

File No. 210700

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: Sept. 30, 2021

Board of Supervisors Meeting:

Date: _____

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Mayor's Response – August 12, 2021</u> |
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Prepared by: John Carroll

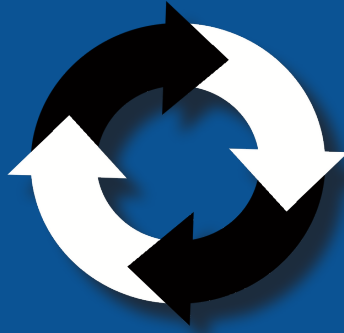
Date: Sept. 24, 2021

Prepared by: John Carroll

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Prepared by: John Carroll

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Continuity Report

JUNE 2021

City and County of San Francisco
Civil Grand Jury | 2020–2021



About 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.

2020–2021 Jurors

Ellie Schafer, *Foreperson*

Allen Cohn, *Foreperson Pro Tem*

Stephanie Jacques, *Recording Secretary*

Donna Hurowitz, *Corresponding Secretary*

Ron Boring

Geoffrey Brown

Mike Fitzgerald

JR Formanek

Nina Huebsch

Evelyn Hunt

Simone Manganelli

James Matthews

Dr. Janet Mohle-Boetani

Kenneth Moses

Judi Sanderlin

Adam J. Thaler

Nicholas Weininger

Bebo White

Thomas Yankowski

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Introduction

The Purpose of the Civil Grand Jury

The San Francisco Civil Grand Jury (the Jury) is empaneled for a one-year term by the Superior Court and consists of volunteers who reside within the City and County of San Francisco (the City). The Jury has broad investigative powers and is charged with providing oversight of City government, including special districts. Jury investigations may lead to published reports comprised of facts, findings, and recommendations for improvement.

Once a report is published it is forwarded through the presiding judge to the relevant City agencies for a written response to each finding and recommendation. Responses to the findings must, by law, indicate whether the respondent agrees or disagrees wholly or partially with the finding.¹ Responses to the recommendations must, by law, indicate if and when they will be implemented.²

While the Jury has the authority to conduct investigations, it has no authority to enforce report recommendations. The Jury can only ensure that the reports and accompanying responses are published for public scrutiny, especially those responses in which a department or agency indicates that it will take a specific action in the future.

The Importance of Continuity

The mandated responses to a Jury's reports are submitted after its term ends. It then falls to the next empaneled Jury to determine whether these responses comply with the penal code requirements. This determination ensures that the City remains accountable for implementation of recommendations spanning multiple years.

For responses that are noncompliant, vague, or past due, the Jury may choose to contact the agency that submitted the deficient response to seek clarification for future civil grand juries. The Office of the Controller, pursuant to San Francisco Administrative Code 2.10, reports on the implementation of recommendations that pertain to fiscal matters to the Board of Supervisors annually. To achieve this, the City Services Auditor, a division of the Office of the Controller, collects updates from City agencies on all recommendations from the previous three years. This annual update is an invaluable resource for the Jury.

¹ California Penal Code Section 933.05(a)

² California Penal Code Section 933.05(b)

Executive Summary

The Jury reviewed the findings, recommendations, and responses to the previous three years of reports for compliance with California Penal Code Section 933.05 as well as the status of recommendations that are not implemented fully.

Review of the 2017–2020 reports and the Controller’s status report revealed that, for the most part, the City has provided responses that are both timely and compliant with the penal code requirements. Additional attention to including timeframes for implementation or further analysis would strengthen the overall compliance of the responses.

That being said,

- Eighteen of the 168 responses to recommendations made in the past three years were not compliant because they did not state timeframes for implementation or further analysis.
- Twenty-three of the 93 recommendations remain open, meaning they have not been implemented fully or they are still being analyzed.
- Responding agencies provided conflicting responses to the same recommendation in two instances.
- Responding agencies provided ambiguous responses to the same recommendation in one instance.

Methodology

The Jury reviewed previous Civil Grand Jury reports dating back to 2015, the City’s responses to those reports, the Controller’s annual reports on the status of Jury recommendations, and the Budget and Legislative Analyst’s reports pertaining to previous Jury recommendations. The Jury decided ultimately to focus on reports from the previous three years, and the purposes of the review were:

- To assess compliance of the City’s responses with the penal code
- To identify recommendations that are still to be analyzed or implemented
- To determine whether the City’s responses reflected the intent of the recommendations
- To consider whether any previous investigations should be reopened

The Jury's conclusions were guided by the following questions:

- If a response indicated that a recommendation had been implemented, did it include a summary of what was done?
- If a response indicated that a recommendation would be implemented, did it include a summary and timeframe for what would be done?
- If a response indicated that a recommendation required further analysis, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
- If a response indicated that a recommendation would not be implemented because it was unwarranted or unreasonable, did the response include a reasoned explanation supporting that position?

When the current status of a recommendation was unclear, the Jury reached out to the responding agency in one of the following ways: by letter (see example in Appendix E), by telephone, or by email. The letter was a new approach implemented by the 2020–21 Jury which made the inquiry process more formal.

The Jury further used the following criteria³ to determine whether to follow up with City agencies on noncompliant responses or to recommend the re-opening of any previous investigations:

- Whether sufficient action was taken to implement the recommendations fully
- Whether acceptable alternatives were taken
- Whether changes within the City occurred that made the recommendations no longer applicable
- Whether a missing timeframe was consequential to the response

³ The first three criteria are used by the Budget and Legislative Analyst's office when reviewing the status of Civil Grand Jury recommendations.

Discussion

Noncompliant Agency Responses

As noted previously, one of the responsibilities of the Jury is to review the City's responses to the reports issued in the previous term. These responses are received after the end of that Jury's term, and it falls to the incoming Jury to review these responses for compliance with California Penal Code Section 933.05. There are three requirements for a response to be fully compliant:

1. The response was submitted on time.
2. The response indicated agreement or disagreement with each finding.
3. The response indicated whether each recommendation has already been implemented, will be implemented, requires further analysis, or will not be implemented.

When the response indicates the recommendation will be implemented or requires further analysis, a timeframe for doing so should be included.

2019–2020 Compliance with California Penal Code Section 933.05

The 2019–20 Civil Grand Jury issued the following reports:

- *Sustain Our City's High Performing Moscone Convention Center* which included nine findings and four recommendations
- *Strengthen our Behavioral Health Services* which included eight findings and seven recommendations
- *A Recycling Reality Check: What Actually Happens to Things We Put in Our Blue Recycling Bins?* which included three findings and three recommendations

The City provided 49 responses to these 14 recommendations. All of these responses were submitted within the required timeframe, indicated agreement or disagreement with each finding, and indicated whether each recommendation had already been implemented, would be implemented, required further analysis, or would not be implemented.

For the one recommendation that had already been implemented, the responding agency included a summary regarding the implemented action. For the seven recommendations that will be implemented in the future, the responding agencies included a timeframe for implementation. There were no recommendations requiring further analysis, and the remaining six recommendations will not be implemented. All of the 49 responses to the 14 recommendations were in compliance.

2018–2019 Compliance with California Penal Code Section 933.05

The 2018–19 Civil Grand Jury issued the following reports:

- *Act Now Before It Is Too Late: Aggressively Expand and Enhance Our High-Pressure Emergency Firefighting Water System* which included 13 findings and ten recommendations
- *Joint Terrorism Task Force: Balancing Public Safety with Civil Rights* which included 14 findings and ten recommendations
- *Pedestrian Safety In the Era of Electric Mobility Devices* which included seven findings and six recommendations

The City provided 50 responses to these 26 recommendations. All were submitted within the required timeframe, and 40 (80%) were in compliance. The remaining ten responses, spread across the three reports, were out of compliance because they did not include a timeframe for implementation or further analysis.

2017–2018 Compliance with California Penal Code Section 933.05

The 2017–18 Civil Grand Jury issued the following reports:

- *Our Lovable Pets: Dogs and Public Safety in San Francisco* which included 19 findings and 14 recommendations
- *Open Source Voting in San Francisco* which included 22 findings and 13 recommendations
- *Crisis Intervention: Bridging Police and Public Health* which included 17 findings and 15 recommendations
- *Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing* which included 14 findings and 11 recommendations

The City provided 69 responses to these 53 recommendations. All of these responses were submitted within the required timeframe, and 61 (88%) were in compliance. The remaining eight responses, spread across the four reports, were out of compliance because they did not include a timeframe for implementation or further analysis.

Table 1 below summarizes the City’s responses that were in compliance with Section 933.05.

Table 1. 2017–2020 Compliant Responses

Year	Number of Recommendations	Number of Required Responses	Number of Compliant Responses	Percent of Compliant Responses
2019–20	14	49	49	100%
2018–19	26	50	40	80%
2017–18	53	69	61	88%

A complete listing of all responses that were out of compliance with California Penal Code Section 933.05 is included in Appendix B.

Conflicting and Ambiguous Agency Responses

The Jury identified two instances where responding agencies provided conflicting responses and one where the responses were ambiguous.

The 2017–18 report *Open Source Voting in San Francisco* recommended that “the Department of Elections, working with the Elections Commission, establish a Memorandum of Understanding with the California Secretary of State that addresses how the California certification process will accommodate modular development and vulnerability patches, to align the SoS’s process with open source best practices.”⁴

The response from the Department of Elections was that the recommendation would not be implemented because it was not warranted or feasible, while the response from the Elections Commission was that the recommendation would be implemented, stating that “The Department of Elections Director has agreed to implement this recommendation.”

⁴ Recommendation number 12

The 2017–18 report *Crisis Intervention: Bridging Police and Public Health* recommended “renewal and elaboration of the current MOU between SFPD and DPH, and the associated DPH manual.”⁵ In both the original response and the 2019 update, the Police Department and the Department of Public Health indicated that the recommendation would be implemented. In the 2020 update, however, the Police Department indicated that the recommendation would not be implemented because it was not warranted or feasible while the Department of Public Health response was that the recommendation would be implemented in the future.

The full text of these responses is presented in Appendix C.

Additionally, the 2017–18 report *Joint Terrorism Task Force: Balancing Public Safety with Civil Rights* recommended the City decide whether to rejoin the Joint Terrorism Task Force, and if rejoining, to execute a new Memorandum of Understanding. The suggested timeframes in the recommendation were to decide by February 3, 2020 and then execute the Memorandum of Understanding by July 1, 2020. In the initial response, both the Mayor and the Chief of Police indicated the recommendations would be implemented. However, in the 2020 update, both indicated they would not be implemented. This response is ambiguous since it could be interpreted that the decision was made not to rejoin the task force, or it could be interpreted that the decision was not made by the suggested dates.

The full text of these responses is presented in Appendix D.

Open Recommendations

Each year the Controller’s Office publishes an update on the previous Civil Grand Jury recommendations in accordance with San Francisco Administrative Code, Section 2.10.⁶ The most recent updates were made in December 2020. Based on this most recent update, 23 recommendations from the previous three years’ reports remain open, meaning they will be implemented in the future or analysis is still being performed. These are summarized in Table 2 below.

Table 2. 2017–2020 Open Recommendations

Year	Will Be Implemented	Requires Further Analysis
2019–20	7	0
2018–19	9	1
2017–18	4	2

⁵ Recommendation number 13

⁶ City Services Auditor, “Status of Civil Grand Jury Recommendations,” <https://sfcontroller.org/status-civil-grand-jury-recommendations>

2019–20 Open Recommendations

There are no open recommendations from the report *Sustain Our City's High Performing Moscone Convention Center*.

Recommendation 1 (R1)⁷ in the report *Strengthen Our Behavioral Health Services* recommended an evaluation of the hiring process for Intensive Case Managers in light of the success with an expedited strategy for hiring registered nurses. The Department of Public Health expected to partner with Behavioral Health Services to hire 40 full-time equivalents in January 2021. The Jury inquired as to whether this hiring occurred and learned that 33 positions had been filled as of April 2021. The letter sent to the Department of Public Health is presented in Appendix E. The other recommendations in this report, and all three recommendations in the report *A Recycling Reality Check: What Actually Happens to Things We Put in Our Blue Recycling Bins?* will be implemented after the 2020–21 Civil Grand Jury's term.

2018–19 Open Recommendations

Six separate recommendations (R1, R2, R6, R7, R8, and R10) in the report *Act Now Before it is Too Late: Aggressively Expand and Enhance our High-Pressure Emergency Firefighting Water System* remain open. These recommendations include significant capital expenditures and are also enmeshed with the City's overall emergency response plans.⁸ The capital expenditures will be prioritized in the 10-year capital plan which, per Administrative Code 3.20, is submitted to the Mayor for approval in odd-numbered years.⁹ On November 19, 2019 the Board of Supervisors passed Resolution 484-19,¹⁰ which includes the following provisions:

1. Urges the Public Utilities Commission to complete a more detailed analysis of emergency firefighting water needs by neighborhood
2. Urges the Department of Emergency Management, Public Utilities Commission, Fire Department, and the Office of Resilience and Capital Planning to provide a consolidated annual report to the Board of Supervisors on the state of the City's preparedness for a major earthquake or fire

Several items relating to the emergency firefighting water system are included in the current capital plan,¹¹ and revenue bonds are planned to fund additional infrastructure improvements. Additional progress on these six recommendations is expected by the end of 2021.

⁷ Hereafter recommendation numbers are referred to as R1, R2, etc.

⁸ Specifically, some of the recommendations are pending passage of the City's Earthquake Safety and Emergency Response Plan

⁹ San Francisco Administrative Code, Chapter 3, Section 3.20

¹⁰ Board of Supervisors, "Declaring a State of Urgency—Expanding the City's Emergency Firefighting Water System," <https://sfbos.org/sites/default/files/r0484-19.pdf>

¹¹ City and County of San Francisco, "Draft Capital Plan for Fiscal Years 2022–2031," <https://www.onesanfrancisco.org/Draft-Plan-2022>

Four separate recommendations (R4a, R4b, R4d, and R4e) in the report *Joint Terrorism Task Force: Balancing Public Safety with Civil Rights* remain open. These recommendations suggest language revisions to Department General Order 8.10. This General Order is scheduled for review and revisions by a Police Commission working group in 2021. Whether these recommendations are implemented will be determined by the working group, the Police Department concurrence process, and ultimately through a public vote at a Police Commission meeting.

2017–18 Open Recommendations

R12 in the report *Crisis Intervention: Bridging Police and Public Health* recommended renewal and elaboration of the current Memorandum of Understanding between the San Francisco Police Department and the Department of Public Health. In the December 2020 Controller's report on the status of Civil Grand Jury Recommendations, the Department of Public Health indicated this recommendation would be implemented in the future while the Police Department indicated it would not be implemented. The Jury inquired as to the current status and learned that this recommendation will not be implemented due to current efforts to change the role of law enforcement in health crisis calls.

R1 in the report *Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing* recommended the Planning Department and the Department of Building Inspection jointly review their codes and submit joint recommendations to the Board of Supervisors for code amendments designed to encourage homeowners and developers to build more accessory dwelling units. This recommendation is mostly implemented. Submission of joint recommendations to the Board of Supervisors was delayed due to the impact of the pandemic but is expected to occur by the end of 2021. The Department of Building Inspection supports renewing permit waivers for accessory dwelling units and offering assistance to ease the permitting process.

R6 in the report *Open Source Voting in San Francisco* recommended the Office of the Controller evaluate the premium the City pays for its voting system compared to the price paid by other California counties using ranked-choice voting, the price paid by other California counties not using ranked-choice voting, and the price paid by counties outside of California using ranked-choice voting. The Office of the Controller's initial response indicated further analysis would be required since, at that time, no other counties in California were using ranked-choice voting. Since then, several jurisdictions in the state have started using it, and the Controller is prepared to complete the pricing analysis. It was delayed due to the impact of the pandemic but is expected to be completed by the end of 2021.

R7 in the same report recommended that the Department of Technology not build the software for an open-source voting system due to lacking the in-house capacity to implement a project of this magnitude. The Department of Technology's initial plan was to work with vendors and contractors to move the project forward. Since that time, the department, in collaboration with outside researchers and the Department of Elections, completed the development of a risk-limiting audit application. This software was built with open source tools and tested in the November 2019 election. Further development was delayed due to the pandemic.

R9 in the report *Our Lovable Pets: Dogs and Public Safety* in San Francisco recommended the Executive Director of Animal Care and Control work with the Administrative Services Technology Director to implement changes in the Chameleon data entry setup that were recommended by a paid consultant. The consultant made 29 recommendations; 17 of these have been implemented, three are in progress, and nine will not be implemented. The Jury inquired as to the timeframe for completion of the remaining three recommendations. Animal Care and Control indicated that an update will be provided in the fall of 2021.

R12 in the same report recommended the Chief of Police modify General Order 6.07 to bring it in compliance with local ordinances and current practice. This would include modifying the General Order to include the existence and function of the Police Department's Vicious and Dangerous Dog Unit. In 2019, the Police Department adopted a new schedule for refreshing Department General Orders. General Order 6.07 is scheduled for review and revision in 2022.

2018–19 Civil Grand Jury Continuity Report

The 2018–19 Civil Grand Jury's continuity report concluded that the City's follow-up to Jury recommendations over the years has been irregular and inconsistent. The report focused on the following three areas:

1. Responses to recommendations from 2014–2018 reports that were out of compliance with the requirements of California Penal Code Section 933.05
2. Recent reports where the responses were in technical compliance with Section 933.05 but did not properly address the intent of the Jury's findings and recommendations
3. Opportunities for improving year-to-year continuity effectiveness

Responses to 2014–2018 Reports that Were Out of Compliance

The 2020–21 Jury conducted its own review of the compliance of responses to recommendations from the 2017–2020 reports, and these were discussed earlier in this report.

Responses that Did Not Address the Intent of the Findings and Recommendations

The reports with responses identified as being in technical compliance with Section 933.05 but not addressing the intent of the findings and recommendation included:

- *San Francisco Crime Lab: Promoting Confidence and Building Credibility* (2015–16)
- *The SF Retirement System—Increasing Understanding and Adding Voter Insight* (2016–17)
- *Educational Parity in Custody (EPIC): Ensuring Equality of Women’s Education in the SF Jail System* (2016–17)

The 2020–21 Jury reviewed the recommendations intended to address concerns with the City’s responses to these reports and determined that additional follow-up was not warranted.

Opportunity for Improving Year-to-Year Continuity Effectiveness

The final area of focus in the 2018–19 continuity report was improving year-over-year continuity. A key recommendation was to develop a data repository to support the core functions of the Jury. The 2020–21 Jury investigated the feasibility of implementing such a database and determined that it was not feasible due to the lack of dedicated resources. The status reports provided by the Office of the Controller were found to be sufficient to meet this objective.

Findings

- F1.** Eleven percent of the required responses over the past three years were not compliant with California Penal Code Section 933.05 because they did not include a timeframe for implementation.
- F2.** In some cases where more than one agency was required to respond to a finding and recommendation, the responses were conflicting.
- F3.** The Office of the Controller's annual report on the status of responses to previous year's Civil Grand Jury reports is extremely helpful.

Recommendations

- R1.** Beginning with the required responses to the 2020–21 Civil Grand Jury recommendations, the Board of Supervisors and the Mayor should direct responding agencies to include timeframes for implementation or completion of further analysis as required by California Penal Code Section 933.05(b).
- R2.** Beginning with the required responses to the 2020–21 Civil Grand Jury recommendations, the Board of Supervisors and the Mayor should direct responding agencies to coordinate their responses to the same recommendation to ensure they do not conflict.

Request for Responses

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

From the following elected county official within 60 days:

- From the Office of the Mayor: Findings 1,2,3 Recommendations 1,2

From the following governing body within 90 days:

- From the Board of Supervisors: Findings 1,2,3 Recommendations 1,2

Appendix A

California Penal Code Section 933.05

933.05.

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Appendix A (continued)

California Penal Code Section 933.05

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

(Amended by Stats. 1997, Ch. 443, Sec. 5. Effective January 1, 1998.)

Appendix B

Responses Out of Compliance with California Penal Code Section 933.05

Year	Report	Recommendation Number	Response	Responding Agencies	Area of Noncompliance
2018–19	<i>Act Now Before it is Too Late: Aggressively Expand and Enhance Our High-Pressure Emergency Firefighting Water System</i>	R2	Requires further analysis	Mayor's Office; Public Utilities Commission; Fire Department; City Administrator	Timeframe for completion of analysis not provided
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R1	Will be implemented	Mayor's Office; Chief of Police	Timeframe for implementation not provided
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R2	Will be implemented	Mayor's Office; Chief of Police	Timeframe for implementation not provided
2018–19	<i>Pedestrian Safety In the Era of Electric Mobility Devices</i>	R2	Requires further analysis	Mayor's Office; Municipal Transportation Agency	Timeframe for completion of analysis not provided
2017–18	<i>Our Lovable Pets: Dogs and Public Safety in San Francisco</i>	R7	Will be implemented	Animal Care and Control	Timeframe for implementation not provided
2017–18	<i>Our Lovable Pets: Dogs and Public Safety in San Francisco</i>	R9	Will be implemented	Animal Care and Control; Department of Technology	Timeframe for implementation not provided
2017–18	<i>Open Source Voting in San Francisco</i>	R6	Requires further analysis	Office of the Controller	Timeframe for completion of analysis not provided

Appendix B (continued)

Responses Out of Compliance with California Penal Code Section 933.05

Year	Report	Recommendation Number	Response	Responding Agencies	Area of Noncompliance
2017–18	<i>Open Source Voting in San Francisco</i>	R7	Requires further analysis	Department of Technology	Timeframe for completion of analysis not provided
2017–18	<i>Open Source Voting in San Francisco</i>	R8	Will be implemented	Department of Elections	Timeframe for implementation not provided
2017–18	<i>Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing</i>	R2	Requires further analysis	Board of Supervisors	Timeframe for completion of analysis not provided
2017–18	<i>Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing</i>	R3	Requires further analysis	Board of Supervisors	Timeframe for completion of analysis not provided

Appendix C

Conflicting Agency Responses

Year	Report	Recommendation Number	Response	Responding Agencies
2017–18	<i>Open Source Voting in San Francisco</i>	R13	Will be implemented	Elections Commission
2017–18	<i>Open Source Voting in San Francisco</i>	R13	Will not be implemented	Department of Elections
<p>Recommends that the Department of Elections, working with the Elections Commission, establish a Memorandum of Understanding with the California Secretary of State (SoS) that addresses how the California certification process will accommodate modular development and vulnerability patches, to align the SoS's process with open source best practices. The discussion of this memo should begin by January 1st, 2019.</p> <p>Election Commission Response: "The Department of Elections Director has agreed to implement this recommendation by the stated date of January 1, 2019."</p> <p>Department of Elections Response: "This recommendation is unwarranted, especially in consideration of the January 1, 2019 deadline, because the City must still identify a person with the appropriate skills to fill the project manager role. The project manager will need to lead efforts to define the specifications of a voting system, and the City must determine the manner by which it will develop a voting system before engaging the Secretary of State to possibly enter a Memorandum of Understanding. The City does not currently have accurate descriptions of a voting system, a modular development of a voting system, the patching regimen associated with an open source voting system, or how open source best practices in regards to developing a voting system would align with the SOS's processes."</p>				

Appendix C (continued)

Conflicting Agency Responses

Year	Report	Recommendation Number	Response	Responding Agencies
2017–18	<i>Crisis Intervention: Bridging Police and Public Health</i>	R12	Will be implemented	Department of Public Health
2017–18	<i>Crisis Intervention: Bridging Police and Public Health</i>	R12	Will not be implemented	Police Department ¹²
<p>Recommends renewal and elaboration of the current MOU between SFPD and DPH, and the associated DPH manual. An updated draft MOU should be presented to the Mayor for review no later than January 1, 2019 and adopted no later than June 1, 2019.</p> <p>Initial Response: “SFPD and DPH agree that there is a need to modify and update the MOU. The departments can pursue an amended MOU by June 1, 2019; however, the departments cannot commit to an adoption date that is six months prior to the current MOU’s expiration date of December 2019. It is in the Departments’ opinion that adopting an amended MOU in December 2019 is more advantageous as it lines up strategically with the beginning of the citywide budget process.”</p> <p>Department of Health Updated Response: “Comprehensive Crisis Services Crisis Behavioral Health Specialist continue to work closely with the CIT Unit within the SFPD and with the trained CIT officers at the district stations to provide preventative services and co-response to individuals that have been identified by SFPD in hopes of preventing a 911 situation. The Behavioral Health Specialist also provides consultation and co-respond with the CIT Unit to individuals that are a high safety risk and have mental health concerns during barricaded and crisis negotiation situations. The updated MOU has been reviewed by the SFPD attorneys and the MOU is currently in Chief Scott’s hands. The Chief is still currently reviewing the MOU to determine what may need to be adjusted given the new reforms implemented by the city and the new programs DPH will be starting with the Fire Department.”</p> <p>Police Department Updated Response: The Department and DPH did not adopt an updated MOU on or before June 1, 2019. With the current local and state efforts to change the role of law enforcement in health crisis calls, the City is implementing a pilot program starting in December 2020 that will create an alternative response method involving other City Departments. There are also ongoing discussions about collaboration across departments to ensure the health and well-being of individuals in crisis. This pilot program may impact the renewal of this MOU and associated DPH Manual.</p>				

¹² The initial response was that the recommendation would be implemented. The Police Department response was not in conflict with the Department of Public Health until the 2020 Controller’s Status of Civil Grand Jury Recommendations.

Appendix D

Ambiguous Agency Responses

Year	Report	Recommendation Number	Initial Response	Updated Response	Responding Agencies
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R1	Will be implemented	Will not be implemented	Mayor
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R1	Will be implemented	Will not be implemented	Chief, San Francisco Police Department
<p>Recommendation: The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.</p> <p>Initial Response: “The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD, and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.”</p> <p>Updated Response: “The Department did not decide to rejoin JTTF on or before February 3, 2020. The department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD, and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community. “</p>					
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R2	Will be implemented	Will not be implemented	Mayor
2018–19	<i>Joint Terrorism Task Force: Balancing Public Safety with Civil Rights</i>	R2	Will be implemented	Will not be implemented	Chief, San Francisco Police Department
<p>Recommendation: In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.</p> <p>Initial Response: “Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However, the department will explore the potential of negotiating an MOU with the FBI and will submit it to the Police Commission for review when it is appropriate to do so.”</p> <p>Updated Response: “As the Department has not rejoined JTTF, the MOU with the FBI was not renegotiated nor was it put in front of the Police Commission for discussion and public comment on or before July 1, 2020.”</p>					

Appendix E

Letter Sent to Department of Public Health



CITY AND COUNTY OF SAN FRANCISCO

2020-2021 CIVIL GRAND JURY

February 28, 2021

Dr. Grant Colfax, Director
Department of Public Health
101 Grove Street
San Francisco, CA 94102

Dear Dr. Colfax:

The 2019-2020 Grand Jury Report, published October 1, 2020 and entitled *Strengthen Our Behavioral Health Services*, included recommendations for your agency. The subsequent response to the report from your agency indicated that the below recommendation would be implemented in January 2021. We would appreciate your providing a status report on this implementation, including whether it has been completed, or when you anticipate completion.

Recommendation: **R1** - By March 2021, re-evaluate the hiring process for ICM's in light of the success of the expedited strategy for hiring registered nurses executed in March 2020. Leverage it to inform a redesign of existing policy.

Response to Recommendation: DPH-HR and BHS are partnering on a batch hiring of 40 FTE 2930, Behavioral Health Clinicians. The ETA for these hires is January 2021. DPH and HRD are also collaborating to reexamine the hiring process for licensed clinicians with a goal of streamlining the process, e.g., criteria, testing.

As with your previous response, your reply to this request should be forwarded to the Presiding Judge of the San Francisco County Superior Court, Samuel K. Feng. Please ensure that this reply is received not later than March 31, 2021. If you have any questions, please contact the Grand Jury Office at administrator@sfcgj.org.

Sincerely,

Ellie Schafer
Foreperson
2020-2021 Civil Grand Jury



CITY AND COUNTY OF SAN FRANCISCO

2020-2021 CIVIL GRAND JURY

FOR IMMEDIATE RELEASE

Contacts: Ellie Schafer, Foreperson, (415) 515-8808
Donna Hurowitz, Continuity Committee Chairperson, (415) 577-9079

CONTINUITY REPORT

San Francisco, CA, June 15, 2021 – The 2020-2021 Civil Grand Jury today released its Continuity Report, which focuses on the City’s response and follow-up to previous year Civil Grand Jury reports.

Review of the 2017–2020 reports and the Controller’s status report revealed that, for the most part, the City has provided responses that are both timely and compliant with the penal code requirements. Additional attention by the City to including timeframes for implementation or further analysis would strengthen the overall compliance of the responses.

The Continuity Report concludes that:

- 18 (11%) of the 168 responses to recommendations made in the past three years were not compliant with California Penal Code Section 933.05(b) because they did not state timeframes for implementation or further analysis.
- 23 (24%) of the 97 recommendations remain open, meaning they have not been implemented fully or they are still being analyzed.
- Responding agencies provided conflicting responses to the same recommendation in two instances.
- Responding agencies provided ambiguous responses to the same recommendation in one instance.

The Superior Court selects 19 San Franciscans to serve year-long terms as Civil Grand Jurors. The Jury has the authority to investigate City and County government by reviewing documents and interviewing public officials and private individuals. At the end of its inquiries, the Jury issues reports of its findings and recommendations. Agencies identified in the report must respond to these findings and recommendations within either 60 or 90 days, and the Board of Supervisors conducts a public hearing on each Civil Grand Jury report after those responses are submitted.

Civil Grand Jury reports may be viewed online at <http://civilgrandjury.sfgov.org/report.html>.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

DATE: August 17, 2021

TO: Members of the Board of Supervisors

FROM: *JH* for Angela Calvillo, Clerk of the Board

SUBJECT: 2020-2021 Civil Grand Jury report, entitled
"Continuity Report"

We are in receipt of the following required responses to the San Francisco Civil Grand Jury report released June 15, 2021, entitled: "Continuity Report." Pursuant to California Penal Code, Sections 933 and 933.05, named City Departments shall respond to the report within 60 days of receipt, or no later than August 15, 2021.

For each finding the Department response shall:

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

As to each recommendation the Department shall report that:

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

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

- Office of the Mayor:
Received August 12, 2021;

This department response is being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Section 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at a hearing in September of 2021.

jec:vy:

c:

Sophia Kittler, Mayor's Office
Andres Power, Mayor's Office
Sally Ma, Mayor's Office
Rebecca Peacock, Mayor's Office
Anne Pearson, Office of the City Attorney
Ben Rosenfield, City Controller
Todd Rydstrom, Office of the Controller
Peg Stevenson, Office of the Controller
Mark de la Rosa, Office of the Controller
Alisa Somera, Office of the Clerk of the Board
Debra Newman, Office of the Budget and Legislative Analyst
Severin Campbell, Office of the Budget and Legislative Analyst
Reuben Holober, Office of the Budget and Legislative Analyst
Ellie Schafer, 2020-2021 Foreperson, San Francisco Civil Grand Jury
Jaime Guandique, 2019-2020 Foreperson, San Francisco Civil Grand Jury
Donna Hurowitz, 2019-2020, Member, San Francisco Civil Grand Jury
Rick Crane, 2021-2022 Foreperson, San Francisco Civil Grand Jury



August 12, 2021

The Honorable Samuel K. Feng
Presiding Judge, Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feng,

In accordance with Penal Code 933 and 933.05, the following is in response to the 2020-2021 Civil Grand Jury Report, *Continuity Report*. We would like to thank the members of the 2020-2021 Civil Grand Jury for their thorough review in prior year responses to Civil Grand Jury findings and recommendations to ensure the responses follow statutory requirements. Also, we commend the Office of the Controller for their annual report informing the City officials and the public on updates to outstanding recommendations and collecting updated responses from City agencies.

During the annual Civil Grand Jury response process, the Mayor's Office coordinates with executive departments to respond to findings and recommendations to ensure required responses meet California Penal Code Section 933.05. The Mayor's Office evaluates the feasibility of implementing recommendations outlined in the reports with executive departments and provides summary action, timeframe, and scope of analysis in our responses if recommendations have been implemented or require further analysis. In addition, the Mayor's Office reviews all executive departments' responses to findings and recommendations to ensure the City's response is consistent and addresses the intent of the findings and recommendations. In order to be effective, we acknowledge that responses to recommendations should be annually updated until they have reached a final status, and City agencies will continue to provide a timeframe in responses, comply with statutory requirements, and provide updates to outstanding recommendations.

A detailed response from the Mayor's Office is attached.

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

Sincerely,

A handwritten signature in blue ink that reads "London N. Breed".

London N. Breed
Mayor

2020-21 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	F#	Finding (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Finding Response (Agree/ Disagree)	Finding Response Text
Continuity Report [June 15, 2021]	F1	Eleven percent of the required responses over the past three years were not compliant with California Penal Code Section 933.05 because they did not include a timeframe for implementation.	Mayor [August 14, 2021]	Disagree partially	The Mayor's Office coordinates with executive departments to ensure that responses comply with statutory requirements. In some instances, responses over the past three years did not include a clearly articulated timeline. In other instances, the timeline was implied based on the fact that the department or agency said the recommendation will be implemented, and the recommendation included a clear timeline. Lastly, in other cases, the recommendation would have budget or legislative requirement that prevent a clear timeline from being articulated.
Continuity Report [June 15, 2021]	F2	In some cases where more than one agency is required to respond to a finding and recommendation, the responses were conflicting.	Mayor [August 14, 2021]	Disagree partially	The Mayor's Office coordinates with executive departments to ensure that responses as a City are consistent and comply with statutory requirements. Executive departments are departments that report to the Mayor. Commissions are oversight bodies and do not report directly to the Mayor; therefore, as independent bodies their responses may differ. The Mayor's Office and executive departments' responses seek to be consistent and not conflicting, but may conflict with the commission's response.
Continuity Report [June 15, 2021]	F3	The Office of the Controller's annual report on the status of responses to previous year's Civil Grand Jury reports is extremely helpful.	Mayor [August 14, 2021]	Agree	

2020-21 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	R# [for F#]	Recommendation (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Recommendation Response (Implementation)	Recommendation Response Text
Continuity Report [June 15, 2021]	R1 [for F1]	Beginning with the required responses to the 2020-21 Civil Grand Jury recommendations, the Board of Supervisors and the Mayor should direct responding agencies to include timeframes for implementation or completion of further analysis as required by California Penal Code Section 933.05(b).	Mayor [August 14, 2021]	Has been implemented	The Mayor's Office coordinates with executive departments to respond to Civil Grand Jury findings and recommendations annually. The Mayor's Office works with executive departments to ensure the City's response is consistent and complies with California Penal Code Section 933.05(b) statutory requirements, which includes providing a timeframe for implementation or completion or an explanation of why a recommended timeframe is unattainable.
Continuity Report [June 15, 2021]	R2 [for F2]	Beginning with the required responses to the 2020-21 Civil Grand Jury recommendations, the Board of Supervisors and the Mayor should direct responding agencies to coordinate their responses to the same recommendation to ensure they do not conflict.	Mayor [August 14, 2021]	Has been implemented	During the annual Civil Grand Jury response process, the Mayor's Office coordinates with executive departments on responses to findings and recommendations to ensure the City's response is consistent, complies with statutory requirements, and addresses the intent of the findings and recommendations.
Continuity Report [June 15, 2021]		Not applicable			