File No. 140793 Committee Item No. 4
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight **Date** December 11, 2014

Board of Supervisors Meeting **Date** JANUARY 13, 2015

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Completed by: Erica Major **Date** December 5, 2014
Completed by: ERICA MAJOR **Date** JANUARY 6, 2015

FILE NO. 140793 MOTION NO.

[Follow-Up Board Response - 2013-2014 Civil Grand Jury Report - "Ethics in the City: Promise, Practice or Pretense"]

Motion responding to the Civil Grand Jury request to provide a status update on the Board of Supervisors' responses to Recommendation Nos. 2, 11, 16, 18, and 21 contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

WHEREAS, The 2013-2014 San Francisco Civil Grand Jury published a report, entitled "Ethics in the City: Promise, Practice or Pretense" (Report) in June 2014; and

WHEREAS, The Board of Supervisors' Government Audit and Oversight Committee (GAO) conducted a public hearing to hear and respond to the Report on September 11, 2014, and the Board of Supervisors adopted Resolution No. 346-14 reflecting the GAO responses to the Report on September 16, 2014; and

WHEREAS, Recommendation No. 2 states: "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" and the Board of Supervisors on September 16, 2014, responded in Resolution No. 346-14 that Recommendation No. 2 "requires further analysis, for reasons as follows: The Board supports this recommendation, but implementing it will require an individual Supervisor to propose an audit, which should be conducted by the Controller's City Auditor Division with assistance from the City Attorney. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014;" and

WHEREAS, Recommendation No. 11 states: "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" and the Board of Supervisors on September 16, 2014, responded in Resolution No. 346-14 that Recommendation No. 11 "requires further analysis, for reasons as follows: The Board of Supervisors looks forward to upcoming work on this issue by the Sunshine Ordinance Task Force, the Ethics Commission and the City Attorney, and will report back to the Civil Grand Jury after their work and the conclusion of the relevant California Supreme Court case. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014;" and

WHEREAS, Recommendation No. 16 states: "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" and the Board of Supervisors on September 16, 2014, responded in Resolution No. 346-14 that Recommendation No. 16 requires "further analysis, for reasons as follows: The Board of Supervisors is open to making changes in this area, and looks forward to the additional analysis and recommendations of the Ethics Commission. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014;" and

WHEREAS, Recommendation No. 18 states: "The Board of Supervisors should adopt a rule subjecting themselves to the public calendar requirement of the Sunshine Ordinance" and the Board of Supervisors on September 16, 2014, responded in Resolution No. 346-14 that Recommendation No. 18 "requires further analysis, for reasons as follows: The Board of Supervisors will ask the Clerk of the Board to include this potential Board Rule change in the next round of revisions of the Board's Rules of Order, which is expected in 2014. This process will give the Board the opportunity to make this change. The Board will report back to the Civil Grand Jury within six months from the date of the issuance of the Grand Jury report or by December 26, 2014;" and

WHEREAS, Recommendation No. 21 states: "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" and the Board of Supervisors on September 16, 2014, responded in Resolution No. 346-14 that Recommendation No. 21 "requires further analysis, for reasons as follows: The Board of Supervisors will consider this recommendation as part of the Ethics Commission's next budget. The Board agrees that an additional staff member could improve the effectiveness of the Ethics Commission. The Board will report back to the Civil Grand Jury within six months from the date of the issuance of the Grand Jury report or by December 26, 2014;" and

WHEREAS, The 2013-2014 City and County of San Francisco Civil Grand Jury requested that the Board of Supervisors provide a status update on the responses to Recommendation Nos. 2, 11, 16, 18, and 21; and

WHEREAS, GAO conducted an additional hearing on December 11, 2014, to receive an update from City departments on Recommendation Nos. 2, 11, 16, 18, and 21; now, therefore, be it

MOVED, that the Board of Supervisors will not implement Recommendation No. 2 because while the Board supports this recommendation, implementing it will require an individual Supervisor to propose an audit, which should be conducted by the Controller's City Auditor Division with assistance from the City Attorney. While any Supervisor can undertake such an effort, collectively the Board cannot preemptively guarantee one of its members will choose to do so; and, be it

FURTHER MOVED, That the Board of Supervisors reports that Recommendation No. 11 will not be implemented because, by nature, such policy changes would be beyond the jurisdiction of the Board of Supervisors. The Board looks forward to upcoming work on this issue by the Sunshine Ordinance Task Force, the Ethics Commission and the City Attorney; and, be it

FURTHER MOVED, That the Board of Supervisors reports that Recommendation No. 16 will not be implemented because, by nature, such policy changes would be beyond the jurisdiction of the Board of Supervisors. The Board looks forward to the additional analysis and recommendation of the Ethics Commission; and, be it

FURTHER MOVED, That the Board of Supervisors reports that Recommendation No. 18 will not be implemented because, as evidenced by the Civil Grand Jury report, Supervisors already willingly disclose their calendars; and, be it

FURTHER MOVED, That the Board of Supervisors reports that Recommendation No. 21 will not be implemented because the Board of Supervisors agrees that an additional staff member could improve the effectiveness of the Ethics Commission. The Board will consider this recommendation as part of the Ethics Commission's next budget. Unfortunately, the constraints imposed by the Civil Grand Jury response process do not allow the Board to officially say that this recommendation will be considered at a later date, though it will; and, be it

FURTHER MOVED, That the Board of Supervisors urges the Mayor to cause the implementation of accepted recommendations through his/her department heads and through the development of the annual budget.

Major, Erica

rom: Board of Supervisors (BOS)
Sent: Thursday, September 11, 2014 1:21 PM
To: BOS-Supervisors; Major, Erica
Subject: Files 140791,0140792,0140793: GAO Meeting Sept. 11th - Items 1,3,5

From: Aaron Goodman [mailto:amgodman@yahoo.com]
Sent: Wednesday, September 10, 2014 10:53 PM
To: BreedStaff (BOS); Tang, Katy (BOS); Chiu, David (BOS)
Cc: Board of Supervisors (BOS)
Subject: GAO Meeting Sept. 11th - Items 1,3,5

SF BOS GAO Committee

I write to you as I will be unable to attend the GAO meeting on Sept.11th but wanted to ensure my concerns are relayed on the three civil grand jury reports before you on Thursday.

On the Item 1: I want to strongly recommend that you follow the concerns of the Civil Grand Jury by having public representative members on the Port Commission and not just 100% developer and private interests. We have seen on the 8 Washington project and other proposals the need to have public input representative of the communities and public's best interests invoked on such projects and recommend that you ensure that the appointee process is not ornered by private interests.

On item 3: I want to suggest and recommend that you read the appeal on Treasure Island by Saul Bloom and Aaron Peskin on the concerns raised on the EIR, and lacking follow up on the importance of addressing global warming and changes on our coastal areas. Most of the Cattellus development BVHP, TI and many other projects and proposals are risking more rather than invoking better solutions for the long-term. Quick profits are eliminating sound judgement and it is important to provide the public with adequate analysis and better public involvement on decisions that are impacted by global warming which we cannot control all of..

On item 5: I would suggest and recommend that Supervisor Chiu recuse himself from any decision making on this issue based on the Ethics issues he was involved with on Parkmerced. Many Supervisors involved in decision making, and concerns on ethics, and the consistent "play" of ammendments and added legislation promote a reduced ethical position in regards to development. Public input and involvement in the Ethics commission, its proper funding, and adequate trained and knowledgeable staffing is key to ensuring that government officals abide by the laws and ensure the public's best interests are conveyed.

Please do your utmost to follow the input of the Civil Grand Jury on all three issues, they epresent the people, the publics concerns, and the importance of an informed elected body.

Sincerely

Aaron Goodman
c:415.786.6929
D11

AMENDED IN COMMITTEE
09/11/2014

FILE NO. 140941 RESOLUTION NO. 346-14

[Board Response - Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense]

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

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

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

WHEREAS, The 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense" is on file with the Clerk of the Board of Supervisors in File No. 140941, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 1a, 1b, 1c, 1d, 1e, 1f, 2, 3, 8, 9, 11, 16, 18, 20, 21a, 21b, 24a, 24b, 24c, 25a, 25b, 27, and 29, as well as Recommendation Nos. 1, 2, 3, 8, 9, 11, 16, 18, 20a, 20b, 21, 24, 25, 27, and 29 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 1a states: "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;" and

WHEREAS, Finding No. 1b states: "The Ethics Commission has only two investigators;" and

WHEREAS, Finding No. 1c states: "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;" and

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

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

WHEREAS, Finding No. 1f states: "Enforcement is best handled outside of the environment of political partisanship and preferences;" and

WHEREAS, Finding No. 2 states: "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;" and

WHEREAS, Finding No. 3 states: "A broader citizen's right of action to enforce ethics laws will provide assurance to the public that the laws will be enforced;" and

WHEREAS, Finding No. 8 states: "The current definition of "lobbyist" and "contacts" does not provide the public with sufficient information to understand who and how City Hall decisions are influenced despite the intent of the law;" and

WHEREAS, Finding No. 9 states: "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;" and

WHEREAS, Finding No. 11 states: "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;" and

WHEREAS, Finding No. 16 states: "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;" and

WHEREAS, Finding No. 18 states: "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;" and

WHEREAS, Finding No. 20 states: "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;" and

WHEREAS, Finding No. 21a states: "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);" and

WHEREAS, Finding No. 21b states: "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;" and

WHEREAS, Finding No. 24a states: "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;" and

WHEREAS, Finding No. 24b states: "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;" and

WHEREAS, Finding No. 24c states: "The proper standard to judge the effectiveness of laws is to consider their ability to achieve the purposes set forth when they were enacted;" and

WHEREAS, Finding No. 25a states: "Periodic reviews of filed information are essential to ensure its validity;" and

WHEREAS, Finding No. 25b states: "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;" and

WHEREAS, Finding No. 27 states: "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;" and

WHEREAS, Finding No. 29 states: "The Findings and Declarations of Proposition J (2000) 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;" and

WHEREAS, Recommendation No. 1 states: "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;" and

WHEREAS, Recommendation No. 2 states: "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;" and

WHEREAS, Recommendation No. 3 states: "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;" and

WHEREAS, Recommendation No. 8 states: "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;" and

WHEREAS, Recommendation No. 9 states: "The requirement for disclosure of all expenditures aimed at influencing City Hall decisions should be reinstated in the law with full public disclosure;" and

WHEREAS, Recommendation No. 11 states: "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;" and

WHEREAS, Recommendation No. 16 states: "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;" and

WHEREAS, Recommendation No. 18 states: "The Board of Supervisors should adopt a rule subjecting themselves to the public calendar requirement of the Sunshine Ordinance;" and

WHEREAS, Recommendation No. 20a states: "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;" and

WHEREAS, Recommendation No. 20b states: "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;" and

WHEREAS, Recommendation No. 21 states: "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;" and

WHEREAS, Recommendation No. 24 states: "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;" and

WHEREAS, Recommendation No. 25 states: "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;" and

WHEREAS, Recommendation No. 27 states: "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';" and

WHEREAS, Recommendation No. 29 states: "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;" and

WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on Finding Nos. 1a, 1b, 1c, 1d, 1e, 1f, 2, 3, 8, 9, 11, 16, 18, 20, 21a, 21b, 24a, 24b, 24c, 25a, 25b, 27, and 29, as well as Recommendation Nos. 1, 2, 3, 8, 9, 11, 16, 18, 20a, 20b, 21, 24, 25, 27, and 29 contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that the Board of Supervisors agrees with Finding No. 1a; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 1b; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors disagrees with Finding No. 1c, for reasons as follows: The Board of Supervisors supports the greatest possible transparency at the Ethics Commission, including in its investigations and enforcement actions, but recognizes the Charter provisions cited by the City Attorney; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 1d; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 1e; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 1f; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors disagrees with Finding No. 2, for reasons as follows: The Board of Supervisors has not formally received information about specific instances but believes the Ethics

Commission should follow up on specific allegations; further, the Board of Supervisors notes that candidates are subject to regular auditing as part of their election campaigns; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 3, for reasons as follows: The Board of Supervisors understands how a broader right of private action could lead to greater enforcement of the City's ethics laws, but believes that the existing qualified right of private action could be employed more frequently; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 8, for reasons as follows: The ordinance was recently amended by an ordinance sponsored by Board of Supervisors' President David Chiu in partnership with City Attorney Dennis Herrera. The amendments should improve the public's understanding of lobbying activity; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 9; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 11, for reasons as follows: The Board of Supervisors agrees that emerging technologies create new challenges for public records laws, but the Board also believes that the City Attorney provides a significant amount of advice in this area, including an updated section on Public Records Laws in the newly revised Good Government Guide; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 16; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 18, for the reasons as follows: While the requirement

does not officially apply to the Board of Supervisors, most if not all Supervisors regularly respond to public records requests for their calendars; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 20; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 21a; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 21b, for reasons as follows: Most Boards and Commissions, whose members receive modest or negligible compensation, rely on significant amounts of staff work; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 24a, for reasons as follows: It is unfortunate that the Grand Civil Jury was unable to locate any communications between the Ethics Commission and the Board of Supervisors. Such communications do occur with some regularity, but communication could always be improved and formalized; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 24b; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 24c; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 25a; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 25b, for reasons as follows: While there is clearly more work to be done, the Board of Supervisors cannot characterize the amount of work done in this area; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 27, for reasons as follows: The Board believes that the Civil Grand Jury is making a technical finding here, not a broader one. The Board also understands the technical response by the City Attorney that such findings are not required, though they would be advisable; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 29, for reasons as follows: The Board of Supervisors understands the Civil Grand Jury's finding that some provisions of Prop J should be looked at again, but also recognizes the history outlined by the Ethics Commission response to this finding; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 1 will not be implemented, for reasons as follows: While the Board of Supervisors does not have the authority to implement this recommendation, the Board broadly agrees that such an arrangement would likely improve enforcement, and encourages the Ethics Commission and other elected officials to pursue it; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 2 requires further analysis, for reasons as follows: The Board supports this recommendation, but implementing it will require an individual Supervisor to propose an audit, which should be conducted by the Controller's City Auditor Division with assistance from the City Attorney. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 3 will not be implemented, for reasons as follows: The Board of Supervisors is not convinced that the existing private right of action needs to be broadened; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 8 has been implemented, as follows: The Board of Supervisors this year approved Ordinance No. 98-14, which significantly strengthened lobbyist disclosure requirements; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 9 will not be implemented, for reasons as follows: The lobbyist ordinance was recently strengthened by the Board of Supervisors, and the expenditure lobbyist definition was not reinstated, in part because of the history of this provision, as outlined by the Ethics Commission response; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 11 requires further analysis, for reasons as follows: The Board of Supervisors looks forward to upcoming work on this issue by the Sunshine Ordinance Task Force, the Ethics Commission and the City Attorney, and will report back to the Civil Grand Jury after their work and the conclusion of the relevant California Supreme Court case. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 16 requires further analysis, for reasons as follows: The Board of Supervisors is open to making changes in this area, and looks forward to the additional analysis and recommendations of the Ethics Commission. The Board should report to the Civil Grand Jury on the status of this recommendation within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 18 requires further analysis, for reasons as follows: The Board of Supervisors will ask the Clerk of the Board to include this potential Board Rule change in the next round of revisions of

the Board's Rules of Order, which is expected in 2014. This process will give the Board the opportunity to make this change. The Board will report back to the Civil Grand Jury within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 20a will not be implemented, for reasons as follows: This recommendation is not directed to the Board of Supervisors. Any individual Supervisors could propose the creation of a task force legislatively; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 20b will not be implemented, for reasons as follows: This recommendation relates to the operation of the Sunshine Ordinance Task Force and the Ethics Commission, and is not directed at the Board of Supervisors; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 21 requires further analysis, for reasons as follows: The Board of Supervisors will consider this recommendation as part of the Ethics Commission's next budget. The Board agrees that an additional staff member could improve the effectiveness of the Ethics Commission. The Board will report back to the Civil Grand Jury within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 24 will be implemented, as follows: The Board of Supervisors would like to receive a written annual report from the Ethics Commission. The Board will report back to the Civil Grand Jury within six months from the date of the issuance of the Grand Jury report or by December 26, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 25 will not be implemented, for reasons as follows: This recommendation is within the

jurisdiction of the Ethics Commission; however, the Board of Supervisors should consider providing additional resources in the next budget process; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 27 will be implemented immediately, as follows: The Board of Supervisors believes that individual Supervisors will ask the City Attorney to include such findings in future legislation; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 29 will not be implemented, for reasons as follows: This recommendation is directed at the Ethics Commission, though individual Supervisors could also call a hearing on the matter. The Board recognizes the legislative history outlined by the Ethics Commission; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the implementation of the accepted findings and recommendations through his/her department heads and through the development of the annual budget.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 140941 **Date Passed:** September 16, 2014

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

September 11, 2014 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 11, 2014 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

September 16, 2014 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 140941

I hereby certify that the foregoing Resolution was ADOPTED on 9/16/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Unsigned
Mayor

9/26/14
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board

Member, Board of Supervisor
District 5

City and County of San Francisco

Org: COB,
c: Comm clerk,
Lep Dep

LONDON N. BREED

September 2, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

RE: Government Audit and Oversight Committee
COMMITTEE REPORT

Clerk of the Board Calvillo,

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee, I have deemed the following matters to be of an urgent nature and request they be considered by the full Board on September 16, 2014, as Committee Reports:

140939 **Board Response - Civil Grand Jury - The Port of San Francisco: Caught Between Public Trust and Private Dollars**
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco: Caught Between Public Trust and Private Dollars;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

140940 Board Response - Civil Grand Jury - Rising Sea Levels...At Our Doorstep
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Rising Sea Levels...At Our Doorstep;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

140941 Board Response - Civil Grand Jury - Ethics in the City: Promise, Practice or Pretense
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

These matters will be heard in the Government Audit and Oversight Committee on September 11, 2014, at 11 a.m.

London Breed

London Breed
Supervisor District 5, City and County of San Francisco

City Hall • 1 Dr. Carlton B. Goodlett Place • San Francisco, California 94102-4689 • (415) 554-7630
Fax (415) 554 - 7634 • TDD/TTY (415) 554-5227 • E-mail: London.Breed@sfgov.org

BOARD of SUPERVISORS

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

October 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

Dear Judge Lee:

The following is a report on the 2013-2014 Civil Grand Jury Report, "Ethics in the City: Promise, Practice or Pretense."

The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 11, 2014, to discuss the findings and recommendations of the Civil Grand Jury and the departments' responses to the report.

The following City departments submitted responses to the Civil Grand Jury (copies enclosed):

- Office of the District Attorney, dated August 21, 2014
  (Findings 1a through 1f and Recommendation 1)
- Ethics Commission, dated August 22, 2014
  (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, dated August 22, 2014
  (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, dated August 25, 2014
  (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, dated August 24, 2014
  (Findings 4, 5, 20, 24a through 24c, and 26 and Recommendations 4, 5, 20a, 20b, 24, and 26)
- Sunshine Ordinance Task Force, dated August 28, 2014
  (Findings 11, 12, 17a through 17c, and 20 and Recommendations 11, 12, 17a, 17b, 20a, and 20b)

The Report was heard in committee and a Resolution was prepared for the Board of Supervisors' approval that formally accepted or rejected the findings and recommendations requiring the Board of Supervisors response (copy of Resolution No. 346-14 enclosed).

If you have any questions, please contact me at (415) 554-5184.

Sincerely,

Angela Calvillo
Clerk of the Board

c:
Members, Board of Supervisors
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, Executive Director, Ethics Commission
Allyson Washburn, Sunshine Ordinance Task Force
Victor Young, Office of the Clerk of the Board

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

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

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 unit the investigation is complete.

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

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,

Benedict Y. Hur
Chairperson

Cc: Board of Supervisors

25 Van Ness Avenue, Suite 220 • San Francisco, CA 94102-6053• Phone (415) 252-3100• Fax (415) 252-3112
E-Mail Address: ethics.commission@sfgov.org Web site: http://www.sfethics.org

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 tonotify 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 SIA. 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 SIA. There are at least 53 different departmental SIAs 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 "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.

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, Sandovol 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

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,

John St. Croix
Executive Director

Cc: Board of Supervisors

25 Van Ness Avenue, Suite 220 • San Francisco, CA 94102-6053• Phone (415) 252-3100• Fax (415) 252-3112
E-Mail Address: ethics.commission@sfgov.org Web site: http://www.sfethics.org

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 SIA. 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 SIA. There are at least 53 different departmental SIAs 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.

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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.

CITY AND COUNTY OF SAN FRANCISCO OFFICE OF THE CITY ATTORNEY

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.

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.

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.

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).

> 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.

> 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.

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.

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

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 "furthers the purposes" of those laws.

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 "furthers 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)

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

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

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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.

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

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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*

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 reinstituted 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,

Allyson Washburn, Chair
Sunshine Ordinance Task Force

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

BOARD of SUPERVISORS

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TDD/TTY No. 554-5227

MEMORANDUM

Date: June 24, 2014

To: Honorable Members, Board of Supervisors

From: Angela Calvillo, Clerk of the Board

Subject: 2013-2014 CIVIL GRAND JURY REPORT

We are in receipt of the San Francisco Civil Grand Jury report released Thursday, June 26, 2014, entitled: **Ethics in the City: Promise, Practice or Pretense** (attached).

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

1. Respond to the report within 90 days of receipt, or no later than September 24, 2014.
2. For each finding:
   - agree with the finding or
   - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation indicate:
   - that the recommendation has been implemented and a summary of how it was implemented;
   - that the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
   - that the recommendation requires further analysis, with an explanation of the scope of the analysis and timeframe of no more than six months; or
   - that the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

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

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

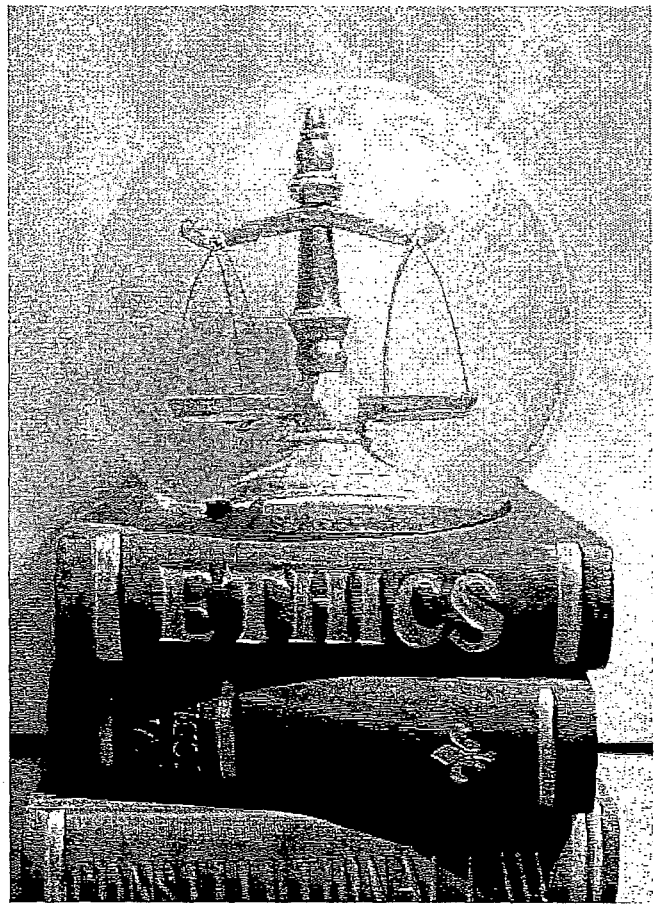
Attachment

c: Honorable Cynthia Ming-mei Lee, Presiding Judge (w/o attachment)
Mayor's Office
Ben Rosenfield, Controller
Jon Givner, Deputy City Attorney (w/o attachment)
Rick Caldeira, Legislative Deputy Director
Debra Newman, Office of the Budget and Legislative Analyst
Severin Campbell, Office of the Budget and Legislative Analyst
Asja Steeves, Civil Grand Jury Coordinator
Elena Schmid, Foreperson, San Francisco Civil Grand Jury (w/o attachment)

Ethics in the City:

Promise, Practice or Pretense

June 2014



City and County of San Francisco
Civil Grand Jury 2013-2014

City Hall, Room 488
1 Dr. Carlton B. Goodlett Pl, San Francisco, CA 94102
Phone 415-554-6630

MEMBERS OF THE 2013-2014

CIVIL GRAND JURY

CITY AND COUNTY OF SAN FRANCISCO

Elena Schmid, Foreperson

Robert van Ravenswaay, Foreperson Pro Tem

Thomas Duda, Recording Secretary

Maryta Piazza, Corresponding Secretary

Larry Bush

Hans Carter

Daniel Chesir

Barbara Cohrssen

Mike Ege

John Finnick

Kai Forsley

Charles Head

David Hoiem

Joseph Kelly

Mazel Looney

Claudia O'Callaghan

Ernestine Patterson

Michael Skahill

THE CIVIL GRAND JURY

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

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

STATE LAW REQUIREMENT
California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days, as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

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

As to each recommendation the responding party must report that:

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

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Ethics in the City: Promise, Practice or Pretense

ISSUE

The Jury members were concerned about reports of apparent improper actions by City officials and departments with little or no evident enforcement responses.

The Jury looked at the institutions involved with preventing and punishing improper actions and at the laws they administer. Ethics Commission operations provided a starting point, as a 2010-2011 Civil Grand Jury report recommended a more detailed investigation. We rapidly learned that "transparency" is a key component of ensuring governmental integrity, so we broadened our focus to consider how to protect and enhance government transparency.

During our eight-month investigation, a wide spectrum of local, state, campaign, political and public sources told us the Ethics Commission is not an effective enforcement agency, while generally endorsing its efforts to promote transparency.

SUMMARY

The Jury finds that San Francisco officials at all levels have impeded actions intended to establish a culture of ethical behavior, and that the focus needed to ensure accountability and anti-corruption standards needs greater leadership from the Mayor, the Board of Supervisors, the City Attorney, the District Attorney, and City department heads and commissions.

Overview

- The Jury recommends transferring all major enforcement cases to the California Fair Political Practices Commission on a two-year pilot contract to ensure stronger and fairer enforcement action. The state agency would be able to act in cases alleging violations of unique San Francisco ethics laws as well as state laws similar to the role it has accepted with several other jurisdictions.
- The Jury recommends the Ethics Commission emphasize increased transparency by significantly upgrading its systems for disclosing the full range of money spent, given, or benefitting City officials and their projects. It has successfully developed improvements to its disclosure reports making them more user-friendly but currently fails to provide easy access to reports on millions more spent on behalf of or at the request of City officials, including spending to influence administrative and legislative decisions.
- The Jury recommends changes in the operation of the Ethics Commission to make the five-member commission a stronger force in developing policy and ensuring effective implementation. The Jury recommends the Ethics Commissions activate its committee structure. Additionally, we recommend splitting the duties of the Executive Director from the duties of Commission Secretary.

Changed Landscape

In the two decades since voters created the San Francisco Ethics Commission, the political landscape has changed substantially. The Commission itself has been tasked with new responsibilities ranging from partial public financing of campaigns to registering and disclosing

the activities of campaign consultants. At the same time, federal court decisions have affected the ability of local governments to regulate the reporting and influence of money in political activities. The California State Legislature has enacted new standards that also affect local campaign finance laws.

Currently, elections are more significantly affected than before by the creation of independent expenditure committees, the lifting of contribution limits, and the ability to hide the source of funds paying for campaign messages. New approaches to campaigning have come into play that do not correspond with existing law directly, and often have exploited exceptions in the laws in ways that create major blind spots in transparency.

Today elected officials can create their own political committees to spend on other candidates and on measures they favor while accepting unlimited contributions from those seeking benefits such as entitlements from these same officials.

These new changes are a challenge to ethical standards long accepted in San Francisco and which, more troubling, fall outside of any regulation, oversight or user-friendly disclosures. In the last 35 years, San Francisco citizens had at least 16 local ballot measures dealing with campaign finance, ethics, conflict of interest and transparency, demonstrating a long interest in trying to control corruption.

Diffused Responsibility

The Jury found that although the Ethics Commission appears to be the primary enforcement authority, it has substantially less power than other City and state officials to actually punish wrongdoers. Its investigative powers, by requiring confidentiality of its investigations, muzzle it from publicly criticizing questionable activities.

BACKGROUND

The Institutional Framework

The Ethics Commission and San Francisco Sunshine Ordinance Task Force are the front lines in overseeing and implementing City laws on transparency, ethics and violations.[1]

A web of City and state laws establish rules on campaign finance and lobbying, and require that public officials and employees act in accordance with the public trust. The Ethics Commission generally administers these laws locally, while enforcement responsibilities are spread out.

Other state and City laws require open government through open meetings and public records. Both the San Francisco Sunshine Ordinance Task Force and the Ethics Commission enforce these laws locally.

The Ethics Commission

The voters created the San Francisco Ethics Commission in 1993 as a five-member commission, approving a proposal placed on the ballot by the Board of Supervisors. The Mayor, the Board of Supervisors, the Assessor, the City Attorney and the District Attorney each make a single appointment to the Commission. The City Attorney's appointee must have background in governmental ethics law. The Mayor's appointee must have background in public information and public meetings. The Assessor's appointee must have background in campaign finance. The appointees of the Board of Supervisors and the District Attorney must be broadly representative of the general public.

The Commissioners each serve a single six-year term without pay for their service but do receive access to the City health coverage. The Commission meets monthly at City Hall, with occasional special meetings.

Ethics Commission duties include general policy-making responsibilities for the Commission itself, along with significant administrative responsibilities for its staff, including acting as the filing agent for campaign filings for candidates, ballot measures and committees, lobbyists, campaign consultants and Disclosure of Economic Statements (Form 700), as well as administering the public funding of candidates for Mayor and supervisor, educating City officials about conflict of interest and campaign treasurers about filing requirements, conducting audits, and investigating and resolving violations (some of which are eventually decided by the Commission).

The legal framework has changed significantly since the Ethics Commission was created. For the Commission, the term of office and the appointing authorities have changed. Administering publicly funded candidates and regulating campaign consultants are added responsibilities. The laws they administer have in large part been taken from the Charter and various locations in the San Francisco code and consolidated into the Campaign and Governmental Conduct Code; key state laws have also undergone significant changes.

The Ethics Commission has a staff of nineteen to handle the administrative responsibilities of the Commission. The operating budget for the Commission has grown from $157,000 in 1994 to

[1] The legal framework is discussed in Appendix One.

over $2,000,000 in 2013.

The San Francisco Ethics Commission earns high marks among California jurisdictions for its electronic filing and self-reported disclosures by campaigns, candidates, lobbyists and consultants in each category. In addition to disclosures required under state law, San Francisco has enacted additional disclosure requirements intended to provide greater transparency.

The Ethics Commission can also propose changes in the laws it administers and can place measures on the ballot.

Sunshine Ordinance Task Force

The Sunshine Ordinance Task Force reports to and advises the Board of Supervisors, and provides information to other City departments, on appropriate ways to implement the Sunshine Ordinance and to implement its goals. It also proposes amendments, receives the annual report of Supervisor of Public Records, and refers matters to enforcement. [2]

The Sunshine Ordinance Task Force consists of eleven voting members appointed by the Board of Supervisors, with qualifications stated in the ordinance.[3] The Mayor and the Clerk of the Board of Supervisors, or their designees, serve as non-voting members of the task force. The Clerk of the Board of Supervisors provides modest administrative support, as does the City Attorney.

The Board of Supervisors is responsible for appointments but has, at times, failed to make timely appointments to the Sunshine Ordinance Task Force, stopping its work due to quorum problems.

The Sunshine Ordinance has only had one significant change since initial enactment, which converted the ordinance passed by the Board of Supervisors into an ordinance passed by the voters. General language on open meetings and public records was added to the Charter in 1996.[4]

Because there is no full-time staff, all powers are vested in the Task Force, specifically including policy-making powers.

DISCUSSION

Transparency—In General

Transparency in government includes open meetings and public records. These matters generally come under state laws and the Sunshine Ordinance.

Transparency also includes public information about the decision-makers: their backgrounds, their commitments, and their supporters. In the case of elected officials, detailed campaign finance information is filed. Additionally, many policy decisions in San Francisco are made through ballot measures. Committees advocating for or against individual ballot measures file

[2] The Sunshine Ordinance is Chapter 67 of the Administrative Code; § 67.30(c) of the Administrative Code outlines responsibilities of the Task Force.

[3] See § 67.30(a) of the Administrative Code.

[4] See Charter § 16.112

finance information on their campaigns. In San Francisco, these filings are made with the Ethics Commission.

A third area of transparency is open data sets from government. This area is just starting to emerge, and San Francisco has a Chief Data Officer and Department Data Coordinators to implement its Open Data policies.[5] Data sets are currently posted at DataSF.[6] The Ethics Commission has embraced this effort, and has posted many data sets with DataSF, which are broadly used.

As data sets become more widely available, and the software tools to analyze them continue to simplify, independent review of government actions and of information filed with government will lead to new thinking about the meaning of this information. The Jury notes this development and encourages its growth.[7]

Currently, required public disclosures include the following:

Campaign Related Disclosures

- Candidate campaign committees (state and local law)
- Reporting of spending by other types of campaign-related committees, including independent committees supporting candidates, ballot proposition committees, and general purpose committees (state and local law)
- Campaign consultant registrations and disclosures (local law)
- Voter Handbook Disclosures (state and local law)
- Lobbyist registrations and disclosures (local law similar to state law)
- Disclosure of contracts approved and signed (local law)

Public Entity Disclosures

- Open public meetings that follow a stipulated format (Sunshine Ordinance and state law)
- Release of public records upon request (Sunshine Ordinance and state law)
- Sources of Outside Funding (Sunshine Ordinance)
- Statements of Incompatible Activities (local law) prepared by departments and commissions.

Public Official Disclosures

- Statements of Economic Interests (Form 700)— required by state and local law —
- Gift disclosures by public officials and designated employees (state and local law)
- Gift of Travel disclosures by public officials and designated employees (state and local law)
- Public calendars of public officials (Sunshine Ordinance) (except members of the Board of Supervisors)
- Reporting of behested payments (state and local law)

[5] In 2009, Mayor Gavin Newsom issued an Executive Directive promoting Open Data. In 2010, the Board of Supervisors expanded on the Directive with the passage of the City's Open Data Policy (Ordinance 293-10), codified in San Francisco's Administrative Code § 22D.

[6] https://data.sfgov.org/

[7] Groups such as Code For America might help to generate open source applications to analyze these data sets.

- Lobbyist On Behalf Of City disclosures (Sunshine Ordinance)
- Waivers of post-public employment restrictions by the Ethics Commission
- Annual certification of training in ethics and public disclosure (state and local law)

Campaign Reporting

The political campaign cycle barely pauses between elections. As term limits have taken effect, elected officials often aim for other offices but are not yet declared candidates subject to filing requirements. Groups interested in affecting City government action work continuously, adjusting their approach to the political season—sometimes campaign contributions, sometimes gifts and event tickets and travel, sometimes behested payments, and so on. The lines between campaigns, public relations, lobbying, and potential conflicts of interest have become blurred.

San Francisco's laws mirror state laws in most significant respects. The City law expresses concerns about "the appearance that elected officials may be unduly influenced by contributors who support their campaigns or oppose their opponents' campaigns." [8] Other stated purposes of the campaign finance law include assisting voters to make informed decisions and helping to restore public trust through mandated disclosures.

Campaign-related Committees

Elected officials, and those who want to be elected officials, operate their campaigns through candidate campaign committees. Candidate committees must disclose campaign contributions, campaign mailers and advertisements, expenditures and other campaign activities, as well as limitations and bans on certain contributions — no contributions over $500 (local law); no contributions from City contractors (local law).

Other types of committees are regulated differently by state and local laws, and file their information locally with the Ethics Commission. These include independent committees supporting candidates; ballot proposition committees; and general-purpose committees. Some of these committees can promote a candidate's activities when playing different roles, such as advocating a ballot proposition.

Campaign Consultants

Campaign consultant registration is required by Proposition G, an ordinance passed by the voters in 1997. It requires campaign consultants to register with the Ethics Commission, to provide information on each client, on political contributions made by or delivered by the campaign consultant or where the consultant acted as the intermediary, and on any gifts given or promised by the consultant to a local office holder.

Voter Handbook Disclosures

The Voter Handbook notes the source of funds for each paid argument. The official wording and explanations undergo a public comment process.

[8] See Purpose and Intent of the Campaign Finance law - § 1.100 of the Campaign and Governmental Conduct Code.

Lobbyists

Lobbyists are required to register and to report their contacts, their clients and their payments both promised and made. This registration and disclosure requirement is intended "to reveal information about lobbyists' efforts to influence decision-making".[9]

Disclosure of Signed Contracts

Each city elective officer who approves a contract that has a value of $50,000 or more in a fiscal year files a disclosure form with the Ethics Commission within five business days of approval.[10] This requirement applies if the contract is approved by the City elective officer, any board on which the City elective officer serves, or the board of any state agency on which an appointee of the City elective officer serves. The section that requires the filing of this information also bars City elective officers from taking contributions from a contractor beginning from the time negotiations commence until six months after the contract is signed.

Completed contract approval forms are posted on the Ethics Commission web site.[11]

Public Entity Disclosures

Public Meetings

San Francisco mandates that City government operate openly and with transparency in decision making. This includes open meetings noticed in advance, open access to documents to be presented at meetings, and public comment before action by City decision-makers.

Public Records

To the extent that reports are filed and become publicly available, the public benefits from the transparency provided. The public benefit can be increased dramatically by increasing accessibility to reports. If reports are audited for accuracy and completeness, the public can have greater confidence in the information provided.

Many of the reports have filing schedules. It is a fairly simple matter to determine whether someone has filed a report on time. The difficulty comes in determining whether the content of the report is accurate and complete and in determining whether everybody who should file a report has done so.

In all cases, there are deadlines for making information publicly available and, in the case of government documents, the deadline is a standard of 24-hour release of documents unless an exception is cited.

Sources of Outside Funding (Sunshine Ordinance)

There are many "Friends Of" groups associated with departments. Departments are required to post on their websites the names of anyone who donates $100 or more to assist their operations,

[9] See Findings on Lobby Law - § 2.100 of the Campaign and Governmental Conduct (Derivation: Former Administrative Code § 16.520; added by Ord. 19-99, App. 2/19/99)
[10] Required by C&GCC § 1.126; the form is SFEC-126
[11] http://www.sfethics.org/ethics/2009/05/contracts.html

along with a statement of any financial interest involving the City the donor might have. If the donation comes from an organization, their members must be disclosed.[12]

Statements of Incompatible Activity

C&GCC (Campaign & Governmental Conduct Code)§ 3.216 prohibits officers or employees from engaging in activities incompatible with their position, such as being an officer of a group being funded by the Department. Each department develops its own Statement of Incompatible Activities filed with, and approved by, the Ethics Commission. No Statement of Incompatible Activities becomes operative until the meet and confer requirements of State law and the collective bargaining agreements are satisfied.

Each Department provides its Statement of Incompatible Activities to its officers and employees each year.

Approved departmental Statements of Incompatible Activities are posted online on the Ethics Commission web site.[13]

Public Officials' Disclosures

Form 700 – Statement of Economic Interests

State law requires San Francisco office holders and key employees to disclose their financial interests annually. This year marks the first year of electronic filing. Filings also are required after entering office, either appointed or elected, and after leaving office.

Only elected officials and key officeholders file these reports at the Ethics Commission, who places them on their web site. Other officials who are required to file disclosures because of their role in awarding contracts, permits and other actions that provide financial benefits file their reports with an official at the Department level.

Gift Disclosure

The current overall gift limit in state law is currently $440/year from a source reportable on Form 700, and will soon be reduced to $200 per year. [14] Gifts, other than gifts of travel, are reported on Form 700. [15]

Gift of Travel Disclosures

San Francisco keeps to the state standard for gifts of travel, although it could enact greater disclosure. Currently, only persons or entities that contributed $500 or more are disclosed. The amount over $500 is not specified. It also includes only those contributions for travel outside of California.

City contractors and developers seeking City Hall approvals may make a gift to pay for the travel

[12] See § 67.29-6 of the Sunshine Ordinance
[13] http://www.sfethics.org/ethics/2009/05/statements-of-incompatible-activities.html
[14] See § 3.214 of the Campaign and Governmental Conduct Code
[15] see http://www.sfethics.org/ethics/2013/01/summary-of-gift-rules-march-2013.html

of City officials without disclosing how much they have given.

Appendix 3 has examples of actual filings with both the pre-trip and post-trip filing.

Public Calendars

When the voters amended the Sunshine Ordinance, they required City officials to maintain a daily calendar that lists meetings, both in the office and outside City Hall when conducting City business. The calendar requirement includes the names of those who attended, and the date of the meeting. If the meeting is not publicly recorded, the calendar entry shall include a general statement of issues discussed.[16]

Behested Payments

California law allows elected officials to request contributions for nonprofit agencies or governmental purposes with no restrictions on the amount or source of the contribution. The officeholder is responsible for filing a disclosure of the "behest payment" with the FPPC or its designee, in this case the Ethics Commission.

Reports are posted on the Ethics Commission website.[17]

Lobbyists on Behalf of City

Lobbyists on Behalf of the City are a different category of lobbyists. They are retained by the City or its agencies to lobby other units of government, such as the state or federal government. The Sunshine Ordinance, not the Lobbyist Ordinance, requires their reports. The reports are posted on the Ethics Commission website.[18]

Waivers Of Post-Public Employment Restrictions

Prior to 2003, there was a two-year ban on representing a private interest before one's agency after public service, along with similar limitations on former Supervisors.

Now there is a one-year ban in most circumstances and a permanent ban on "switching sides". As part of 2003 Proposition E, this restriction moved from the Charter to ordinance and was modified, taking some variations from state law. City officers and employees are also barred from being employed by a contractor if that former employee was involved in the contract award. In a change, the Ethics Commission was empowered to grant waivers if they made certain findings—that the waiver would not "create the potential for undue influence or unfair advantage" or that " imposing the restriction would cause extreme hardship for the City officer or employee. "[19]

A listing of post-employment waiver requests is posted on the Ethics Commission web site.[20]

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[16] See full text of § 67.29.5 of the Administrative Code
[17] http://www.sfethics.org/ethics/2012/05/payments-made-at-the-behest-of-an-elected-officer.html
[18] http://www.sfethics.org/ethics/Lobbyists-on-Behalf-of-the-City/
[19] See § 3.234 of the San Francisco Campaign and Governmental Conduct Code.
[20] http://www.sfethics.org/ethics/2011/03/post-employment-restriction-waivers.html

Certification Of Training

The Ethics Commission is responsible for annual training seminars for top-level officials including elected officers and commissioners. This training reinforces the importance of compliance and informs officials of any changes in the laws relating to conflicts of interest, lobbying, governmental ethics, open meetings, and public records.[21]

San Francisco City workers and appointees sign statements that they received training on sunshine and ethical requirements. Campaign treasurers and lobbyists sign that they received training on the requirements of the campaigning and lobbying ordinances. This mirrors training required at the state level.

Enforcement

The linchpins of San Francisco's ethics enforcement policies rests on public disclosure of the flow of money to City decision-makers (either through gifts, contributions, or holding investments) restricting some sources in an effort to curb pay-to-play politics where financial benefits to officials result in financial benefits to the donor or contributor, and enforcement when violations occur.

When it comes to official ethical misconduct (public corruption), federal, state, and local investigators and prosecutors can and do step in. Matters like bribery, self-dealing, misuse of public funds, and other conflicts of interest are typical subjects for prosecution.[22]

Ethical areas on the edge of the criminal sphere - misdemeanor level - often do not have clean lines drawn between proper and improper conduct. Gray areas in laws make prosecutions difficult because the elements of a crime must be clear so the defendant "knew" he or she was violating the law. In recent years here in San Francisco, cases have been dismissed because the laws under which the defendant was charged were found to be vaguely written, failing to clearly define the prohibited conduct.

There are four potential levels of enforcement of the campaign finance, lobbying, ethics and conflict of interest laws in San Francisco:

- Criminal sanctions can only be enforced by the District Attorney. If a person "knowingly or willfully" violates any conflict of interest or governmental ethics laws, s/he is guilty of a misdemeanor and if convicted, is subject to a fine and/or imprisonment. False filings are deemed perjury, which is a felony. The District Attorney must bring any such action.

- The City Attorney can seek civil court sanctions. If a person "intentionally or negligently" violates any conflict of interest or governmental ethics laws, s/he is liable in a civil action and is subject to a fine. The City Attorney must bring any such action.

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[21] City Charter appendix C C3.699-11 Duties (14(b)

[22] Voter fraud comes under the purview of the California Secretary of State and the Department of Elections in San Francisco.

- Administrative sanctions are brought by the Ethics Commission. If a person violates any conflict of interest or governmental ethics laws, s/he is liable in an administrative proceeding before the Ethics Commission. There may be fines and/or letters of warning.

- Discipline for public employees is through their departments, or removal of elected and other high-ranking officials by action of the Mayor, the Ethics Commission and the Board of Supervisors.

Of the key laws, San Francisco's Campaign & Governmental Conduct Code (C&GCC) has all types of possible enforcement action. In addition, the Sunshine Ordinance Task Force is authorized to make a finding that the ordinance was violated but the enforcement of their finding is referred to Ethics and the District Attorney.

The Ethics Commission also has responsibility for considering the removal of specified public officials from office if the Mayor suspends them. [23]

Enforcement for Most Cases Moved to The FPPC

Many cases currently can be prosecuted both by the FPPC and by the Ethics Commission because City laws are based on state law.

With Form 700 filings, the Ethics Commission is the local filing agent but can only assess $10 per day of late filing fees, so it has handed off those cases to the FPPC for enforcement. In 2013, nearly a dozen City officials stipulated that they violated this law in settlements with the FPPC.

> 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.
>
> 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.

[23] Only the Mayor has the authority to act in cases of misconduct or violation of city laws by city commissioners appointed by the mayor and, at this point, the Mayor has stated that he does not have a policy on disciplining offenders but decides on a "...case by case basis." see testimony at: http://sanfrancisco.granicus.com/TranscriptViewer.php?view_id=142&clip_id=15510

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.

Administrative Penalties

The Commission staff is tasked with monitoring most of the election cycle filings disclosures and auditing individual candidates and committees. This area has grown in complexity since the inception of the Commission.

As outlined in the 2010-2011 Grand Jury Report on the Ethics Commission, the system for imposing fines and penalties upon individuals and Committees appeared arbitrary and deficient. There were enormous differences in fines assessed in similar cases and often huge differences between the fines initially proposed and those assessed at final settlement.

Arbitrary enforcement creates the impression that the penalty is tied to the status of the alleged violator rather than to the violation itself. In some cases, low-level penalties have been levied against high-ranking City appointees while citizen activists have faced enforcement penalties significantly higher for lesser offenses.

In July 2013, the Commission adopted policies to establish fixed penalties for certain campaign finance violations.[24]

Forfeitures

Forfeitures are potential penalties for certain campaign finance violations - the wrongful money received is to be paid directly over to the City through the Ethics Commission unless reduced or waived by the Commission. Circumstances that would result in forfeitures include:

- §1.114(e)—Taking money into campaign account if contributor crosses $100 threshold without disclosures.
- §1.114(f)—Exceeding campaign contribution limits
- §1.126(d)—receiving contributions from City contractors, their officers or board members (applies only to sitting officeholders receiving contributions).
- §1.126 (a) and (b)—Receiving funds that originate from an improper donor. such as a corporation or an individual "maxed out", but are "laundered" through others.

The Jury notes the new policies for fixed penalties call for forfeiture in the case of §1.114 violations.

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.

[24] http://www.sfethics.org/ethics/2013/07/ethics-commission-policies-re-fixed-penalties-for-violations-of-certain-cfro-sections.html

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.

Citizen's Right Of Action

San Francisco law recognizes a Citizen's Right of Action to require that the law be enforced in over a dozen different circumstances, ranging from environmental protections to housing code violations. Proposition J in 2000 could be enforced by citizen suit but was repealed three years later as part of voter approved "ethics reform."[25]

At the state level, the Political Reform Act provides a Private Right of Action both for injunctions and for civil penalties. Injunctions can be sought directly and actions for civil penalties can be brought after government lawyers have declined the case.[26] The Public Records Act allows any person to bring action for release of records.[27]

The Sunshine Ordinance allows any person to bring a civil action to enforce it, especially for release of records.[28]

Residents can 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, provided the City Attorney has declined to bring an action.

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.

Whistleblower Program

The Jury finds that an important aspect of accountability and anti-corruption standards is a strong whistleblower program with protections against retaliation. The Jury finds that San Francisco currently lacks such a strong program, including protection against retaliation and public disclosure of actions taken based on whistleblower information. The current protections fail to cover contractors working on City-funded projects.

The Jury recommends that the whistleblower program, its current provisions and its implementation be an issue for a future Civil Grand Jury.[29]

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[25] See discussion as part of the Proposition J review on p. 30 supra.
[26] See §91003 regarding injunctions. §§91004-91007 on civil actions, which cannot be brought for as much as 120 days while government lawyers consider whether or not to take the case. 90% of any monies recovered would go to the state; 10% to the citizen, plus attorney fees.
[27] Government Code §6258
[28] §§67.21(f), 67.35(a) and 67.35(d) of the Sunshine Ordinance
[29] We note this has been previously examined by Civil Grand Juries, most recently in 2010-2011 with their report: "Whistling In The Dark: The San Francisco Whistleblower Program"

Recommended Systemic and Structural Changes

Transparency

This Jury looks to the Ethics Commission as the entity who carries the primary responsibility for ensuring the public has thorough access to information. As noted previously, the Ethics Commission has primary responsibility to receive and publish the mandated public disclosures by campaigns, public entities, and public officials under the C&GCC. It also has enforcement responsibility under the Sunshine Ordinance.

Ethics Commission Staff deserves credit for moving the vast majority of the campaign forms from paper to paperless which allows the information to be published quickly on the Commission website. This applies to candidate filings as well as to many ballot measure and independent committee filings.

The Jury recommends improving public access to open records on the Ethics Commission's Web site.

> 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.
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> 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 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.[30]
>
> 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.

[30] Voters seeking to follow these money trails will have little help from the current system of electronic filing. Under the current system, each report is filed under the name of one committee and each committee report is then filed separately by the date of the filing. There is no system that ties all the reports into a single database that can be easily searched or that can easily provide a total of all contributions to a single individual. It is possible to enter the name of a donor or vendor, but the system then lists each document involving that individual or entity separately.

Campaign Related Disclosures

With respect to elected officials, there is a broad range of disclosures required for campaign contributions (state and local law), campaign spending (state and local law) and, a variety of campaign related actions, as well as limitations and bans on certain contributions; no contributions over $500 (local law); no contributions from City contractors (local law).

These disclosures, rules and restrictions primarily apply to committees formed by a candidate for their own election for local office (not state party offices, etc.). In 2011 and 2012, committees emerged that upend existing practices.

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. [31]

Candidates also face no restrictions on how they spend funds on a political party race and may legally choose to spend the entire amount only in the district where they are contesting for a City office, thus reaching deeper and more frequently to the voters who will decide on the City contest.

Finding 6c: The rise of major donors, and the potential for further influence following the recent U.S. Supreme Court decisions[32] 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.[33]

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

[31] In looking through filings with the FPPC, the Jury found that in 2012 more than $444,000 was contributed to Democratic County Central Committee candidates.

[32] see McCutcheon v Federal Election Commission 572 U. S. ____ (2014), Citizens United v Federal Election Commission 558 US 310 (2010). , Federal Election Commission v Wisconsin Right to Life 551 US 449 (2007)

[33] In the 2010 campaign for supervisor, these independent expenditure committees raised and spent $1.3 million outpacing the spending by the candidates themselves.

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".

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.

Lobbyist registrations and disclosures

In 2013, registered lobbyists reported to the Ethics Commission that their clients paid them over $5.8 million.[34]

City law does not prohibit contributions from lobbyists to the officials they lobby, unlike state law. In 2013, about $135,000 was contributed to candidates from registered lobbyists.[35]

The lobbyist law itself excludes from "contacts" 17 categories that do not have to be publicly disclosed.[36] This limits the number of people required to register as lobbyists, rightfully excluding many people with limited contacts, but also excluding some people actively involved in influencing decision-making and reducing both the number of contacts reported and the amounts of money spent influencing decision-making.

In 2010, the Board accepted amendments drafted by the Ethics Commission that had the effect of eliminating some lobbyists from disclosing their spending and contacts—so-called "expenditure lobbyists." Among those who are no longer required to make disclosures is the San Francisco Chamber of Commerce.

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.

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[34] See https://netfile.com/Sunlight/sf/Lobbyist/PaymentsPromisedSearch

[35] see: https://netfile.com/Sunlight/sf/Lobbyist/PoliticalContributionsSearch

[36] The exclusions are listed at § 2.105(d)(1) of the Campaign and Governmental Conduct Code and include providing information at the request of an elected official, communicating regarding an existing contract including questions on performance, or negotiating the terms of the contract after being selected to enter into the contract.

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 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 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.

Public Entity Disclosures

Open public meetings

When considering the number of public meetings held by San Francisco Boards, Commissions and other public bodies each year, the numbers of complaints are few. This Jury finds that meeting public meeting requirements have become routine and have become part of the San Francisco government culture.

Release of public records

When considering the number of public records requests received and fulfilled each year, the number of complaints are few. This Jury finds that releasing public records has become routine and has become part of the San Francisco government culture.

The recent move to providing electronic copies of documents to requestors is positive, yielding efficiencies to both the requestor and to the disclosing agency.

Technological change has reshaped the world of public meetings and public records. Public meetings are frequently televised and are available for streaming on-line. The members of public bodies are often communicating during the meetings on their computers and telephones. The papers, discussions and public meetings that once documented a decision's "paper trail" now include e-mail, text messages, phone calls and electronic file transfers. Drafts of legislation will often zip around the Internet to be edited by lobbyists and other interests without transparency. Although the Sunshine Ordinance calls for it, the Jury learned that the City has no policy on retaining or disclosing text messages or emails and has no plan to address the increasing intermixture of business and personal communications through multiple e-mail accounts and multiple telephones.

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.[37] 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.

Sources of Outside Funding (Sunshine Ordinance)

Many San Francisco's departmental operations benefit from special grants or gifts. It might be a behest contribution requested by a City officeholder, or it might come from an organization formed to support the department's work. Departments are required to post on their websites the names of anyone who donates $100 or more to assist their operations, along with a statement of any financial interest involving the City the donor might have. If the donation comes from an organization, its members must be disclosed.[38]

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.

Statements of Incompatible Activities

Only Department heads can discipline a Department level official for violating ethical standards, and under current practice, the public is not informed of any sanctions for unethical conduct. Other penalties, such as fines, can be imposed by other enforcement agencies and are made public.

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[37] Good Government Guide: An Overview of the Laws Governing the Conduct of Public Officials 2010-2011 Edition (downloaded from: http://www.sfcityattorney.org/Modules/ShowDocument.aspx?documentid=686) On one hand, it says e-mails are public records, under the public records act (see pp.80); on the other hand, it narrowly defines records that must be retained — "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." p. 103 But the Sunshine Ordinance specifically requires the Mayor and Department Heads to maintain and preserve e-mails in a professional and businesslike manner. §67.29-7(a) Also note: The City Attorney has not updated the Good Government Guide, a primer used by city departments and officials, since 2011. The Guide therefore does not contain guidance on current requirements.

[38] See § 67.29-6. Sources Of Outside Funding. (Sunshine Ordinance)

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.[39]

Public Official Disclosures

Form 700 - Statements of Economic Interests

Annual filing of Form 700 is required by state and local law. This year marks the first year of electronic filing. Filings also are required after entering office, either appointed or elected, and upon leaving office. This year, staff started reminding late filers of missed deadlines by mail and by phone, increasing compliance markedly.

The state Fair Political Practices Commission ultimately imposes much more substantial penalties on non-filers than are available for the Ethics Commission direct enforcement, so much of the enforcement is handled at the state level.

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 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

[39] The Sunshine Ordinance specifically authorizes making public disclosure of employee misconduct – see Sec. 67.24(c)(7).

and incompatible activities, and enforce these violations with strong action.

Gift of Travel disclosures

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.

Public calendars of public officials (Sunshine Ordinance)

The Jury surveyed calendars from the Mayor, the District Attorney, the City Attorney, key department heads and other elected officials for a month during our service. While the Sunshine Ordinance does not require Supervisors to keep a calendar, nearly all of them provided copies.

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.

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.

Waivers of post-public employment restrictions by the Ethics Commission

In reviewing meeting minutes where post-public employment restriction waivers have been approved, the Jury did not find specific determinations of how the applicant's waiver would meet the conditions of the ordinance.

> 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.

Sunshine Ordinance Task Force and the Ethics Commission

The Ethics Commission and the Sunshine Ordinance Task Force have had a complicated relationship over the years rooted in the enforcement (and enforceability) of the Sunshine Ordinance. Decisions of the task force are not enforced by the Ethics Commission without further investigation.

The ultimate finding the Sunshine Ordinance Task Force can make is to find someone has committed "official misconduct."[40] This is an end point in their process since they lack authority to enforce their findings.

"Official misconduct" is defined in Charter provisions dealing with the Ethics Commission and its role in the removal of certain elected officials from office.[41] Because of these consequences for the accused, due process protections should be observed.

> 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.

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[40] 67.34. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.
The willful failure of any elected official, department head, or other managerial city employee to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the Public Records Act shall be deemed official misconduct. Complaints involving allegations of willful violations of this ordinance, the Brown Act or the Public Records Act by elected officials or department heads of the City and County of San Francisco shall be handled by the Ethics Commission.

[41] §(e) OFFICIAL MISCONDUCT. Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office.

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.

Ethics Commission Structure and Relation to Staff

An appointed Commission has general policy-making powers.[42] A department head has responsibility for administering the department.[43]

The Ethics Commission itself is established by §15.100 of the Charter which details the appointment process and establishes their ability to call witnesses. Charter §15.101 authorizes them to hire an Executive Director who "shall be the chief executive of the department and shall have all the powers provided for department heads." Article XV of the Charter goes on to delineate the rulemaking power of the Commission and to define its role in the process removing public officers from their positions.

Other duties of the "Ethics Commission" are enumerated in Appendix C of the Charter, especially in §C3.699-11, where administrative duties are mixed in with policy duties without any effort by the drafters to distinguish between the two. Because of this, there is no clear definition of the Commission as a policy body distinct from the Executive Director and staff that are charged administrative functions. Paragraph 6 seems to be the broadest statement of policy-making power for the Ethics Commission.[44]

In any instance where the Commission may be called to adjudicate a matter investigated by the staff, it takes no part in the investigation and is not even told about the investigation until the matter comes before them. This highlights the differing roles of the Commission and the staff.

The Commission should have its own sense of duties and responsibilities that are separate and distinct from those of staff. Staff, especially the Executive Director, will be crucial to the Commission's work, but rather than being completely dependent for the information flow coming through the Executive Director, the Jury is recommending a practice that is evident throughout

[42] See Charter §4.102(1)

[43] See Administrative Code §2A.30

[44] 6. To make recommendations to the mayor and the board of supervisors concerning (a) campaign finance reform, (b) adoption of and revisions to City ordinances laws related to conflict of interest and lobbying laws and governmental ethics and (c) the submission to the voters of charter amendments relating to campaign finance, conflicts of interest and governmental ethics. The commission shall report to the board of supervisors and mayor annually concerning the effectiveness of such laws. The commission shall transmit its first set of recommendations to the board of supervisors and mayor no later than July 1, 1995"

the Commission structure in San Francisco. Most commissions appoint an Executive Secretary to manage their affairs and operations separate from the departmental staff.[45]

The Jury has found that the vast majority of the information provided to the Ethics Commissioners for meetings comes from staff, which can create an appearance of impropriety if a decision seems rushed or is made with insufficient information.

A Commission Secretary would be responsible for the support functions for the Ethics Commissioners. This could include such duties as providing support to the Ethics Commissioners, serving as the recording secretary for their meetings/hearings, managing the administrative needs of the Ethics Commissioners including preparing, disseminating, and appropriately posting the Commissions' advanced calendars, hearings calendars, meeting packets, minutes, meeting/hearing results and actions, list and recording official acts of the Commissioners. It also would provide a direct information channel to the Commissioners separate from the Executive Director.

In most cases, Commission Secretaries provide a central point of contact for the Commission. The Secretary can support the public's engagement with the Commission by maintaining open and transparent communication with the public, ensuring the availability of material and information to the public, answering questions, responding sensitively to diverse and multicultural communities engaging in the Commissions' process; and ensuring appropriate decorum and public involvement at Commission hearings.

> 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).
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> 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 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

[45] Specifically authorized by § 4.102(9) of the Charter.

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.

The Charter specifies the City Attorney shall be the legal advisor of the Ethics Commission.[46] At times, the City Attorney has stepped aside from certain matters due to potential conflicts of interest. Routinely, the City Attorney advises the Commission on matters where other departments, also represented by the City Attorney, hold differing positions. This creates an appearance of impropriety.

Given the twenty year history of the City Attorney working with the Ethics Commission, it is appropriate for both parties to take a long dispassionate look at how these arrangement works and consider the possibility of having the Ethics Commission engage outside counsel. The Charter provides a case-by-case process for a department to seek outside counsel.[47] Perhaps this process can be adapted to fit this situation if the City Attorney and the Ethics Commission reach an agreement on representation.

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.

Commission Performance And Staffing

The Jury is making recommendations that fundamentally reshape what the Ethics Commission does and how it goes about its tasks. Therefore, depending on which of our recommendations are accepted for implementation, the Ethics Commission budget, staffing, and performance needs to be reviewed to determine appropriate levels of staffing and budget resources. That review is beyond the scope of this report.

Interactions with ethics professionals from other jurisdictions can inform the Ethics Commission and its staff about emerging best practices for ethics professionals in government but no one has attended the Council on Governmental Ethics Laws meetings in recent years. The Jury hopes that representatives of the Commission can attend Council on Governmental Ethics Laws meetings again and report back to the Commission on what they learn.

A New Focus For Commission Activities

City Charter Appendix C3.699-11(6) states: "The commission shall report to the board of supervisors and Mayor annually concerning the effectiveness of such laws," referring to

[46] Charter §15.102
[47] See Charter §6.102

campaign finance, conflicts of interest and governmental ethics laws. A City Attorney advice letter concluded that the Charter language did not specify whether meeting this requirement should be done in writing, orally or in another format, but it did not conclude that the requirement did not exist. This is a separate requirement from the Charter requirement that all City departments file an annual report.

> 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.

It is important that laws adapt to changing circumstances. The requirement for the Ethics Commission to report annually to the Mayor and the Board of Supervisors on the effectiveness of the laws is necessary to address a constantly changing political environment and provides an opportunity to consider different ways to achieve the goals of the laws.

> 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.

The effectiveness of the lobby law would be how well it reveals information about lobbyists efforts to influence decision-making regarding local legislative and administrative matters. The effectiveness of the campaign finance laws should be judged on a variety of criteria including whether a full range of useful information is reported; whether limitations on contributions effectively limit contributions, whether such reporting assists voters in making informed decisions; whether the files can be efficiently reviewed and compared; and whether there is public trust in governmental and electoral institutions.

The effectiveness of a conflict of interest laws can be judged in part on public confidence in the integrity of government decision-making. The number and type of violations noted would be an indicator as would be the types of information revealed in the filings related to conflicts of interest—Form 700, gifts, employment restriction waiver requests.

> 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.

Throughout this report, we have catalogued information that is filed and publicly disclosed. There is a wide range of information that appears useful to the public. However, without at least some audit and review, the public cannot be confident of its accuracy, and the filers have little incentive to ensure the correctness of their filings.

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.

Information reported elsewhere can provide another layer of understanding to local reports. For example, the FPPC received filings for years on races for political party Central Committee slots that are now being filed locally, but the prior filings are relevant to understanding local politics as well. The FPPC receives campaign filings from incumbent San Francisco officeholders seeking state office, which shows their current campaign fundraising while making decisions that may be important to their contributors.

Other items might include reports on enforcement actions involving San Francisco officials and entities actively involved in San Francisco lobbying and campaigns or doing business with San Francisco; federal actions that debar or institute limited denial of participation in federal contracts resulting from federal investigations.

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.

The Jury found instances of Ethics Commission proposals to reduce protections against pay-to-play politics, reduce requirements for full disclosure of spending to influence City decisions, and relaxed standards regarding post-employment which did not explain how the proposal would further the purposes of the underlying law.[48]

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

[48] For example, see the proposal from 2010 on contractor contributions discussed at the Oct 18, 2010 Ethics Commission meeting, and the memo with draft legislation at http://www.sfethics.org/files/memo_to_EC_re_proposed_changes_10.6.10_packet.pdf

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".[49]

And finally, the Jury believes the appearance of impropriety may be even more corrosive to public trust in government than actual criminal wrongdoing. Why? Because actual wrongdoing can get prosecuted, while it seems that nothing is ever done about things that "just look bad."

The conflict of interest law stresses the importance of appearances. "Government decisions should be, and should appear to be, made on a fair and impartial basis."[50] This theme shows up repeatedly in the law, as well as in related case law.

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.

Coda: Proposition J Case Study

How The Proposition J Law Changed to Lessen Ethical Protections

If you blinked, you missed this one. Passed in a landslide in 2000, it was quietly repealed three years later.

Proposition J was called "Taxpayer Protection."[51] It regulated behavior of public officials, barring them from receiving a "personal or campaign advantage" (e.g. contributions, gifts, employment) from anyone who gained a "public benefit" by action of the public official. This prohibition continued for two years after the official left office. It barred campaign contributions, gifts, and potential employment in many instances.

No one stood against this proposition—there was no argument against it in the Voter's Guide and

[49] e.g. The state is required to do the same thing when amending the Political Reform Act. It makes a conclusory pro forma finding by inserting a section: "The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code." We would hope to see some actual findings.

[50] C&GCC §3.200(e)

[51] Proposition J added Article XX to Chapter 16 of the Administrative Code. See Appendix Four for full text and ballot materials – Proposition J Handbook

no paid arguments against it.

"Public benefit" was broadly defined, including contracts, land sales, leases, franchises, land use variances, and tax abatements or other tax variances not generally applicable. "Public official" was limited to "any elected or appointed official acting in an official capacity," not civil servants, only elected and appointed officials.

The Proposition J Findings and Declarations spoke of tainted decision making and corruptive influences of donations in much stronger language than is used in other San Francisco laws.[52]

Proposition J also provided a Citizen's Right of Action against public officials who violated its terms if the City Attorney and the District Attorney declined to pursue a case. After payment of attorney fees, 90% of any monies recovered would go to San Francisco.

Proposition J paralleled other San Francisco laws, in some ways broader, in some ways narrower, and used different terminology. City law bans contractor campaign contributions from the time contract negotiations begin until six months after the contract is awarded is in effect. City law limits the ability of public officials and employees to take certain jobs after their government service—narrower than Proposition J for public officials covered by it, broader for other employees.

The Steps By Which Proposition J was Amended Out of Existence

Step 1: In 2000, via a citizen petition initiative, Proposition J was placed on the ballot. Voters overwhelmingly (83%) approved an ordinance that banned public officials from receiving contributions of any kind from persons who obtained benefits through a decision by that official.

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[52] **Section 16.991. Findings and Declarations**

(a) The people of the City and County of San Francisco ("City and County") find that the use or disposition of public assets is often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.

(b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public 'decision makers'. The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.

(c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

Step 2: Although not designated in Proposition J, the Ethics Commission administered this proposition. In 2003, the Ethics Commission proposed repealing Proposition J at their April 2003 meeting as part of their effort to recodify conflict of interest laws out of the Charter, amending some of them and making non-voter amendments possible in the future—the effort that became Proposition E on the 2003 ballot.[53]

Step 3: In 2003, voters approved Proposition E that recodified the ethics laws; however, it also had the undisclosed effect of deleting Proposition J language.

The City Attorney had codified Proposition J as Article 3, Chapter 7 of the C&GCC (§3.700 et seq) and it was repealed in a section of Proposition E of 2003—the ethics recodification entitled "Deletion of Ordinances regulating conflicts of interest and transfer of Charter sections regulating conflicts of interest into the Campaign and Governmental Conduct Code."

Proposition E started as a two part proposal from the Ethics Commission. One part had amendments to the Charter moving items into ordinance; the second part was a series of amendments to the conflict of interest ordinance. These two parts were merged into one proposal, and the Board of Supervisors made some changes during the process. The original Ethics Commission conflict of interest changes showed the Proposition J language being struck out; the redraft at the Board just repealed it by reference.

The deletion of Proposition J was noted in the Legislative Digest at the Board of Supervisors, saying "Other conflict of interest provisions included in this measure and an amendment to the Campaign Finance Reform Ordinance will accomplish some of the same goals by limiting gifts, future employment, and campaign contributions, but are more narrowly tailored to accomplishing these goals."

No mention of this was made in the Voter's Guide for the 2003 election, and we find no discussion of it during the campaign.

Thus, the concept of regulating public officials' relations with those who receive "public benefits" from them (Proposition J's intent) was totally eliminated from San Francisco law.

> 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.
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> 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

[53] From the Ethics Commission meeting minutes 4/14/2003:

(Staff) explained that Proposition J, which places limits on gifts, future employment and campaign contributions, and which is currently part of the C&GCC, is now redundant because the goals of Proposition J are either (a) already addressed in the proposed conflict of interest amendments, or (b) scheduled to be addressed by proposed amendments to be considered in Item VIII at tonight's meeting.

Motion 03-04-14-7 (Melbostad/Garcia): Moved, seconded, and unanimously passed (4-0): that the Commission adopt the proposed staff recommendation to delete Proposition J from the Campaign and Governmental Conduct Code.

benefit" definition includes elements that should be incorporated into sections of the C&GCC[54], 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.

[54] The Jury's examination of lobbying contacts for 2013 found that only a small fraction of lobbying involves city contracts while nine out of ten lobbyist contacts involve development projects which would be within the "public benefit" definition, and which fall outside the ban on contractor contributions

RESPONSE MATRIX

Findings	Recommendations	Response Required
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. 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.	Ethics Commission Board of Supervisors City Attorney District Attorney

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.	Board Of Supervisors 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.	Ethics Commission City Attorney Board Of Supervisors
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.	Ethics Commission Ethics Commission Executive Director Chief Data Officer
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.	Ethics Commission Ethics Commission Executive Director Chief Data Officer

Finding 6a: City officials, both those in elective office and political appointees, also may create separate committees to raise funds and campaign for political party office such as the Party Central Committees. 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 decision, 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	Recommendation 6a: The Ethics 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 Ethics 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 state "this is paid for by (insert organization name) funded by anonymous donors in this campaign cycle,"	Ethics Commission

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.		
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.	Ethics Commission Executive Director
Finding 8: The current definition of "lobbyist" and "contacts" does not provide the public with sufficient information to understand who and 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.	Ethics Commission Board Of Supervisors
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.	Ethics Commission Board Of Supervisors
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	Ethics Commission

	lobbyist registration and/or campaign consultant law.	
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.	City Attorney Ethics Commission Sunshine Ordinance Task Force Board Of Supervisors
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.	Ethics Commission Executive Director Sunshine Ordinance Task Force
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.	Ethics Commission Executive Director Ethics Commission
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	Ethics Commission Executive Director Ethics Commission

	fails to file by the 90 day deadline for referral to the Fair Political Practices Commission Recommendation 14c: The Ethics Commission should recommend dismissal for any officer or employee who files a Statement of Economic Interest that is inaccurate and relevant to the position they hold. Recommendation 14d: Now that all Form 700 filers file electronically, the Ethics Commission should propose that they be filed with them as well as with the Department filing officer.	
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.	Ethics Commission Ethics Commission Executive Director
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.	Ethics Commission Board of Supervisors

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.	Ethics Commission Executive Director Ethics Commission Sunshine Ordinance Task Force City Attorney
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.	The Board of Supervisors should adopt a rule subjecting themselves to the public calendar requirement of the Sunshine Ordinance.	Board Of Supervisors
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.	Ethics 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.	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.	Sunshine Ordinance Task Force Mayor Board Of Supervisors Ethics Commission
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.	Board Of Supervisors Ethics Commission Ethics Commission Executive Director

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.	Ethics Commission
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	Ethics Commission Ethics Commission Executive Director City Attorney
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	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.	Board Of Supervisors Mayor Ethics Commission

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. 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.		
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.	Ethics Commission Ethics Commission Executive Director Board Of Supervisors
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.	Ethics Commission Ethics Commission Executive Director Chief Data Officer

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".	Ethics Commission Ethics Commission Executive Director Board of Supervisors City Attorney
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.	Ethics Commission
Finding 29: The Findings and Declarations of Proposition J (2000) 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.	Ethics Commission Board of Supervisors

METHODOLOGY

The San Francisco Civil Grand Jury investigated the Ethics Commission, Sunshine Ordinance Task Force, and other government transparency practices of the City. We conducted over twenty interviews of people knowledgeable about the public bodies involved or about efforts and practices to promote government transparency.

Our investigation led us to review hundreds of documents from various sources. These sources included commission meetings (streaming video as well as minutes), ordinances and propositions, The San Francisco Ethics Commission and the data.sf.org websites, the FPPC website, newspaper reports, and online journalism.

BIBLIOGRAPHY (SELECTED)

Appendix One discusses the key laws and where to find them.

Budget Analyst Report – San Francisco Board of Supervisors June 06, 2012 - Comparison of City and County of San Francisco and City of Los Angeles Ethics Laws – Phase 2

Fair Political Practices Commission Publications http://www.fppc.ca.gov/index.php?id=226

SF Ethics Commission Annual Reports
2013: http://www.sfethics.org/ethics/2013/11/san-francisco-ethics-commission-annual-report-july-1-2012-june-30-2013.html
2012: http://www.sfethics.org/ethics/2013/01/san-francisco-ethics-commission-annual-report-july-1-2011-june-30-2012.html
2011: http://www.sfethics.org/ethics/2011/09/san-francisco-ethics-commission-annual-report-july-1-2010-june-30-2011.html
Earlier reports: http://www.sfethics.org/ethics/2009/05/annual-reports.html

Los Angeles Ethics Commission publications:
http://ethics.lacity.org/publications.cfm

2010-2011 SF Civil Grand Jury Report on Ethics:
San Francisco Ethics Commission: The Sleeping Watchdog
SF Ethics response to 2010-2011 Civil Grand Jury report on Ethics:
http://www.sfethics.org/ethics/2011/09/ethics-commission-response-to-the-2010-2011-civil-grand-jury-report.html
2004-2005 SF Civil Grand Jury report on ethics:
San Francisco Ethics Commission Budgeting and Staffing Issues

2012-2013 Orange County Civil Grand Jury report: "A Call For Ethical Standards: Corruption In Orange County"

GLOSSARY

C&GCC - San Francisco Campaign and Governmental Conduct Code, a separate code in San Francisco Ordinances created in 2000 from existing laws related to campaign finance, lobbyists, conflict of interest, government ethics, and whistleblower protection.

Behest Payments -- payments made at the behest of elected officials are presumed not to be campaign contributions if: the payments are made principally for legislative, governmental, or charitable purposes, and the payments are made principally for purposes unrelated to the official's candidacy for elected office.

City - The City and County of San Francisco

Form 700 Statements of Economic Interests (SEIs or Form 700s) - These state mandated forms include information about the sources of an official's income, investments, business positions, real property holdings and gifts. Merely reporting an economic interest is not a conflict in itself; a conflict arises when an official governmental decision, made by the official, impacts their economic interests. Form 700s are an important means for the official that files them, the media, and the public to help gauge where potential conflicts of interest may exist.

FPPC - California Fair Political Practices Commission (FPPC) was created by the Political Reform Act of 1974.

Political Reform Act of 1974 – the core California law on campaign finance, financial reporting and many conflicts of interest, a ballot initiative passed by California voters in 1974 as Proposition 9.

Ralph M. Brown Act – the California law on open meetings, originally passed in 1953 and codified at . Government Code §§ 54950 et seq

APPENDIX ONE

The Legal Framework

The grand jury looked at the laws administered directly or indirectly by the Ethics Commission and the Sunshine Ordinance Task Force.

A web of local, state, and federal laws require that public officials and employees act in accordance with the public trust. These laws rest on common law, constitutional and Charter principles and provisions that set norms of behavior for public officials. Self-dealing is wrong. Divided loyalties demand recusal.

San Francisco voters have adopted a variety of Charter amendments and ordinances over the years, which aim, in different ways, at promoting transparency in government and elections along with preventing corruption.

The Ethics Commission legal framework has changed significantly since its creation. For the Commission, the term of office and the appointing authorities have changed. Administering publicly funded candidates is an added responsibility. The local laws they administer have in large part been taken from the Charter and various locations in the San Francisco code and consolidated into the Campaign and Governmental Conduct Code and amended.

The Sunshine Ordinance Task Force has only one significant change since initial enactment—converting an ordinance passed by the Board of Supervisors into an ordinance passed by the voters.

Transparency For Government

Expansive government sunshine language was added to the California Constitution in 2004, mandating that existing laws be construed to further the public right of access; and to allow public scrutiny of public records.[55] The existing state law framework on transparency is the Ralph M. Brown Act[56] enacted in 1953, and the California Public Records Act[57] enacted in 1968.

The Brown Act and the Public Records Act set the floors for San Francisco government transparency. Both permit local jurisdictions to enact ordinances whose transparency requirements are greater than those established in the state laws.

The San Francisco Sunshine ordinance was passed by the Board of Supervisors and went into effect on January 1, 1994.[58] The ordinance follows the California Brown Act and the California Public Records Act. Its purposes are broadly stated:

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[55] Proposition 59 - passed Legislature unanimously, and was approved by 83.4% of the 2004 voters. Now codified as Article I, § 3(b) of California Constitution.

[56] Government Code §§ 54950 et seq

[57] Government Code § 6250 through § 6276.48. This law is modeled on the Federal Freedom of Information Act.

[58] The San Francisco Sunshine Ordinance — Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, approved November 2, 1999, codified Chapter 67 of the San Francisco Administrative Code. Kevin Shelley took the lead in moving the ordinance through the Board of Supervisors. It passed 11-0 in 1993, was signed by then-Mayor Frank Jordan and became effective on 1/1/94.

a. Government's duty is to serve the public, reaching its decisions in full view of the public.

b. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

Over the next few years, sunshine activists noted difficulties with the implementation of the Sunshine Ordinance and developed revisions mandating greater public access to City records. By petition, their amendments, touching on every section of the ordinance, went on the ballot and were adopted by the voters in November 1999.[59]

Transparency In Campaigns

The core state law is the Political Reform Act of 1974, a ballot measure approved by the voters in June 1974.[60] The Political Reform Act also established the Fair Political Practices Commission (FPPC). These established a reporting framework at the state level while authorizing local officials to act as local filing agents for the FPPC.

From its inception, the Ethics Commission was designated as the local filing agent for the FPPC, so it receives all local campaign filings and enforces local requirements that go beyond FPPC requirements. For example, in 1997, voters approved a proposal requiring campaign consultants to register with the Ethics Commission, reporting on their clients, services provided and payments received.

Campaign disclosures and regulations have been more closely judged in recent years under the First Amendment to the United States Constitution.[61] Several significant cases decided by the United States Supreme Court have struck down campaign finance limits as infringing free speech, while affirming the importance and availability of mandated disclosures of campaign finances.[62]

The Problem Of Contractor Contributions

San Francisco's law prohibits contributions to the candidate or candidate-election committee that has a role in approving the contract from those who are seeking contract approvals. This is intended to maintain an arms-length relationship between officials and donors seeking contract approvals.

San Francisco voters approved a measure making it illegal for City officials and the political committees they control to solicit or accept any campaign contributions from someone who has a contract that the official will decide and making it the responsibility of an elected official to

[59] Proposition G (1999) passed by a 58-42 margin despite public opposition by then-Mayor Willie Brown, seven supervisors, the Democratic and Republican county central committees, the Chamber of Commerce, SPUR and the Chronicle.

[60] Generally codified in the Government Code §§ 81000 et seq

[61] "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

[62] See McCutcheon v Federal Election Commission 572 U. S. ____ (2014), Citizens United v Federal Election Commission 558 US 310 (2010) , Federal Election Commission v Wisconsin Right to Life 551 US 449 (2007)

convey contributions from City contractors to the City, although the Ethics Commission may waive or reduce the forfeiture. [63] San Francisco also prohibits contributions that are reimbursed by another person or entity that skirts the contribution limits.

San Francisco's Campaign Finance Reform Ordinance prohibits contributions from City contractors and from officers or Board members of City contractors.[64]

Ethics Laws

> "Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust."[65]

Ethics laws start from the general concept of public service as a public trust, with the power of public office to be exercised fairly and impartially. They further caution officers and employees to avoid the appearance of impropriety.

The Charter further says: the breach of "the standard of decency, good faith and right action" is grounds for removal of a public officer.[66]

The City conflict of interest laws[67] articulate basic principles:

> Governmental processes must promote fairness and equity for all residents; for the people to maintain public trust in governmental institutions, conflicts of interest and outside activities of public officers and employees must be regulated. Public officers and employees cannot buy their appointment or accept anything of value from their subordinates, and they must not participate in decisions related to their own character or conduct or that of their family members.
>
> Public officers and employees must be independent, impartial, and responsible to the people and not use public office and employment for personal gain. Their decisions should be, and should appear to be, made on a fair and impartial basis.

This Jury cannot emphasize strongly enough the importance of avoiding the appearance of impropriety. The laws in this area grow more and more complex; avoiding inadvertent violations becomes difficult. But an effort to soften the law in special cases often creates loopholes that swallow the entire law.

State law bars contractual conflicts of interest of public officers and employees.[68] This was first placed in California laws in 1851 and codified common law prohibitions against self-dealing.

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[63] C&GCC §1.126(c) and (d) - added by 2008 Prop H
[64] C&GCC §1.126(b)
[65] § 15.103 of the San Francisco Charter
[66] § 15.105(e) of the San Francisco Charter
[67] Chapter 2 of Article III of C&GCC, re-adopted by the voters in 2003
[68] Government Code § 1090 provides:

> "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members."

Courts routinely void contracts entered into in violation of §1090.

The Political Reform Act of 1974 adds more laws on conflict of interest, mandating disclosure of economic interests, gifts, behested payments among others.

In 2000, the Board of Supervisors gathered together all these local laws into the San Francisco Campaign and Governmental Conduct Code. State laws on financial conflict of interest - both in the California Political Reform Act and in §1090 of Government Code - are expressly incorporated into San Francisco ordinances by §3.206 of the C&GCC.

In 2003, voters approved an "omnibus ethics reform." Proposition E was promoted as updating and clarifying City laws on ethics and conflicts of interest.[69] It moved some Charter provisions into ordinance, and authorized future amendments to the Campaign Finance ordinance and to the Conflict of Interest ordinance by 4/5 of the Ethics Commission and 2/3 of the Board of Supervisors rather than by the voters.

Anti-Corruption Laws

Corruption is the abuse of entrusted power for private gain.

Corrupt behavior is the opposite of ethical behavior. Rather than using power consistent with public trust, the entrusted power is used for private gain. Corruption is a crime and is controlled by treating it as a crime—charging corrupt officials as criminals and jailing them.

Corruption charges tend to be brought under more general criminal laws: bribery, fraud, extortion, embezzlement, conflict of interest, nepotism, influence-peddling, mail fraud wire fraud, failure to provide honest services, some racketeering laws, and facilitating criminal activity (i.e., money laundering and drug trafficking)."[70]

Quid pro quo corruption, both actual and in appearance. is currently where campaign regulation is allowed. But there are definitional problems once one goes beyond the obvious "money for a permit".

Process To Amend The Laws

Some laws can be amended more easily than others because some of these laws were passed by the voters, some are modeled on state laws, and others were passed by the Board of Supervisors.

We count at least 22 local ballot questions in the last 65 years related to campaign finance, ethics, conflict of interest, and transparency, 16 since 1980. And we certainly have not identified all of them.

The voters approved many of the San Francisco laws we discuss here. Unless the voters approved a different process to amend the proposition in the future, the voters must approve any future amendments.

At the state level, the Political Reform Act when approved by the voters contained such a process—the Act can be amended in ways to further its purposes by a two-thirds vote of the

[69] Put on the ballot by the Board of Supervisors – Legislative File No. 030681 – Ammiano lead sponsor.
[70] See http://www.fbi.gov/news/stories/2013/april/a-look-back-at-the-william-j.-jefferson-corruption-case

legislature and signed by the governor. Other amendments or a repeal require a vote of the people.[71]

The original Ethics Commission Charter amendment had no provision for its amendment, nor did the many conflict of interest provisions then in the Charter.

A significant feature of Proposition E, passed the voters in 2003, was to allow future amendments to the campaign finance laws[72] and the conflict of interest laws[73] by a 4/5 vote of the Ethics Commission followed by a 2/3 vote of the Board of Supervisors if the amendment "furthers the purposes of this Chapter". Meet and confer may apply before changes take effect - conflict of interest rules affect City employees, for example, who are virtually all unionized.

The Sunshine Ordinance, though originally passed by the Board of Supervisors, was completely re-enacted by the voters when revised in 1999, and has no section on how it can be amended. As a result, any amendments will require submission to the voters.

The Campaign Consultant chapter - passed by the voters - can only be amended by the voters.

The Board of Supervisors, Ethics Commission and City Attorney have a "work around" that allows some small amendments to these laws by ordinances that supplement them. A new chapter banning the use of cell phones at public meetings supplemented the Sunshine Ordinance.[74] New sections requiring that campaign consultant reports be filed electronically and cross-referencing certain lobbying prohibitions for campaign consultants supplemented the Campaign Consultant ordinance.[75]

Finding The Laws

We considered having an appendix with the laws, but there are so many of them and they keep changing. With the Web tools available today, the laws can be easily found.

One good starting site is a page on the laws maintained by the Ethics Commission, currently found at: http://www.sfethics.org/ethics/2009/05/law-advice.html#i

This has links to the San Francisco Charter and Codes currently maintained by City American Legal:
http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca

This page also links to the Commission's own regulations and bylaws, Statements of Incompatible Activities and the Sunshine Ordinance.

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[71] See § 81012
[72] C&GCC Article 1, Chapter 1— § 1.103
[73] C&GCC Article 3, Chapter 2 — § 3.204 "the Board of Supervisors may amend this chapter if..."
[74] §67a.1 of the Administrative Code, added by Ord. 286-00, File No. 001155, App. 12/22/2000.
[75] §1.540 - Electronic Reporting and §1.545 Construction with other laws - were adopted later by ordinance as part of this chapter.

When researching the San Francisco Code, note that each section has some notes on when it was adopted and amended. The File Number of each change can searched on the Board of Supervisors Web site.[76]

State law is best found on the FPPC site: Their home page: http://www.fppc.ca.gov/

The Political Reform Act is found at: http://www.fppc.ca.gov/index.php?id=51

[76] For example, a recent change in the Findings in the Lobbyist Ordinance is "Ord. 235-09, File No. 090833, App. 11/10/2009". The Ordinance number ends in 09, meaning 2009; the file number starts with 09, meaning it was considered in 2009. https://sfgov.legistar.com/Legislation.aspx is a search page for legislation. Put the number into the search box and specify the search is for 2009 and you get the link to file: https://sfgov.legistar.com/LegislationDetail.aspx?ID=483810&GUID=6FE013C0-2582-4665-B766-92A9A0C60143&Options=ID|Text|&Search=090833 The new page gives links to versions and the meeting information for each step of the legislative process.

APPENDIX TWO

Behested Payments - Example

Here are some large recently reported behested payment reports. Behested payment reports are filed with the Ethics Commission with the most recent filings found at:

http://www.sfethics.org/ethics/Payments_Made_at_the_Behest_of_an_Elected_Officer/

Example forms include:

Four payments to the America's Cup Organizing Committee. Three from June 2013 and one from January 2014.

Behested Payment Report — **A Public Document**

Behested Payment Report — California Form 803

For Official Use Only

1. Elected Officer or CPUC Member *(Last name, First name)*
Lee, Edwin M.

Agency Name
Office of the Mayor

Agency Street Address
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place, S.F., CA 94102

Date Stamp
2013 JUL 11 AM 10:12
RECEIVED
FPPC COMMISSION

Designated Contact Person *(Name and title, if different)*
Olga A. Ryerson

Area Code/Phone Number: (415) 554-6910
E-mail *(Optional)*: olga.ryerson@sfgov.org

☐ Amendment *(See Part 5)*
Date of Original Filing: *(month, day, year)*

2. Payor Information *(For additional payors, include an attachment with the names and addresses.)*
TMG Partners
Name
[redacted] — San Francisco — CA — 94104
Address — City — State — Zip Code

3. Payee Information *(For additional payees, include an attachment with the names and addresses.)*
America's Cup Organizing Committee (ACOC)
Name
[redacted] — San Francisco — CA — 94133
Address — City — State — Zip Code

4. Payment Information *(Complete all information.)*
Date of Payment: 06/12/2013 *(month, day, year)*
Amount of Payment: *(In-kind FMV)* $ $25,000.00 *(Round to whole dollars.)*
Payment Type: ☒ Monetary Donation or ☐ In-Kind Goods or Services *(Provide description below.)*
Brief Description of In-Kind Payment: Stock Transfer

Purpose: *(Check one and provide description below.)* ☐ Legislative ☒ Governmental ☐ Charitable
Describe the legislative, governmental, charitable purpose, or event: America's Cup Organizing Committee (ACOC) – To help pay for costs associated with the City hosting the San Francisco America's Cup.

5. Amendment Description or Comments

6. Verification

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on July 10, 2013 *(DATE)* By [redacted] *(SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER)*

FPPC Form 803 (December/08).
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Behested Payment Report — **A Public Document** — Behested Payment Report

California Form 803 — For Official Use Only

1. Elected Officer or CPUC Member *(Last name, First name)*
Lee, Edwin M.

Agency Name
Office of the Mayor

Agency Street Address
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place, S.F., CA 94102

Designated Contact Person *(Name and title, if different)*
Olga A. Ryerson

Area Code/Phone Number: (415) 554-6910
E-mail *(Optional)*: olga.ryerson@sfgov.org

Date Stamp: 2013 JUL 11 AM 10:43 SAN FRANCISCO ETHICS COMMISSION

☐ Amendment *(See Part 5)*
Date of Original Filing: *(month, day, year)*

2. Payor Information *(For additional payors, include an attachment with the names and addresses.)*
Kilroy Realty Corporation
Name
[redacted] — San Francisco — CA — 94105
Address — City — State — Zip Code

3. Payee Information *(For additional payees, include an attachment with the names and addresses.)*
America's Cup Organizing Committee (ACOC)
Name
[redacted] — San Francisco — CA — 94133
Address — City — State — Zip Code

4. Payment Information *(Complete all information.)*
Date of Payment: 06/24/2013 *(month, day, year)* Amount of Payment: *(In-Kind Fair)* $ $500,000.00 *(Round to whole dollars.)*
Payment Type: ☒ Monetary Donation or ☐ In-Kind Goods or Services *(Provide description below.)*
Brief Description of In-Kind Payment: Check

Purpose: *(Check one and provide description below.)* ☐ Legislative ☒ Governmental ☐ Charitable
Describe the legislative, governmental, charitable purpose, or event: America's Cup Organizing Committee (ACOC) – To help pay for costs associated with the City hosting the San Francisco America's Cup.

5. Amendment Description or Comments

6. Verification
I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on: July 10, 2013 *(DATE)* By: [redacted] *(SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER)*

FPPC Form 803 (December/09)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Behested Payment Report — **A Public Document** — Behested Payment Report

California Form 803 — For Official Use Only

1. Elected Officer or CPUC Member *(Last name, First name)*
Lee, Edwin M.
Agency Name
Office of the Mayor
Agency Street Address
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place, S.F., CA 94102
Designated Contact Person *(Name and title, if different)*
Olga A. Ryerson
Area Code/Phone Number: (415) 554-6910
E-mail *(Optional)*: olga.ryerson@sfgov.org

Date Stamp: 2013 JUL 11 6:10:46 FPPC

☐ Amendment *(See Part 5)*
Date of Original Filing: *(month, day, year)*

2. Payor Information *(For additional payors, include an attachment with the names and addresses.)*
Bay Area Council
Name
[redacted] — San Francisco — CA — 94111
Address — City — State — Zip Code

3. Payee Information *(For additional payees, include an attachment with the names and addresses.)*
America's Cup Organizing Committee (ACOC)
Name
[redacted] — San Francisco — CA — 94133
Address — City — State — Zip Code

4. Payment Information *(Complete all information.)*
Date of Payment: 06/26/2013 *(month, day, year)*
Amount of Payment: *(In-Kind FMV)* $ $150,000.00 *(Round to whole dollars.)*
Payment Type: ☒ Monetary Donation or ☐ In-Kind Goods or Services *(Provide description below.)*
Brief Description of In-Kind Payment: Check

Purpose: *(Check one and provide description below.)* ☐ Legislative ☒ Governmental ☐ Charitable
Describe the legislative, governmental, charitable purpose, or event: America's Cup Organizing Committee (ACOC) - To help pay for costs associated with the City hosting the San Francisco America's Cup.

5. Amendment Description or Comments

6. Verification
I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on July 10, 2013 *(DATE)* By [redacted] *(SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER)*

FPPC Form 803 (December/05)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Behested Payment Report **A Public Document** Behested Payment Report

1. Elected Officer or CPUC Member *(Last name, First name)*
Lee, Edwin M.

Agency Name
Office of the Mayor

Agency Street Address
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place, S.F., CA 94102

Designated Contact Person *(Name and title, if different)*
Olga A. Ryerson

Area Code/Phone Number: (415) 554-6910
E-mail *(Optional)*: olga.ryerson@sfgov.org

Date Stamp: FIL 14 FEB 12 PM 2:35 SAN FRANCISCO ETHICS COMMISSION

California Form 803
For Official Use Only

☐ Amendment *(See Part 5)*

Date of Original Filing: *(month, day, year)*

2. Payor Information *(For additional payors, include an attachment with the names and addresses.)*
Kilroy Realty Corporation
Name
[redacted] Los Angeles CA 90064
Address City State Zip Code

3. Payee Information *(For additional payees, include an attachment with the names and addresses.)*
America's Cup Organizing Committee (ACOC)
Name
[redacted] San Francisco CA 94111
Address City State Zip Code

4. Payment Information *(Complete all information.)*
Date of Payment: 1/31/2014 *(month, day, year)* Amount of Payment: *(In-Kind FMV)* $ $500,000 *(Round to whole dollars.)*

Payment Type: ☒ Monetary Donation or ☐ In-Kind Goods or Services *(Provide description below.)*

Brief Description of In-Kind Payment:

Purpose: *(Check one and provide description below.)* ☐ Legislative ☒ Governmental ☐ Charitable

Describe the legislative, governmental, charitable purpose, or event: America's Cup Organizing Committee (ACOC) - To help pay for costs associated with the City hosting the San Francisco America's Cup.

5. Amendment Description or Comments

6. Verification

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on February 10, 2014 *(DATE)* By [redacted] *(SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER)*

FPPC Form 803 (December/09)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

APPENDIX THREE

Gifts of Travel Example

Here are examples of Gifts of Travel Forms files in 2013. For most trips, a form is filed before the trip, and a revised form is filed after the trip when the final costs are known.

Forms are filed with the Ethics Commission and are posted online in a series of web pages with the most recent filings found at:

http://www.sfethics.org/ethics/Gifts_of_Travel/

Example forms include:

- Trip to Hong Kong/Beijing/Guangzhou/Macao 3/29/13 to 4/0713
- Trip to Shanghai/Seoul 10/16/13-10/21/13
- Trip to Bangalore, India 11/29/13-12/10/13

FILED
13 APR 30 PM 4:33
SAN FRANCISCO
ETHICS COMMISSION

Form SFEC-3.216(d)
Cover Page

Amended 4/29/2013

Please type or print legibly in ink.

1. Information regarding Elected Officer:

Name (Last)	(First)	(Middle)	Daytime Telephone
Lee	Edwin	Mah	(415) 554-6910

Mailing Address	Street	Zip	Fax Telephone
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place		94102	(415) 554-6113

Office Held	Email Address
Mayor	mayoredwinlee@sfgov.org

2. Purpose of Travel:
To visit China to promote business and cultural exchange and to sign an MOU at the Cultural Ministry.

To promote the Chinese New Year Parade, the San Francisco Symphony, and the Asian Art Museum.

To meet with the new leadership of China.

3. Dates of Travel and Itinerary:

Month/Day/Year	City, State, Country
03/29/13	SF/Hong Kong (thru 3/31/13)
03/31/13	Hong Kong/Beijing (thru 4/3/13)
04/03/13	Beijing/Guangzhou (thru 4/5/13)
04/05/13	Guangzhou/Chuhai/Macau (thru 4/7/13)
04/07/13	Macau/San Francisco

4. Schedule Summary:
Total number of pages, including this cover page: 5

Check applicable schedules:

Schedule A ☒ Yes – schedule attached
Gift of transportation, lodging or subsistence

Schedule B ☐ Yes – schedule attached
Gift to the City of transportation, lodging or subsistence

Schedule C ☐ Yes – schedule attached
Reimbursement to the City of gift of transportation, lodging or subsistence

5. Verification:
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date signed: 4/29/2013

Signature: [redacted]

3

Form SFEC-3.216(d)
Schedule A – Gifts of Travel

1. Information regarding entity funding gift of transportation, lodging or subsistence

Full Name of Entity:

San Francisco Chinese Chamber of Commerce*

Address:

[redacted] San Francisco CA 94108

Street City State Zip

Name of Contact Person:

Rose Pak

Email Address: [redacted] Telephone: (415) 982-3000

2. Information regarding contributors who contributed more than $500 to the entity to fund the trip

Please list the name, occupation and employer of any contributor who contributed more than $500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

None (Please see attached schedule for additional information)

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

☐ *Check box if additional schedules are attached.*

3. Cost of transportation, lodging or subsistence

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

**$9,240.00

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.

**$9,240.00

4. Information regarding persons accompanying the elected officer

Please list the name of any individual who is

(a) a City employee required to file a Statement of Economic Interests,

(b) a lobbyist or campaign consultant registered with the Ethics Commission;

(c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or

(d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

Please identify whether the individual is category (a), (b), (c), or (d), as described above.

Name of Individual — Category

Please see attached.

☐ *Check box if additional schedules are attached.*

Notes:

*The SF Chinese Chamber of Commerce acted as the intermediary for gifts of travel listed on the attached schedule. Each person listed contributed $220 to help defray Mayor's cost of the trip. One additional donor is reported on this form.

**The cost of transportation, lodging or subsistence is updated. The amount listed is half of the total cost of this trip for the Mayor and Mrs. Anita Lee. The cost reported on the original Form SFEC-3.216(d), filed with the Ethics Commission on March 28, 2013, included the total cost for lodging for both the Mayor and Mrs. Lee. Mrs. Lee's total cost will be reported on the Mayor's Form 700 for 2013, due to the Ethics Commission by April 1, 2014. This is consistent with our reporting criteria.

Form SFEC-3.216(d)
Edwin M. Lee
3/29/13 – 4/7/13 China

Section 2. Information regarding contributors who contributed more than $500 to the entity to fund the trip.

*Following is a schedule of persons contributing $220 to defray the cost of the Mayor's trip:

Name of Contributor	Occupation of Contributor	Employer of Contributor
Willie L. Brown, Jr.	Former SF Mayor	N/A
Rose Lan Pak	General Consultant	SF Chinese Chamber of Commerce
Eddie Kwok-Hung Au	First Vice President	SF Chinese Chamber of Commerce
Susana Lau Au	Owner	Man Hing Ivory
Serena Hualdan Chen	Director	American Pacific International Capital, Inc.
Wilson Hualsheng Chen	President	American Pacific International Capital, Inc.
Kwan Shan Cheung	President	Huntar Company
Denn Hu	Chairman	Universal Paragon Corporation, SF
Gorretti Lui Lo	Director	Harbor View Holdings, Inc.
Sonya Molodelskaya	Commissioner	Immigrant Rights Commission
Geoffrey Mark Palermo	President	Evon Corporations
Wayne Perry	Chairman	Cornerstone Conclium, Inc.
Edward Michael Riordan	Lawyer	Retired
Gloria Becerra Riordan	N/A	N/A
Justin Tin	Dentist	JT Dental Group
Kinson Kin Wong	Owner	R & G Lounge
Ringo Wong	Owner	Tomokazu Japanese Cuisine
Tony Zhang	Owner	Bel Builders
Benny Zhang	Chief Financial Officer	Bel Builders
Alan Chan	Manager	Good View Lumber and Building Supply
Stephen Huang	Manager	MTC Maple Trade Corporation
Alfred Lee	President	GLT Investment
Xiao Dan Zhou	Manager Member	Urban Property Venture
Monica Hule	Buyer	Kwan Wo Construction
David Li	Project Manager	Kwan Wo Construction
Fay Chu	Administrator	Kwan Wo Construction
Kelvin Shum	Account Manager	Kwan Wo Construction
Double AA Corporation	N/A	N/A
GAWFCO Enterprises	N/A	N/A
Anderson Enterprises, Inc.	N/A	N/A
Mercedes-Benz of SF	N/A	N/A
John Khau	Vice President	Boyett Construction
James Robert	President	Boyett Construction
Wayne Hule	President	Young Electric
Chuck Walters	Vice President	Young Electric
Gin Yi Ho	Loan Officer	Chinese Trust Bank
Ed Lew	N/A	Retired
Stephen Fong	N/A	Retired
Hongli Wang	Housewife	N/A
Victor Zhang	Director of Purchasing	Haiyi Hotel
Kebing Zhang	Manager	American Pacific International Capital, Inc.
*Clement Chan	Office Manager	JT Dental Group

Section 4. Information regarding persons accompanying the elected officer.

Rose Lan Pak, General Consultant, Chinese Chamber of Commerce (d)
Eddie Kwok-Hung, First Vice President, Chinese Chamber of Commerce (d)
Shih-Wei Lu, Mayor's Office of Communications (a)
Matthew Goudeau Director, Mayor's Office of Protocol (a)
Mark Chandler, Director, Mayor's Office of International Trade & Commerce (a)
Harlan L. Kelly, Jr., General Manager, Public Utilities Commission (a)
Mohammed Nuru, Director, Department of Public Works (a)
Jay Xu, Director and CEO, Asian Art Museum of San Francisco (a)
Kandance Bender, Deputy Airport Director, SF International Airport (a)

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SAN FRANCISCO
ETHICS COMMISSION

Form SFEC-3.216(d)
Cover Page

Please type or print legibly in ink.

1. Information regarding Elected Officer:

Name (Last)	(First)	(Middle)	Daytime Telephone
Lee	Edwin	Mah	(415) 554-6910
Mailing Address	**Street**	**Zip**	**Fax Telephone**
City Hall, Room 200, 1 Dr. Carlton B. Goodlett Place		94102	(415) 554-6113
Office Held			**Email Address**
Mayor			mayoredwinlee@sfgov.org

2. Purpose of Travel:
To visit China to promote business and cultural exchange and to sign an MOU at the Cultural Ministry.

To promote the Chinese New Year Parade, the San Francisco Symphony, and the Asian Art Museum.

Top meet with the new leadership of China.

3. Dates of Travel and Itinerary:

Month/Day/Year	City, State, Country
03/29/13	SF/Hong Kong (thru 3/31/13)
03/31/13	Hong Kong/Beijing (thru 4/3/13)
04/03/13	Beijing/Guangzhou (thru 4/5/13)
04/05/13	Guangzhou/Chuhai/Macau (thru 4/7/13)
04/07/13	Macau/San Francisco

4. Schedule Summary:
Total number of pages, including this cover page: 3

Check applicable schedules:

Schedule A ☑ Yes – schedule attached
Gift of transportation, lodging or subsistence

Schedule B ☐ Yes – schedule attached
Gift to the City of transportation, lodging or subsistence

Schedule C ☐ Yes – schedule attached
Reimbursement to the City of gift of transportation, lodging or subsistence

5. Verification:
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date signed 3/28/13

Signature [redacted]

3

Form SFEC-3.216(d)
Schedule A – Gifts of Travel

1. Information regarding entity funding gift of transportation, lodging or subsistence

Full Name of Entity:

San Francisco Chinese Chamber of Commerce*

Address:

[redacted] San Francisco CA 94108

Street City State Zip

Name of Contact Person:

Rose Pak

Email Address: Telephone:

[redacted] (415) 982-3000

3. Cost of transportation, lodging or subsistence

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

$11,970

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.

$11,970

2. Information regarding contributors who contributed more than $500 to the entity to fund the trip

Please list the name, occupation and employer of any contributor who contributed more than $500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

None (Please see attached schedule for additional information)

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

☐ *Check box if additional schedules are attached.*

4. Information regarding persons accompanying the elected officer

Please list the name of any individual who is

(a) a City employee required to file a Statement of Economic Interests,

(b) a lobbyist or campaign consultant registered with the Ethics Commission;

(c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or

(d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

Please identify whether the individual is category (a), (b), (c), or (d), as described above.

Name of Individual Category

Please see attached.

☐ *Check box if additional schedules are attached.*

*Note: The SF Chinese Chamber of Commerce acted as the intermediary for gifts of travel listed on the attached schedule. Each person listed contributed $440 to help defray the cost of the Mayor's trip.

4

Form SFEC-3.216(d)
Edwin M. Lee
3/29/13 – 4/7/13 China

Section 2. Information regarding contributors who contributed more than $500 to the entity to fund the trip.

Following is a schedule of persons contributing $440 to defray the cost of the Mayor's trip:

Name of Contributor	Occupation of Contributor	Employer of Contributor
Willie L. Brown, Jr.	Former SF Mayor	N/A
Rose Lan Pak	General Consultant	SF Chinese Chamber of Commerce
Eddie Kwok-Hung Au	First Vice President	SF Chinese Chamber of Commerce
Susana Lau Au	Owner	Man Ring Ivory
Serena Huaidan Chen	Director	American Pacific International Capital, Inc.
Wilson Huaisheng Chen	President	American Pacific International Capital, Inc.
Kwan Shan Cheung	President	Huntar Company
Denn Hu	Chairman	Universal Paragon Corporation, SF
Gorretti Lui Lo	Director	Harbor View Holdings, Inc.
Sonya Molodetskaya	Commissioner	Immigrant Rights Commission
Geoffrey Mark Palermo	President	Evon Corporations
Wayne Perry	Chairman	Cornerstone Concilium, Inc.
Edward Michael Riordan	Lawyer	Retired
Gloria Becerra Riordan	N/A	N/A
Justin Tin	Dentist	JT Dental Group
Kinson Kin Wong	Owner	R & G Lounge
Ringo Wong	Owner	Tomokazu Japanese Cuisine
Tony Zhang	Owner	Bel Builders
Benny Zhang	Chief Financial Officer	Bel Builders
Alan Chan	Manager	Good View Lumber and Building Supply
Stephen Huang	Manager	MTC Maple Trade Corporation
Alfred Lee	President	GLT Investment
Xiao Dan Zhou	Manager Member	Urban Property Venture
Monica Huie	Buyer	Kwan Wo Construction
David Li	Project Manager	Kwan Wo Construction
Fay Chu	Administrator	Kwan Wo Construction
Kelvin Shum	Account Manager	Kwan Wo Construction
Double AA Corporation	N/A	N/A
GAWFCO Enterprises	N/A	N/A
Anderson Enterprises, Inc.	N/A	N/A
Mercedes-Benz of SF	N/A	N/A
John Khau	Vice President	Boyett Construction
James Robert	President	Boyett Construction
Wayne Huie	President	Young Electric
Chuck Wallers	Vice President	Young Electric
Gin Yi Ho	Loan Officer	Chinese Trust Bank
Ed Lew	N/A	Retired
Stephen Fong	N/A	Retired
Hongli Wang	Housewife	N/A
Victor Zhang	Director of Purchasing	Hayl Hotel
Kebing Zhang	Manager	American Pacific International Capital, Inc.

Section 4. Information regarding persons accompanying the elected officer:

Rose Lan Pak, General Consultant, Chinese Chamber of Commerce (d)
Eddie Kwok-Hung, First Vice President, Chinese Chamber of Commerce (d)
Shih-Wei Lu, Mayor's Office of Communications (a)
Matthew Goudeau, Director, Mayor's Office of Protocol (a)
Mark Chandler, Director, Mayor's Office of International Trade & Commerce (a)
Harlan L. Kelly, Jr., General Manager, Public Utilities Commission (a)
Mohammed Nuru, Director, Department of Public Works (a)
Jay Xu, Director and CEO, Asian Art Museum of San Francisco (a)
Kandance Bender, Deputy Airport Director, SF International Airport (a)

Revised 11/07/13
(Dates changed to reflect shortened trip)

FILED

Form SFEC-3.216(d)
Cover Page

Please type or print legibly in ink.

1. Information regarding Elected Officer:

Name (Last)	(First)	(Middle)	Daytime Telephone
Lee	Edwin	Mah	(415) 554-6910

Mailing Address: Street	Zip	Fax Telephone
City Hall, Rm. 200, 1 Dr. Carlton B. Goodlett Pl., S.F., CA	94102	(415) 554-6113

Office Held	Email Address
Mayor	mayoredwinlee@sfgov.org

2. Purpose of Travel:
This mission to China and Korea will provide significant opportunities for cultural and educational exchanges and economic partnerships of great benefit to San Francisco.

3. Dates of Travel and Itinerary:

Month/Day/Year	City, State, Country
10/16/13	San Francisco - Shanghai, China
10/20/13	Shanghai - Seoul, Korea
10/21/13	Seoul - San Francisco

4. Schedule Summary:
Total number of pages, including this cover page: 2

Check applicable schedules:

Schedule A ☒ Yes – schedule attached
Gift of transportation, lodging or subsistence

Schedule B ☐ Yes – schedule attached
Gift to the City of transportation, lodging or subsistence

Schedule C ☐ Yes – schedule attached
Reimbursement to the City of gift of transportation, lodging or subsistence

5. Verification:
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date signed: 11/08/13

Signature: [redacted]

3

Form SFEC-3.216(d)
Schedule A – Gifts of Travel

1. Information regarding entity funding gift of transportation, lodging or subsistence

Full Name of Entity:

San Francisco Shanghai Sister City Committee

Address:

[redacted] Sacramento St, San Francisco, CA 94108

Street City State Zip

Name of Contact Person:

James Fang, Chairman

Email Address: [redacted] Telephone: (415) 397-0220

3. Cost of transportation, lodging or subsistence

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

$20,500.00

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.

$20,500.00

2. Information regarding contributors who contributed more than $500 to the entity to fund the trip

Please list the name, occupation and employer of any contributor who contributed more than $500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip.

See attached.

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

☐ *Check box if additional schedules are attached.*

4. Information regarding persons accompanying the elected officer

Please list the name of any individual who is

(a) a City employee required to file a Statement of Economic Interests,
(b) a lobbyist or campaign consultant registered with the Ethics Commission;
(c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or
(d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

Please identify whether the individual is category (a), (b), (c), or (d), as described above.

Name of Individual Category

See attached.

☐ *Check box if additional schedules are attached.*

The cost of transportation, lodging or subsistence is the total cost of this trip for the Mayor and shared costs for Mrs. Anita Lee (lodging and transportation). Mrs. Lee's total costs will be reported on the Mayor's Form 700 for 2013, due to the Ethics Commission by April 1, 2014.

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SF ETHICS COMMISSION

Form SFEC-3.216(d)
Cover Page

Please type or print legibly in ink.

1. Information regarding Elected Officer:

Name (Last)	(First)	(Middle)	Daytime Telephone
Lee	Edwin	Mah	(415) 554-6910
Mailing Address	**Street**	**Zip**	**Fax Telephone**
City Hall, Rm. 200, 1 Dr. Carlton B. Goodlett Pl., S.F., CA	94102		(415) 554-6113
Office Held		**Email Address**	
Mayor		mayoredwinlee@sfgov.org	

2. Purpose of Travel:

This mission to China and Korea will provide significant opportunities for cultural and educational exchanges and economic partnerships of great benefit to San Francisco.

3. Dates of Travel and Itinerary:

Month/Day/Year	City, State, Country
10/14/13	San Francisco - Beijing, China
10/17/13	Beijing - Shanghai
10/21/13	Shanghai - Seoul, Korea
10/23/13	Seoul - San Francisco

4. Schedule Summary:

Total number of pages, including this cover page: 2

Check applicable schedules:

Schedule A ☒ Yes – schedule attached
Gift of transportation, lodging or subsistence

Schedule B ☐ Yes – schedule attached
Gift to the City of transportation, lodging or subsistence

Schedule C ☐ Yes – schedule attached
Reimbursement to the City of gift of transportation, lodging or subsistence

5. Verification:

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date signed: 10/11/2013

Signature: [redacted]

3

Form SFEC-3.216(d)
Schedule A – Gifts of Travel

1. Information regarding entity funding gift of transportation, lodging or subsistence

Full Name of Entity:

San Francisco Shanghai Sister City Committee

Address:

[redacted] San Francisco CA 94108

Street City State Zip

Name of Contact Person:

James Fang, Chairman

Email Address: Telephone:

[redacted] (415) 397-0220

2. Information regarding contributors who contributed more than $500 to the entity to fund the trip

Please list the name, occupation and employer of any contributor who contributed more than $500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

See attached.

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

Name of Contributor

Occupation of Contributor

Employer of Contributor

☐ *Check box if additional schedules are attached.*

3. Cost of transportation, lodging or subsistence

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

$20,500.00

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.

$20,500.00

4. Information regarding persons accompanying the elected officer

Please list the name of any individual who is

(a) a City employee required to file a Statement of Economic Interests,

(b) a lobbyist or campaign consultant registered with the Ethics Commission;

(c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or

(d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

Please identify whether the individual is category (a), (b), (c), or (d), as described above.

Name of Individual Category

See attached.

☐ *Check box if additional schedules are attached.*

The cost of transportation, lodging or subsistence is the total cost of this trip for the Mayor and shared costs for Mrs. Anita Lee lodging and transportation. Mrs. Lee's total costs will be reported on the Mayor's Form 700 for 2013, due to the Ethics Commission by April 1, 2014.

Attachment to Form SFEC-3.216(d)
Edwin M. Lee
10-14-13 – 10-23-13 China/Korea

Section 2. Information regarding contributors who contributed more than $500 to the entity to fund the trip.

Contributors
UBER Technology Inc.
Equity Realty
GoDigital Media Group
AppDirect
AirBnB
San Francisco Travel
City of Seoul
Shanghai Foreign Affairs Office
Beijing Foreign Affairs Office
Shaklee
Bombardier
Chec
Doppelmayr Cable Car
Cubic
Hilton
Parsons
Gap, Inc.
United Airlines
Koret Foundation

Name	Occupation	Employer
Walter Allen, CEO & President	CEO of transportation infrastructure	Acumen Building Enterprise, Inc.
Anne Alvarez, President of the Board	Charitable work	Little Children's Aid
Yat-Pang Au, CEO & Founder	Finance	Veritas
Helena Au	Finance	Veritas
Walter Baczkowski, Chief Executive Officer	Realty	San Francisco Association of Realtors
Laurance Baer, CEO	CEO of sports franchise	San Francisco Giants
Pam Baer		Spouse of Larry Baer
John Curson, Managing Partner	Manager	Approach Partners
Thomas Escher, President & Chairman		Red and White Fleet
William Fong, Executive Vice President	Banker	East West Bank
Boe Hayward, Partner	Registered lobbyist	Goodyear-Peterson, LLC
Mike Healy, Partner	Lawyer	Sedgwick Law
Jeffrey Heller, President	Architect	Heller Manus Architects
Tom Henderson, CEO	CEO	San Francisco Regional Center, LLC
Lily Huang, Director, Global Gateway Division	Banker	Silicon Valley Bank
Mary Jung, Chair	Realtor	San Francisco Democratic Party
Jerry Kennelly, Chairman & Chief Executive Officer	CEO technology firm	Riverbed Technology, Inc.
Dev Krishnan, President & CEO	CEO of transportation infrastructure	Kal Krishnan Consulting Services, Inc.
George Lam, President	President of property corp	LF Properties Corporation
Richard Peterson, Principal	Registered lobbyist	Goodyear-Peterson, LLC
Tanya Peterson, President & Director	Director of non-profit organization	San Francisco Zoological Society

Page 1 of 2

Name	Occupation	Employer
Ross Portugles	Manager	Shanghai Baosan
Betty Wong, Broker	Real estate	Pacific Union Real Estate
John Wong, Founding Chairman	Real estate	Asian Real Estate Association of America
Ronald Wong, President & CEO	Manager of communications firm	Imprenta Communications Group, Inc.

Section 4. Information regarding persons accompanying the elected officer:

Name	Category
Mark Chandler	(a)
Matthew Goudeau	(a)
Francis Tsang	(a)
Jennifer Matz	(a)
Phil Ginsburg	(a)
Supervisor Jane Kim	(a)
Supervisor London Breed	(a)
Supervisor Norman Yee	(a)
Commissioner Kimberly Brandon	(a)
Al Perez	(a) and (d)
Boe Hayward	(b) and (c)
Richard Peterson	(b) and (c)
Claudine Cheng	(b)
James Fang	(d)
Jesus Coronel	(d)
Sandra Siharath	(d)

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SAN FRANCISCO
ETHICS COMMISSION

Form SFEC-3.216(d)
Cover Page

Please type or print legibly in ink.

1. Information regarding Elected Officer:

Name (Last)	(First)	(Middle)	Daytime Telephone
Lee	Edwin	Mah	(415) 554-6910

Mailing Address: Street	Zip	Fax Telephone
City Hall, Rm. 200, 1 Dr. Carlton B. Goodlett Pl., S.F., CA	94102	(415) 554-6113

Office Held	Email Address
Mayor	mayoredwinlee@sfgov.org

2. Purpose of Travel:
To expand ties with Bangalore Sister City with a special focus on areas with significant opportunities for cultural and educational exchanges, economic partnerships, and humanitarian assistance.

3. Dates of Travel and Itinerary:

Month/Day/Year	City, State, Country
Nov 29 - Dec 1, 2013	SFO-Bangalore, India
Dec 1-5, 2013	Bangalore, India
Dec 5-10, 2013	Personal Travel
Dec 10, 2013	Return to San Francisco

4. Schedule Summary:
Total number of pages, including this cover page: 4

Check applicable schedules:

Schedule A ☒ Yes – schedule attached
Gift of transportation, lodging or subsistence

Schedule B ☐ Yes – schedule attached
Gift to the City of transportation, lodging or subsistence

Schedule C ☐ Yes – schedule attached
Reimbursement to the City of gift of transportation, lodging or subsistence

5. Verification:
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date signed: 11/20/13

Signature: [redacted]

3

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ETHICS COMMISSION

Form SFEC-3.216(d)
Schedule A – Gifts of Travel

1. Information regarding entity funding gift of transportation, lodging or subsistence

Full Name of Entity:
San Francisco-Bangalore Sister City Committee

Address:
[redacted] Palo Alto CA 94301
Street City State Zip

Name of Contact Person:
Uday Bellary

Email Address: Telephone:
[redacted] (408) 315-6767

2. Information regarding contributors who contributed more than $500 to the entity to fund the trip

Please list the name, occupation and employer of any contributor who contributed more than $500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

Please see Attached

Name of Contributor
Occupation of Contributor
Employer of Contributor
Name of Contributor
Occupation of Contributor
Employer of Contributor
Name of Contributor
Occupation of Contributor
Employer of Contributor

☐ *Check box if additional schedules are attached.*

3. Cost of transportation, lodging or subsistence

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

*$19,837.00

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.

$19,837.00

4. Information regarding persons accompanying the elected officer

Please list the name of any individual who is
(a) a City employee required to file a Statement of Economic Interests,
(b) a lobbyist or campaign consultant registered with the Ethics Commission;
(c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or
(d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

Please identify whether the individual is category (a), (b), (c), or (d), as described above.

Name of Individual Category

Please see Attached

☐ *Check box if additional schedules are attached.*

*The cost of transportation, lodging or subsistence is the total cost of this trip for the Mayor and shared costs for Mrs. Anita Lee (lodging and transportation). Mrs. Lee's total costs will be reported on the Mayor's Form 700 for 2013 due to the Ethics Commission by April 1, 2014.

4

Form SFEC-3.216(d)
Edwin M. Lee
11/29/13 – 12/10/13

Section 2. Information regarding contributors who contributed more than $500 to the entity to fund the trip.

Name of Contributor	Occupation of Contributor
Acutherm LLC	
Andy Mercy	CEO, Tam Brand Restaurants Group LLC
Anu Natarajan	Fremont Vice Mayor
Asian Art Museum	
Bay Area Council Economic Institute	
Biocon	
Brayton Wilbur Foundation	
Brown and Caldwell	
Catamount Ventures	
CH2M Hill	
Cisco Systems	
City Lights Promotions	
El Camino Hospital	
Emirates Airlines	
FKCCI	
Franklin Templeton Investment	
Gary Jacobs	Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP
Government of Karnataka	
Karnataka Udyoga Mitra	
Kiran Mazumdar-Shaw	
Kumar Malavalli	CEO, InMage Board, San Francisco-Bangalore Sister City Committee
Mango Marketing Design	
Mark Danal	Fremont Assistant City Manager
Michael Alvarez	MD Anderson Center for Professional Development & Entrepreneurship
Microsoft	
Montgomery Entertainment, LLC	
Palo Alto Medical Center	
Recology	
Rickshaw	
San Francisco Bangalore Sister City	
Scott Fearon	Crown Capital Management
Sparks and Associate	
Strand Life Science	
Taj Campton Place	
Taj West End	
The Hive	
Vilaya Malavalli	
Viva Mogl	Platinum Advisors, LLC
Webcor Builders	

Section 4. Information regarding persons accompanying the elected officer.

Christine Falvey	Director of Communications, Office of the Mayor	a
Jason Elliott	Director of Legislative & Government Affairs, office of the Mayor	a
Jay Xu	Director and CEO, Asian Art Museum of San Francisco Director, Asian Art Commission	a&d
Mark Chandler	Director, Mayor's Office of International Trade & Commerce	a
Matthew Goudeau	Director, Mayor's Office of Protocol	a
Michael Carlin	Deputy General Manager, Public Utilities Commission	a
Tamar Hurwitz	School Education Program Manager, Department of the Environment Board, San Francisco-Bangalore Sister City Committee	a&d
Una Fannon	Senior Manager for International Business Development, Office of Economic and Workforce Development	a
Nicole Wheaton	Director of Appointments Commission and Board Liaison	a

Form SFEC-3.216(d)
Edwin M. Lee
11/29/13 - 12/10/13

Viva Mogi	Platinum Advisors	b&c
Anil Menon	President of Smart + Connected Communities, Cisco	d
Ashley Montgomery	Contractor, San Francisco-Bangalore Sister City Committee Montgomery Entertainment, LLC	d
Avinash S. Patwardhan	Global Technology Director - Urban Programs VP & Technology Fellow, CH2M Hill	d
Cesar Molina	Head, El Camino Hospital	d
Chad Rammohan	Cardiovascular Surgeon, El Camino Hospital	d
Conrad Vial	Renowned Cardiovascular Surgeon, El Camino Hospital	d
Deepa Harris	Board, San Francisco-Bangalore Sister City Committee Sr. Vice President of Sales and Marketing, TAJ Group	d
Elizabeth Vilardo	President, Palo Alto Medical Foundation	d
Eric Pifer	CMO, El Camino Hospital	d
Eric Potashner	Sr. Director Strategic Affairs, Recology	d
Gordon Feller	Director, Cisco Systems	d
James Herlihy	Board, San Francisco-Bangalore Sister City Committee Deutsche Bank Private Wealth Management	d
Jay Patil	Senior Vice President, Brown & Caldwell	d
Kumar Malavalli	Board, San Francisco-Bangalore Sister City Committee CEO, Co-Founder, InMage	d
Kurt Herzog	President and CEO, Acutherm, LLC	d
Latha P. Palaniappan	Biobanking and Clinical Research, Palo Alto Medical Foundation	d
Madhav Misra	Board, San Francisco-Bangalore Sister City Committee Misra Capital Management, LLC	d
Manoj Shallendra	National Sales, Emirates	d
Marc Musgrove	Corporate Communications, Cisco	d
Meera Prashad	Board, San Francisco-Bangalore Sister City Committee GetGoing, Inc.	d
Peter Paul Yu	President, American Society of Oncology	d
Robert Sinha	Radiation Oncologist, El Camino Hospital	d
Scott Heldfond	Board, San Francisco-Bangalore Sister City Committee Aon, PLC/UB Group	d
Sean Randolph	Board, San Francisco-Bangalore Sister City Committee President and CEO, Bay Area Council	d
Shyamali Singhal	Head of Oncology Center, El Camino Hospital	d
Tomi Ryba	President & CEO, El Camino Hospital	d
Uday Bellary	Board, San Francisco-Bangalore Sister City Committee Verifaya Corp.	d
Vijay Advani	Board, San Francisco-Bangalore Sister City Committee Executive Vice President, Franklin Templeton Investment	d
Vijay Bist	Board, San Francisco-Bangalore Sister City Committee Amber India Inc.	d
Vijay Kumar	Board, San Francisco-Bangalore Sister City Committee Vice President, CH2M Hill	d

APPENDIX FOUR

Proposition J Voters Guide Materials

Proposition	J
Title	City Contractor Contributions
Date	11/7/2000
Vote Count	Yes: 236,094 No: 49,538
Percentage of votes	Yes: 82.66% No: 17.34%
Percentage of votes required to pass	50%+1
How it was placed on the ballot	Initiative
Kind	Ordinance
Question Stated on the Ballot	Shall the City ban officials from accepting gifts, payments, or campaign contributions from a person or group if the official previously approved granting the donor a contract or special benefit?

City Contractor Contributions J

PROPOSITION J

Shall the City ban officials from accepting gifts, payments, or campaign contributions from a person or group if the official previously approved granting the donor a contract or special benefit? YES NO

Digest

by Ballot Simplification Committee

THE WAY IT IS NOW: Under state and local law, public officials may not participate in decisions in which they have a financial interest. For example, officials may not vote to give a contract to a company that they own in whole or in part.

Officials must report all gifts they receive worth more than $50, and may not accept more than $300 in gifts per year from any single source. An official may not participate in making a government decision affecting anyone who has given $250 or more in gifts or income to the official in the past year. Campaign contributions to an official are not considered gifts or income.

THE PROPOSAL: Proposition J is an ordinance that would ban any City official from accepting a gift, payment, job offer, or campaign contribution from a person or group, if the City official previously had approved granting a contract, lease, franchise, land use variance, special tax benefit, or monetary payment to that person or group. This ban would apply from the date of approval of the benefit until two years after the official's term of office ended or the official otherwise left office, or six years after the approval, whichever came first.

A "YES" VOTE MEANS: If you vote yes, you want to ban City officials from accepting gifts or campaign contributions from a person or group where the official has previously approved granting a contract or special benefit to that person or group.

A "NO" VOTE MEANS: If you vote no, you do not want to ban City officials from accepting gifts or campaign contributions from a person or group where the official has previously approved granting a contract or special benefit to that person or group.

Controller's Statement on "J"

City Controller Edward Harrington has issued the following statement on the fiscal impact of Proposition J:

Should the proposed ordinance be adopted, in my opinion, it would have a minor effect on the cost of government.

How "J" Got on the Ballot

On June 30, 2000 the Department of Elections certified that the initiative petition, calling for Proposition J to be placed on the ballot, had qualified for the ballot.

9,735 signatures were required to place an ordinance on the ballot.

This number is equal to 5 % of the total number of people who voted for Mayor in 1999. A random check of the signatures submitted on June 1, 2000 by the proponent of the initiative petition showed that more than the required number of signatures were valid.

THIS MEASURE REQUIRES 50%+1 AFFIRMATIVE VOTES TO PASS.

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE. THE FULL TEXT BEGINS ON PAGE P-133
SOME OF THE WORDS USED IN THE BALLOT DIGEST ARE EXPLAINED ON PAGE P-2

J City Contractor Contributions

PROPONENT'S ARGUMENT IN FAVOR OF PROPOSITION J

No arguments were submitted

REBUTTAL TO PROPONENT'S ARGU AVOR OF PROPOSITION J

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

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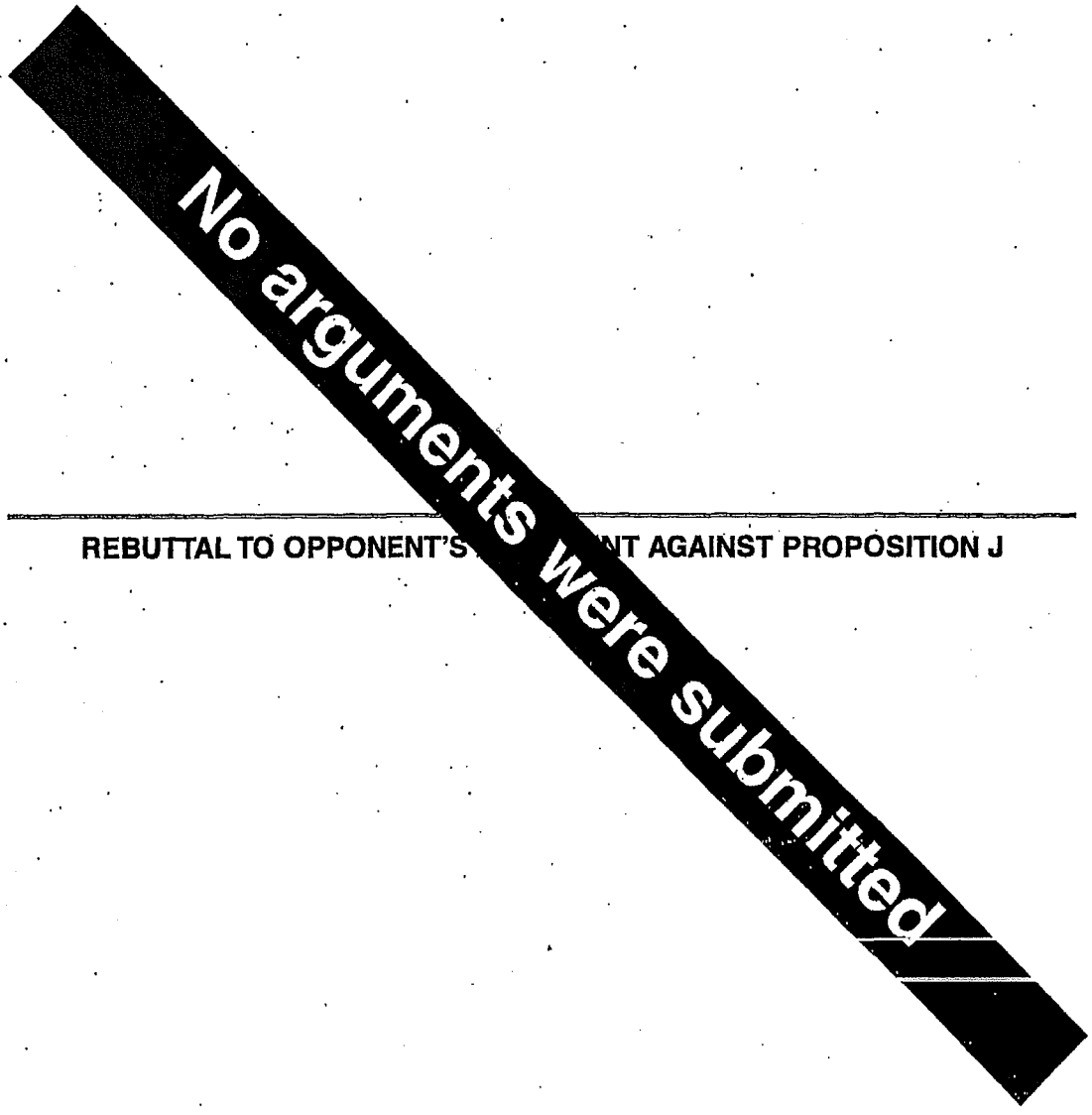
City Contractor Contributions J

OPPONENT'S ARGUMENT AGAINST PROPOSITION J



REBUTTAL TO OPPONENT'S ARGUMENT AGAINST PROPOSITION J

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

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J City Contractor Contributions

PAID ARGUMENTS IN FAVOR OF PROPOSITION J

Republicans stand for good government. This reform proposition was put on the ballot by a non-partisan, grassroots, good-government group. It should enjoy the respect of all citizens. This measure would help stop bribery and corruption in city hall.

And ***in San Francisco, that'll be a full time job!***

Adam Sparks
GOP Candidate for Congress, San Francisco

The true source of funds used for the printing fee of this argument is Adam Sparks.

The flow of corporate campaign contributions and gifts to public officials is corrupting our local democracy.

Joel Ventresca
President, Coalition for San Francisco Neighborhoods (1987-89; 1992-94)

The true source of funds used for the printing fee of this argument is Joel Ventresca.

Ralph Nader, both the San Francisco **Democratic** AND **Republican** committees and **California Common Cause** all agree on only one thing this year. They all endorse Measure J. That's because Measure J is good government without politics.

The signatures needed to qualify Measure J were collected by the non-partisan Oaks Project through an unprecedented 100% volunteer petition effort.

Measure J prevents corruption by banning "legal" kickbacks. J bars politicians from taking money, gifts, or jobs from anyone benefiting from the politician's actions (i.e. granting city contracts, special tax breaks of land deals).

VOTE YES on Measure J.

Ben Gertner
Oaks Project Volunteer

The true source of funds used for the printing fee of this argument is Nicholas Wirz.

Stop ***special deals*** to downtown special interests like ***Bloomingdales!***

Vote YES on Prop J!

Jake McGoldrick
Candidate for District 1 Supervisor

The true source of funds used for the printing fee of this argument is McGoldrick for Supervisor.

The three largest contributors to the true source recipient committee are 1. Hiroshi Fukuda 2. Mowitza Biddle 3. Steve Williams.

Elected officials shouldn't reward campaign contributors with city contracts and money. But that's exactly what has brought the FBI into City Hall. Keep everyone's hands out of the cookie jar. **Vote Yes on Proposition J.**

Harvey Milk Lesbian, Gay, Bisexual, Transgender Democratic Club

The true source of funds used for the printing fee of this argument is Harvey Milk Lesbian, Gay, Bisexual, Transgender Democratic Club.

The three largest contributors to the true source recipient committee are 1. Californians for Indian Self-Reliance 2. Assemblywoman Carole Migden 3. Harvey Milk Lesbian, Gay, Bisexual, Transgender Democratic Club.

We support city government for the public interest, not special interests!

Proposition J promotes integrity in city officials, saving taxpayers from wasteful contracts and favoritism. Vote Yes on J.

San Francisco Green Party

The true source of funds used for the printing fee of this argument is the San Francisco Green Party.

The three largest contributors to the true source recipient committee are: 1. Marge Harburg 2. Jo Chamberlain 3. John Strawn.

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

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J City Contractor Contributions

PAID ARGUMENTS AGAINST PROPOSITION J

No Paid Arguments Were Submitted Against Measure J

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

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TEXT OF PROPOSED INITIATIVE ORDINANCE
PROPOSITION J

Amendment to San Francisco Administrative Code

Chapter 16 of the San Francisco Administrative Code shall be amended by the addition of the following Article:

ARTICLE XX. TAXPAYER PROTECTION

Section 16.990. Title
This Article shall be known as the City and County of San Francisco Taxpayer Protection Amendment of 2000.

Section 16.991. Findings and Declarations
(a) The people of the City and County of San Francisco ("City and County") find that the use or disposition of public assets is often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.
(b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public 'decision makers'. The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.
(c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

Section 16.992. Definitions
(a) As used herein, the term public benefit does not include public employment in the normal course of business for services rendered, but includes a contract, benefit, or arrangement between the City and County and any individual, corporation, firm, partnership, association, or other person or entity to:
(1) provide personal services of a value in excess of $50,000 over any 12 month period;
(2) sell or furnish any material, supplies or equipment to the City and County of a value in excess of $50,000 over any 12 month period;
(3) buy or sell any real property to or from the City and County with a value in excess of $50,000, or lease any real property to or from the City and County with a value in excess of $50,000 over any 12 month period;
(4) receive an award of a franchise to conduct any business activity in a territory in which no other competitor potentially is available to provide similar and competitive services, and for which gross revenue from the business activity exceeds $50,000 in any 12 month period;
(5) confer a land use variance, special use permit, or other exception to a pre-existing master plan or land use ordinance pertaining to real property where such decision has a value in excess of $50,000;
(6) confer a tax abatement, exception, or benefit not generally applicable of a value in excess of $5,000 in any 12 month period;
(7) receive cash or specie of a net value to the recipient in excess of $10,000 in any 12 month period.
(b) Those persons or entities receiving public benefits as defined in Section 16.992(a)(1)-(7) shall include the individual, corporation, firm, partnership, association, or other person or entity so benefiting, and any individual or person who, during a period where such benefit is received or accrues,
(1) has more than a ten percent (10%) equity, participation, or revenue interest in that entity; or
(2) who is a trustee, director, partner, or officer of that entity.
(c) As used herein, the term personal or campaign advantage shall include:
(1) any gift, honoraria, emolument, or personal pecuniary benefit of a value in excess of $50;
(2) any employment for compensation;
(3) any campaign contributions for any elective office said official may pursue.
(d) As used herein, the term public official includes any elected or appointed public official acting in an official capacity.

Section 16.993. Prohibitions
(a) No City and County public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 16.992(a) may receive a personal or campaign advantage as defined in Section 16.992(c) from a person as defined in Section 16.992(b) for a period beginning on the date the official approves or votes to approve the public benefit, and ending no later than
(1) two years after the expiration of the term of office that the official is serving at the time the official approves or votes to approve the public benefit;
(2) two years after the official's departure from his or her office whether or not there is a pre-established term of office; or
3) six years from the date the official approves or votes to approve the public benefit; whichever is first.
(b) Section 16.993(a) shall also apply to the exercise of discretion of any such public official serving in his or her official capacity through a redevelopment agency, or any other public agency, whether within or without the territorial jurisdiction of the City and County either as a representative or appointee of the City and County.

Section 16.994. Responsibilities of City and County Public Officials, and Advantage Recipients
(a) City and County public officials shall practice due diligence to ascertain whether or not a benefit defined under Section 16.992(a) has been conferred, and to monitor personal or campaign advantages enumerated under Section 16.992(c) so that any such qualifying advantage received is returned forthwith, and no later than ten days after its receipt.
(b) City and County public officials shall provide, upon inquiry by any person, the names of all entities and persons known to them who respectively qualify as public benefit recipients under the terms of Sections 16.992 and 16.993.

Section 16.995. Disclosure of the Law
The City and County shall provide any person, corporation, firm, partnership, association, or other person or entity applying or competing for any benefit enumerated in Section 16.992(a) with written notice of the provisions of this Article and the future limitations it imposes. Said notice shall be incorporated into requests for 'proposal,' bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City and County.

Section 16.996. Penalties and Enforcement
(a) In addition to all other penalties which might apply, any knowing and willful violation

(Continued on next page)

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LEGAL TEXT OF PROPOSITION J (CONTINUED)

of this Article by a public official constitutes a criminal misdemeanor offense.

(b) A civil action may be brought under this Article against a public official who receives a personal or campaign advantage in violation of Section 16.993. A finding of liability shall subject the public official to the following civil remedies:

(1) restitution of the personal or campaign advantage received, which shall accrue to the General Fund of the City and County;

(2) a civil penalty of up to five times the value of the personal or campaign advantage received;

(3) injunctive relief necessary to prevent present and future violations of this Article;

(4) disqualification from future public office or position within the jurisdiction, if violations are willful, egregious, or repeated.

(c) A civil action under subdivision (b) of this section may be brought by any resident of the City and County. In the event that such an action is brought by a resident of the City and County and the petitioner prevails, the respondent public official shall pay reasonable attorney's fees and costs to the prevailing petitioner. Civil penalties collected in such a prosecution shall accrue 10% to the petitioner and 90% to the General Fund of the City and County.

(d) Any person who believes that the provisions of this Article have been violated may file a complaint with the Ethics Commission. Upon receipt of a complaint, or upon its own initiative, the Commission may investigate alleged violations of this Article and may enforce the provisions of this Article pursuant to Charter Section C3.699-13 and to the rules and regulations adopted pursuant to Charter Section 15.102.

Section 16.997. Effect of Article

The provisions of this Article are intended to supplement, and not to replace, any provisions of the San Francisco Charter and Administrative Code that relate to campaign finance, lobbying, conflicts of interest or governmental ethics.

Section 16.998. Severability

If any provision of this Article is held invalid, such invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalidated provision, and to this end the provisions of this Article are severable.

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City Contractor Contributions J

PAID ARGUMENTS IN FAVOR OF PROPOSITION J

Should contractors with business before boards and commissions be prohibited from donating to the members of those boards? This is a tough one, I just don't know, hmmm, let me think...

Vote YES on J.

Matt Gonzalez

The true source of funds used for the printing fee of this argument is Matt Gonzalez.

Proposition J bans the quid pro quo of awarding city contracts for campaign contributions. It stops city officials from taking money and jobs from those they award contracts to.

Vote Yes on Proposition J!

San Francisco Tomorrow

The true source of funds used for the printing fee of this argument is San Francisco Tomorrow.

The three largest contributors to the true source recipient committee are 1. Jane Morrison 2. Zoanne Nordstrom 3. Jennifer Clary.

VOTE YES ON PROPOSITION J!

There are at least two reasons for voters and taxpayers to support Proposition J strongly: First, it's a sincere initiative by real voters, not elected officials, to control the disturbing syndrome of money and other gifts dictating Board of Supervisors and various commissions' actions. Secondly, it's plain good government policy to prohibit decision-makers from voting on matters where proponents or opponents have given campaign contributions or gifts or anything of value.

Proposition J stops that kind of purchased influence from dominating City Hall decisions that affect our lives and well-being. This measure was painstakingly qualified for the ballot by people like our neighbors and yours. Don't let them down. Send malodorous City Hall a strong message – San Francisco is not for sale. **Vote YES ON PROPOSITION J.**

Good Government Alliance

The true source of funds used for the printing fee of this argument is Good Government Alliance.

The largest contributor to the true source recipient committee is: 1. Kopps Good Government Alliance.

The San Francisco Republican Party supports reasonable and workable reforms of the political system.

That is why we are supporting Proposition J. Prop. J will help eliminate undue influence, whether in fact or in appearance, by entities or individuals doing or seeking business with the City.

Vote Yes on Proposition J.

San Francisco Republican Party
Donald A. Casper, Chairman

Mike Garza, Candidate 12th Congressional District	*Howard Epstein*, Candidate 12th Assembly District
Terence Faulkner, Candidate 3rd Senate District	*Harold Hoogasian*, Candidate District VII Supervisor
Julie Bell	*Albert Chang*
Lee S. Dolson, Ph.D.	*Joel Hornstein*
Gail E. Neira	*Denis Norrington*
Grace Norton-Fitzpatrick	*Rita O'Hara*
Les Payne	*Dana Walsh*

The true source of funds used for the printing fee of this argument is the above signers and the San Francisco Republican Party.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)

☐ 2. Request for next printed agenda Without Reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☒ 6. Call File No. 140931 from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Reactivate File No. [ ]

☐ 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 SEP 19 PM 4:12
BY:

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Breed

Subject:

Hearing - Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense

The text is listed below or attached:

Hearing on the recently published 2013-2014 Civil Grand Jury report, entitled "Ethics in the City: Promise, Practice or Pretense."

Signature of Sponsoring Supervisor: London Breed

For Clerk's Use Only:

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee: [ ]

An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☒ 3. Request for hearing on a subject matter at Committee: [Government Audit and Oversight Committee]

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense

The text is listed below or attached:

Hearing on the recently published 2013-2014 Civil Grand Jury report, entitled "Ethics in the City: Promise, Practice or Pretense."

Signature of Sponsoring Supervisor: Clerk for

For Clerk's Use Only:

1635

140793