



DAVID CHIU
City Attorney

August 19, 2024

Hon. Anne-Christine Massullo
Presiding Judge
San Francisco Superior Court
400 McAllister Street, Room 8
San Francisco, California 94102
By mail and email: CGrandJury@sftc.org

Re: City Attorney Office's response to the June 2024 Civil Grand Jury Report entitled, "Commission Impossible?"

Dear Judge Massullo:

In accordance with Penal Code Sections 933 and 933.05, the City Attorney's Office submits this written response to the Civil Grand Jury Report entitled, "Commission Impossible?" issued in June 2024. The Jury requested that this Office respond to two findings and four recommendations in the report. We understand that other City departments are also responding to the report's findings and recommendations, but we are submitting this response separately because of the unique role this Office plays in advising and monitoring the activities of City boards and commissions.

For Civil Grand Jury findings 1 and 5, you asked that the we either:

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

For Civil Grand Jury recommendations 1.1, 1.3, 1.4, and 5.2, you asked that we report either:

1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; 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 No. 1: No up-to-date, accurate list of active appointed bodies exists, which impedes government transparency: Most city departments are overseen or advised by one or more

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commissions and boards. Yet there is no readily available, reliable way to identify all currently active bodies.

City Attorney's Office Response to Finding No. 1: Disagree. The City Attorney publishes and regularly updates a list of all City policy bodies established under state and local law. That list is available on our website, at www.sfcityattorney.org/good-government/list-of-commissions-boards/. Indeed, when the *San Francisco Standard* inquired last year into the number of City commissions, advisory bodies, and departments, the *Standard* reported that Jen Kwart, the City Attorney's Director of Communications and Media Relations, was the "knight in shining armor" who provided the answer based on our Office's comprehensive list.

By way of background, in 2014, the Civil Grand Jury issued a report entitled, "Survey of San Francisco Commission Websites," in which the Jury found that there was "no easy reference to all of the commissions in San Francisco" and recommended that the City Attorney "ensure that there is an annual list of active commissions that is complete and listed alphabetically." In response to that report, the City Attorney posted just such a list on our website in 2014, and we have regularly updated it ever since. The list comprehensively includes all City policy bodies created by the City Charter, City ordinance, or California statute. The list does not include what San Francisco's Sunshine Ordinance refers to as "passive meeting bodies" created by the Mayor or a City agency without legislation because those bodies tend to be more informal and short-lived and because they are not subject to the many procedural rules that state and local laws impose on policy bodies, such as regular meeting schedules, agendas, and opportunities for public comment.

In its 2024 report, the Jury compiled its own list of "active San Francisco boards and commissions." We appreciate the Jury's thorough work to compile that list, which largely overlaps with our own. The Jury's list includes two policy bodies—the Human Rights Commission's LGBTQI+ Advisory Committee and the Long-Term Care Coordinating Committee—that we did not include in the most recent list on our website. Both of those bodies are referenced in City law, but we understand that neither of them has met regularly in the past several years. Still on July 8, for consistency, we updated our website to include both of those bodies. The Jury's list also includes two passive meeting bodies—the Citywide Affordable Housing Loan Committee and the Mayor's Disability Council—that we do not include in our list because they are not policy bodies. And the Jury's list includes the Assessment Appeals Board three times (for Boards 1, 2, and 3). Our list already includes the Assessment Appeals Board, and separate cataloguing is not necessary.

The Jury's report also includes a separate list of 20 bodies that the Jury found are inactive, many of which appear on the City Attorney's list of policy bodies. It is sometimes difficult to determine whether a policy body is truly inactive, no longer intends to meet, and should not be listed. We are currently working with City departments to determine which of these bodies have stopped meeting permanently. We will work with those departments to introduce ordinances to remove any such bodies from the Municipal Codes, unless the bodies are required under the Charter or State law. After the Board of Supervisors and Mayor enact those ordinances, we intend to update our online list to remove those bodies.

Finding No. 5: Most appointed bodies have no sunset dates, which affects their relevance and accountability: More than 75 percent of advisory bodies do not have sunset dates despite the guidance in the Board of Supervisors' Rules of Order that all advisory bodies have a sunset date that does not exceed three years.

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City Attorney's Office Response to Finding No. 5: Partially disagree. The Board of Supervisors' Rules of Order require that ordinances creating or reauthorizing policy bodies must include "a sunset clause not to exceed three years." Since the Board adopted that rule several years ago, the three-year sunset rule has become a default provision in most ordinances establishing or extending a policy body. But as to any particular ordinance the Board and Mayor have discretion to make a policy decision whether to establish a longer sunset period or even no sunset period at all. In some instances, the Board and Mayor have determined that allowing a body to exist without a sunset date does not have a negative impact on the body's relevance or accountability. While we agree that it is a best practice to include a reasonable sunset date in any ordinance establishing an advisory body, it is ultimately a judgment call for the Board of Supervisors and Mayor.

Recommendation No. 1.1: By October 1, 2024, the City Attorney's Office shall prepare and publish an up-to-date, accurate list of active commissions and other appointed bodies each year. In preparing the list, the City Attorney's Office should consult this report, including especially the list created by this Civil Grand Jury as shown in Appendix A: Active San Francisco Commissions and Boards, and the list of inactive bodies shown in Appendix C: Inactive Bodies.

City Attorney's Office Response to Recommendation No. 1.1: As discussed above in response to Finding 1, the City Attorney's Office has already implemented this recommendation.

Recommendation No. 1.3: The report referenced in Recommendation 1.1 shall be posted not only on the City Attorney's website, but also on a new Commissions Oversight Body (COB) website (see Recommendation 2.1) or on a city website that is used more frequently by the public to obtain information about city programs and services. Good examples include Los Angeles County and San Diego County.

City Attorney's Office Response to Recommendation No. 1.3: The City Attorney's Office has not implemented this recommendation as to posting on another website but will do so within 90 days. Since a new Commissions Oversight Body does not yet exist, the City Attorney's Office will work with the City Administrator to determine an appropriate additional website on which to post the City Attorney's online list of policy bodies.

Recommendation No. 1.4: In the event the ordinance referenced in Recommendation 1.2 is not enacted in time to take effect by January 31, 2025, the City Attorney shall prepare and make available to the public by January 31, 2025 an up-to-date, accurate list of appointed bodies.

City Attorney's Office Response to Recommendation No. 1.4: As discussed above in response to Finding 1, the City Attorney's Office has already implemented this recommendation.

Recommendation 5.2: The Clerk of the Board shall notify the City Attorney six months before a body is scheduled to sunset so that the City Attorney can remove the body from the code if it is sunsetted.

City Attorney's Office Response to Recommendation No. 5.2: This recommendation requires further analysis. The City Attorney's Office currently works with the publisher of the Municipal Codes to track when various provisions sunset, and we will continue to do so. The City

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Attorney' Office will discuss this recommendation with the Clerk of the Board within the next 90 days to determine whether the recommendation is feasible or necessary in light of the system that the City Attorney's Office currently uses to track sunset dates.

Very truly yours,

A handwritten signature in blue ink that reads "David Chiu". The signature is written in a cursive, flowing style.

DAVID CHIU
City Attorney