, the less liability and risk exposure there is for the City. Delays drive up the costs
22 of response and can encourage litigation;" and

23 WHEREAS, Recommendation No. 2 states: "San Francisco should expand the
24 Grievance Procedure to the level necessary for the "prompt and equitable" resolution of ADA
25 complaints;" and

1 WHEREAS, Finding No. 4 states: "The Facilities Transition Plan (FTP) is
2 comprehensive and is updated periodically. Over two thirds of the plan has been
3 accomplished, with work on the final portion underway. The capital plan for the City allows for
4 the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs
5 over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with
6 more than half of the sum originating from public sources. These sources are varied, and
7 come from Federal, State, and local coffers via myriads of programs, many with specific use
8 criteria. Even with all known sources, the expenditures far exceed available funds. Of critical
9 importance is the need to maintain consistent levels of funding, without which experienced
10 staff will be lost with detrimental impact on their programs;" and

11 WHEREAS, Recommendation No. 4 states: "San Francisco should obtain and
12 distribute the needed funding through all available and creative means including targeted
13 bond issues to accelerate the achievement of compliance goals in ten years. Consistent
14 funding levels must be maintained in order to retain, develop, and expand the pool of valuable
15 experienced personnel;" and

16 WHEREAS, Finding No. 5 states: "The City incurs significant risk and liability from the
17 insufficient monitoring of incursions to the public right of way and the maintenance of a clear-
18 path-of-travel. The DPW is responsible for the investigation and enforcement of temporary
19 and permanent sidewalk incursions involving the entire City. The majority of infractions are
20 due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given
21 time, and more than 400 new complaints are received weekly. The team of inspectors has
22 been unable to keep pace with and process these complaints. Delays in the correction of
23 incursions can lead to lawsuits;" and

24 WHEREAS, Recommendation No. 5 states: "The City should pursue full enforcement
25 and monitoring of incursions to the public rights of way, especially with regards to temporary

1 sidewalk incursions. Staffing levels must be maintained to address and complete inspections
2 and investigations promptly and to eliminate backlogged cases;" and

3 WHEREAS, Finding No. 6 states: "The SFPD and MTA (MUNI) (DPT) have large
4 numbers of employees whose work involves a great deal of public contact. Assistance and
5 sensitivity training for the service to and interaction with disabled persons in a manner which
6 is effective and respectful of their rights, has yet to be fully developed. A successful
7 completion certificate would result in a higher degree of subject retention and grant a sense of
8 accomplishment when awarded. The MOD is working with these departments in order to do
9 so, but lacks the financial wherewithal needed for its accomplishment. Many viable models
10 exist which can be adapted to fit training goals, reducing development and implementation
11 costs;" and

12 WHEREAS, Recommendation No. 6 states: "By June 2011, the City should develop
13 training programs in areas of assistance and sensitivity to the needs of disabled persons,
14 especially at MTA and SFPD. These programs should be implemented by December 31,
15 2011;" and

16 WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of
17 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
18 Court on Findings Nos. 1, 2, 4, 5 and 6 as well as Recommendations Nos. 1, 2, 4, 5 and 6
19 contained in the subject Civil Grand Jury report; now, therefore, be it

20 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
21 Superior Court that it incorporates and adopts as its own the City Attorney's response to
22 Finding No. 1 and Recommendation No. 1 of the subject Grand Jury Report; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
24 own the response of the Mayor's Office on Disability to Finding Nos. 2, 4 and 6, and
25 Recommendation Nos. 2, 4 and 6 of the subject Grand Jury Report; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
2 own the response of the Department of Public Works to Finding No. 5 and Recommendation
3 No. 5 of the subject Grand Jury Report; and, be it

4 FURTHER RESOLVED, That Pursuant to Penal Code Section 933.05(c), the Board of
5 Supervisors responds to the findings and recommendations to which it agrees by hereby
6 urging the Mayor to cause the implementation of accepted findings and recommendations
7 through his/her department heads and through the development of the annual budget.
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Mayor's Disability Council



Gavin Newsom
Mayor

Susan Mizner
Director

Jul Lynn Parsons
F. Ross Woodall
Co-Chairs

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

June 25, 2010

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

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

Dear Judge McBride:

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

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

Civil Grand Jury Recommendation #2	MDC Response to Recommendation #2
San Francisco should expand the Grievance Procedure to the level necessary for the "prompt and equitable" resolution of ADA complaints.	While the MDC believes that ADA complaints receive "prompt and equitable" resolution, we also recognize that this comes at the expense of other MOD activities, given the staffing shortage. The MDC also acknowledges that many calls to MOD should be directed to other departments (such as the Department of Aging and Adult services), but because

	<p>MOD is the only city entity with "Disability" in its name, a large volume of inquiries goes there. The MDC would like to see a more coordinated environment from other departments to improve this additional workload on MOD. The MDC agrees with this Civil Grand Jury recommendation, specifically to the reinstatement of a full time grievance staff addressing equal access issues citywide.</p>
<p>Civil Grand Jury Recommendation #3 By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation</p>	<p>MDC Response to Recommendation #3 While the MDC understands there are differing responsibilities within the various titles of the ADA, and that the sole focus of MOD is regarding Title II issues, as disability liaisons we recognize the interrelatedness of all titles within the ADA and the necessity to review compliance of both public and private issues as resembling an accessible community. The MDC supports this Civil Grand Jury recommendation with the expectation that the funding for this study not to be taken from general fund departments that would further impact programs and services that the disability community is dependent upon.</p>
<p>Civil Grand Jury Recommendation #4 San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in ten years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.</p>	<p>MDC Response to Recommendation #4 The MDC agrees that there needs to be retention in certain related departments of expert personnel. While the MDC would support a ten year plan for universal curb and sidewalk accessibility as fulfilling both public and private interests, we caution that the monies identified to do so would not be taken from other programs the disability community relies upon, such as Department of Public Health or Human Services, nor would the MDC support prioritizing architectural access issues over other civil rights inherent within the ADA.</p>
<p>Civil Grand Jury Recommendation #6 By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons, especially at MTA and SFPD. These programs should be implemented</p>	<p>MDC Response to Recommendation #6 The MDC understands these departments already have trainings for both management and point of service employees, yet is concerned with how effective, comprehensive and frequent</p>

by December 31, 2011.

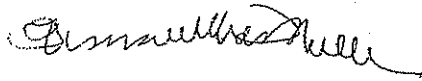
these trainings are, and what accountability follow up measures are included. While suggested online trainings may be cost effective, personal interaction with employees and persons with disabilities is felt to be most beneficial in the long term.

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

Most sincerely,



Jul Lynn Parsons
Co Chair
Mayor's Disability Council



F. Ross Woodall
Co Chair
Mayor's Disability Council

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

Mayor's Office on Disability



Gavin Newsom
Mayor

Susan Mizner
Director

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

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

June 15, 2010

Dear Judge McBride:

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

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

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

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

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

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MOD@sfgov.org

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

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

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

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

Sincerely,

Susan Mizner
Director
Mayor's Office on Disability

Cc: Board of Supervisors
Grand Jury Office



GAVIN NEWSOM
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

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



HEATHER J. FONG
CHIEF OF POLICE

June 16, 2010

RECEIVED

JUN 22 2010

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

Dear Judge McBride:

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

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

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

Sincerely,



GEORGE GASCON
Chief of Police

SFPD RESPONSES TO 2009-2010 CIVIL GRAND JURY REPORT

“AMERICANS WITH DISABILITIES ACT: IS SAN FRANCISCO IN COMPLIANCE?”

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

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

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Cameron Beach | Director

Maldoin Heinicke | Director

Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

June 17, 2010

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

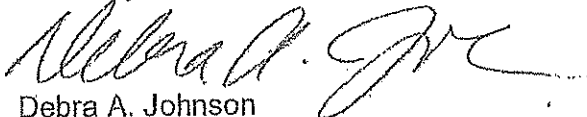
Re: Grand Jury Request for Information from the San Francisco Municipal
Transportation Agency (SFMTA)

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

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

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

Sincerely,



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

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

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

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

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

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

Response Required From: San Francisco Municipal Transportation Agency

Explanation

<p>Finding # 3 Not Applicable</p>	<p>SFMTA Accessible Services is unable to comment on or contribute to this recommendation as it relates to private sector ADA compliance issues which are not in the purview of SFMTA. The Mayor's Office on Disability may have further recommendations on how the City could incorporate a grievance process for private entities into the City's grievance process.</p>
<p>Recommendation # 3</p>	<p>Recommendation Requires Further Analysis By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation.</p>
<p>Finding # 4 Not Applicable</p>	<p>SFMTA has made great strides in updating our transit facilities to meet Federal accessibility standards. Any facility modifications done by SFMTA always include accessibility upgrades and funding for those upgrades. Department of Public Works and the Mayor's Office on Disability are the main entities in charge of the Facilities Transition Plan and SFMTA has and will continue to cooperate with these departments regarding its implementation.</p>
<p>Recommendation # 4</p>	<p>Recommendation Requires Further Analysis San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in 10 years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.</p>
<p>Finding # 6 Agree ___ Disagree X</p>	<p>SFMTA has significant disability awareness training programs in place. SFMTA Safety and Training works closely with SFMTA Accessible Services to develop and deliver an effective disability awareness curriculum. An intensive training is provided to new transit operators in the early days of their training period so that they carry an awareness of the needs of seniors and persons with disabilities throughout their training program. Basic accessibility awareness trainings include specialized instruction including, review of the ADA, definition of disability, discussion of hidden disabilities, tips on communicating with persons with disabilities,</p>

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

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

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

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

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

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

Specifically from Customer Rights and Responsibilities

"Commendations and Complaints

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

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

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

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ADINE VARAH
Deputy City Attorney

DIRECT DIAL: (415) 554-4670
E-MAIL: adine.varah@sfgov.org

June 21, 2010

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

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

Dear Judge McBride:

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

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

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

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

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

CITY HALL, ROOM 234 • 1 DR. CARLTON B. GOODLETT PLACE • SAN FRANCISCO, CALIFORNIA 94102
RECEPTION: (415) 554-4700 FACSIMILE: (415) 554-4747

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Page 2
June 21, 2010

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

Finding #1.

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

City Attorney's Office Response To Finding #1.

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

Recommendation #1.

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

City Attorney's Office Response to Recommendation #1.

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

We hope this information is helpful.

Very truly yours,

DENNIS J. HERRERA
City Attorney


ADINE VARAH
Deputy City Attorney

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



June 21, 2010

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

Dear Judge McBride:

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

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

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

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

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

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

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

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

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

Finding 2: In response to the ADA mandates, a Grievance Procedure has been developed for intake, investigation, and referral of citizens' Title II compliance issues. Complaints that are referred to the appropriate departments have already been processed and verified as valid, and assistance to the affected departments in producing appropriate responses is available. This process significantly reduces the cost of the investigation of a complaint and the construction of a viable response by that department. The level of complaints is expected to increase by as much as three fold as the availability of the grievance process becomes better known in the community. The budget for this work was reduced for the current fiscal year (2009-2010) resulting in the lengthening of the time to complete the process and generating a backlog of cases. The sooner a complaint is processed, the less liability and risk exposure there is for the City. Delays drive up the costs of response and can encourage litigation.

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

Finding 3: Currently only issues involved with Title II compliance are handled by the Grievance Process. The likelihood of disabled citizens requiring an alternative for and assistance in filing concerns outside of Title II is extremely high. The only alternative for the aggrieved is litigation at great expense in both time and resources, or filing a complaint with the DOJ. It is estimated to cost about \$750,000 to expand the Grievance Procedure to cover private sector complaints.

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

Finding 4: The Facilities Transition Plan (FTP) is comprehensive and is updated periodically. Over two thirds of the plan has been accomplished, with work on the final portion underway. The capital plan for the City allows for the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with more than half of the sum originating from public sources. These sources are varied, and come from Federal, State, and local coffers via myriads of programs, many with specific use criteria. Even with all known sources, the expenditures far exceed available funds. Of critical importance is the need to maintain consistent levels of funding, without which experienced staff will be lost with detrimental impact on their programs.

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

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

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

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

Finding 6: The SFPD and MTA (MUNI) (DPT) have large numbers of employees whose work involves a great deal of public contact. Assistance and sensitivity training for the service to and interaction with disabled persons in a manner that is effective and respectful of their rights, has yet to be fully developed. A successful completion certificate would result in a higher degree of subject retention and grant a sense of accomplishment when awarded. The MOD is working with these departments in order to do so, but lacks the financial wherewithal needed for its accomplishment. Many viable models exist which can be adapted to fit training goals, reducing development and implantation costs.

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

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

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

Response:

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

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

Response:

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

Recommendation 3: By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation.

Response:

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

Recommendation 4: San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in ten years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.

Response:

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

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

Response:

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

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

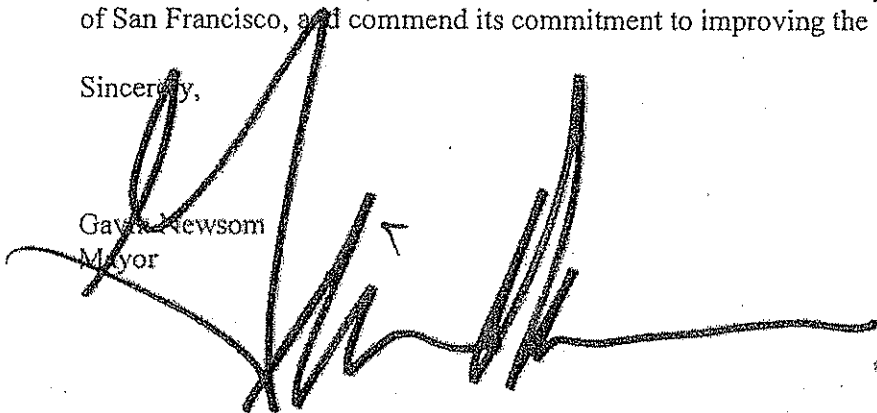
Response:

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

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

Sincerely,

Gavin Newsom
Mayor

A large, stylized handwritten signature in black ink, appearing to be 'Gavin Newsom', written over the printed name and extending across the page.



Gavin Newsom, Mayor
Edward D. Reiskin, Director



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www.sfdpw.org

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

June 22, 2010

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

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

Dear Judge McBride:

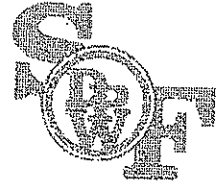
I write to provide response to the Findings and Recommendations of the subject report. I want to thank you and the Grand Jury for your attention to the important matter of providing access to people with disabilities. Provision of access is something that the city and the Department of Public Works consider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

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

	Findings	Recommendations
Civil Grand Jury	3. Currently only issues involved with Title II compliance are handled by the Grievance Process. The likelihood of disabled citizens requiring an alternative for and assistance in filing concerns outside of Title II is extremely high. The only alternative for the aggrieved is litigation at great expense in both time and resources, or filing a complaint with the DOJ. It is estimated to cost about \$750,000 to expand the Grievance Procedure to cover private sector complaints.	3. By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation.
DPW response	Partially disagree. The finding is correct that the City receives citizen complaints that fall outside the scope of Title II. However, the City does provide other avenues for citizens that may potentially help them avoid litigation. For example, the Human Rights Commission assists	Will not be implemented. This recommendation falls outside the responsibility of DPW. DPW defers to the responses of MOD and the Mayor's Office.



	the public in addressing grievances regarding access issues in public accommodations.	
Civil Grand Jury	4. The Facilities Transition Plan (FTP) is comprehensive and is updated periodically. Over two thirds of the plan has been accomplished, with work on the final portion underway. The capital plan for the City allows for the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with more than half of the sum originating from public sources. These sources are varied, and come from Federal, State, and local coffers via myriads of programs, many with specific use criteria. Even with all known sources, the expenditures far exceed available funds. Of critical importance is the need to maintain consistent levels of funding, without which experienced staff will be lost with detrimental impact on their programs.	4. San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in ten years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.
DPW Response	Partially Disagree. DPW will focus on the public rights of way in its response to this finding. DPW agrees it is of critical importance to maintain consistent levels of funding in order to maintain experienced staff. In the case of the curb ramp program this is especially true due to the fact that the lion's share of the program cost is professional engineering and skilled labor, not materials.	Already implemented. The recommendation has been implemented in recent years, as the City has consistently allocated significant funds through its Ten Year Capital Plan and annual capital budget process. The City has used numerous funding sources for curb ramps and sidewalks, including general operating funds, sales tax revenues, and debt financing. The City will continue to pursue all viable means to continue funding in a manner that is as consistent from year to year as possible and in conformance with the DPW ADA Transition Plan for Curb Ramps and Sidewalks.
Civil Grand Jury	5. The City incurs significant risk and liability from the insufficient monitoring of incursions into the public right of way and the maintenance of a clear-path-of-travel. The DPW is responsible for the investigation and enforcement of temporary and permanent sidewalk incursions involving the entire City. The majority of infractions are due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given time, and more	The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases.



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

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

Sincerely,

Edward D. Reiskin
 Director

Cc: Board of Supervisors
 Grand Jury Office