

2009-2010 Civil Grand Jury
City and County of San Francisco

Sharing the Roadway: From Confrontation to Conversation

Report Released: May 2010

Purpose of the Civil Grand Jury

California state law requires that all 58 counties impanel a Grand Jury to serve during each fiscal year (Penal Code section 905, California Constitution, Article I, Section 23). In San Francisco, the presiding judge of the Superior Court impanels two grand juries. The Indictment Grand Jury has sole and exclusive jurisdiction to return criminal indictments. The Civil Grand Jury scrutinizes the conduct of public business of county government.

The function of the Civil Grand Jury is to investigate the operations of the various officers, departments and agencies of the government of the City and County of San Francisco. Each civil grand jury determines which officers, departments and agencies it will investigate during its term of office. To accomplish this task, the grand jury is divided into committees, which are assigned to the respective departments, or areas, which are being investigated. These committees visit government facilities, meet with public officials and develop recommendations for improving City and County operations.

The 19 members of the Civil Grand Jury serve for a period of one year from July through June 30 the following year, and are selected at random from a pool of 30 prospective grand jurors. During that period of time it is estimated that a minimum of approximately 500 hours will be required for grand jury service. By state law, a person is eligible if a citizen of the United States, 18 years of age or older, of ordinary intelligence and good character, and has a working knowledge of the English language.

Applications to serve on the Civil Grand Jury are available by contacting the Civil Grand Jury office:

- by phone (415) 551-3605 (weekdays 8:00-4:30)
- in person at the Grand Jury Office, 400 McAllister Street, Room 008, San Francisco, CA 94102.
- online by completing the [application](#) at

<http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=1988>

State Law Requirement

Pursuant to state law, reports of the Civil Grand Jury do not identify the names or identifying information about individuals who provided information to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. As to each finding of the Civil Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Civil Grand Jury, the responding party must either report (1) that the recommendation has been implemented, with a summary explanation of how it was implemented; (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of this report); or (4) that recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code, Sections 933, 933.05.)

TABLE OF CONTENTS

I.	Purpose/Summary	4
II.	Introduction	4
III.	Methodology	5
IV.	Investigation: Attitudes/Perceptions	6
	Summary: Attitudes/Perceptions	11
	Education/Enforcement/The San Francisco Bicycle Plan	11
	Education	13
	Training Materials	13
	Insurance	15
	Summary: Education	17
	Enforcement	17
	Traffic Enforcement	17
	Licensing	18
	Citations	19
	Traffic Court/School/"Fix-it" Tickets	21
	Summary: Enforcement	22
	Enforcement: Attitudes/Perceptions	23
	Summary: Enforcement and Attitudes/Perceptions	24
	Equity	24
	Summary: Equity	25
	New Directions	25
	Conclusion	26
	Footnotes	27
V./VI.	Findings & Recommendations	29
VII.	Request for Response	34
VIII.	Appendix A: References	35a-g
	Appendix B. SFMTA Licensing Memorandum	36a-h
	Appendix C: Moving Violations Citations/Bicycles 2009	37a-e
	Appendix D: At Fault/Accident Data/Fatalities & Injuries	38a-b
	Appendix E: Moving Violations Revenue FY 2006-2010	39
	Glossary	40

PURPOSE OF THIS REPORT

The purpose of this report is to focus City attention on identified barriers to the successful implementation of the San Francisco Bicycle Plan: serious mistrust, conflict and misunderstandings among City stakeholders including motorists, cyclists, and pedestrians. To move towards everyone seeing him/her self as part of the community sharing the roadway, the Jury recommends actions and amendments to the San Francisco Bicycle Plan.

I. SUMMARY

The San Francisco Bicycle Plan (Plan) endeavors to "make bicycling an integral part of daily life in San Francisco" with a goal to "increase safe bicycle use." The objectives of the Plan are to increase the daily number of bicycle trips, develop improved bicycle use tracking, and address the rate of bicycle collisions. The Jury reviewed the Plan and focused on the issues of education, enforcement, and equity. The actions and attitudes of travelers incorporating all modes of roadway use have a direct bearing on the success of the Plan. Motorists and cyclists must come to a greater understanding of each other's requirements, abilities, and responsibilities as they share the byways of the City and County of San Francisco.

Education can bridge the mistrust, misunderstanding, and misperception motorists and cyclists have of each other, and shift toward a more unified cultural perspective and coexistence on the streets. Safety and mutual respect are key topics to address, and can be delivered in a positive fashion through a broad range of media formats.

Enforcement of traffic codes is seen by most advocates of cycling as absolutely essential to raise the level of safety and thereby encourage more travelers to opt for bicycle use. The San Francisco Police Department (SFPD) has a critical role to play, as their experience and leadership enable them to target enforcement of the violations which most impact predictability and/or render the most severe consequences. During the development of the Plan, the participation of the SFPD has been minimal, causing inconsistent and incomplete directives and procedures, frustration over mixed messages and lack of community support. Such a vital element as the SFPD must play an active role in the improvement and implementation of the Plan.

Equity, defined as perceived fairness, is essential to the successful formation of bicycle policy on a citywide basis in a densely populated urban area.

II. INTRODUCTION

At the turn of the 20th century, streets were shared by horse-drawn vehicles, streetcars, pedestrians, pushcart vendors, and children at play. The new automobile disrupted the status quo. Anti-jaywalking or anti-pedestrian campaigns were accepted by citizenry as a

way to "get with the times." In a San Francisco safety campaign of 1920, pedestrians found themselves pulled into a mocked-up outdoor courtroom and lectured on the perils of jaywalking (Donnan, 1920, in Norton, 2007). By 1930, motorists forced pedestrians from the streets, and supremacy of the automobile reigned (Norton, 2007).

Street rivalries are not a new phenomenon. For well over a century, ever since the invention of the velocipede, patented in 1866 by Pierre Lallement, another means of transportation entered the fray.

Bicycles are here to stay and form an integral part of daily life in San Francisco. Today we ask how can the motorist and cyclist safely share the road without confrontation? To whom do the streets belong? How can the conversation begin?

The bicycle community frequently refers to the Six E's. These elements are important in addressing the needs of the community. Originally four elements, they have recently been expanded to six to recognize the importance of equity and evaluation. The San Francisco Bicycle Plan, written in 2006, addresses the original four elements. The Jury has reviewed the Bicycle Plan and finds that the Plan is workable so far, but it makes recommendations for improvement, specifically to the education, enforcement, and equity elements.

THE SIX E's Engineering Education Enforcement Encouragement Evaluation Equity

III. METHODOLOGY

The Civil Grand Jury's investigation consisted of a review of confidential interviews, correspondence, documents, literature, local and national data, newspaper articles, letters to the editor, and Internet sites. (See Section XIII: Appendix A: References.)

The Civil Grand Jury commenced its investigation in July 2009. It conducted interviews with officers, employees and citizens from the following:

- Doctoral Students, Department of City & Regional Planning, Safe Transportation Research and Education Center University of California, Berkeley
- Livable Cities
- San Francisco Bicycle Advisory Committee
- San Francisco Bicycle Coalition
- San Francisco Controller's Office

- San Francisco Municipal Transportation Agency
- San Francisco Police Department
- San Francisco Superior Court Collaborative Justice Department
- Superior Court of San Francisco Traffic Court
- University of California, Davis, Transportation and Parking Services

IV. INVESTIGATION

Attitudes/Perceptions

A November 5, 2009 article about San Francisco's cycling habits was published in the New York Times. Scott James concluded, "Just try to talk about obeying traffic laws and suddenly the loveliest eco-friendly riders are instantly transformed into venom-spewing bike bullies. I was warned several times not to write about this or risk being publicly vilified as an enemy of the bike world."

In response to Scott James's article (<http://sfcitizen.com/blog/tag/scott-james>, November 6, 2009) one Internet site contributor writes, "Scott James has a tiger by the tail with 'San Francisco's Cyclists Facing Backlash for Flouting Rules of the Road.' You see, he doesn't just talk about cyclists blowing stop signs at speed, he goes and documents it, all judgmental like. Then he posts it on the YouTube for *tout le monde* to see. That's going to rub some peoples' fur the wrong way."

Similar perceptions and attitudes toward cyclists and motorists can be followed in numerous blogs, letters to the editor, and in a multitude of Internet sites. Reviews of recent letters to the editor in local newspapers are typically written by non-cyclists displeased with some encounter with a cyclist. The titles of the letters are indicative of their frustration: *Don't Run Me Down* (July 9, 2009); *Obey the Rules of the Road* (July 13, 2009); *Bike Arrogance* (July 13, 2009); *Out of Control* (July 13, 2009); *Watch Out* (July 13, 2009); *A Bicycle Free-for-All on Market* (October 1, 2009); *The Road Has Rules* (October 5, 2009); *Surviving Streets of San Francisco* (October 22, 2009); *Pedestrians, Beware* (October 22, 2009); *Ticket the Bad Bicyclists* (November 3, 2009); *Critical Mass: You're Not Helping* (November 6, 2009); *Ride and Bike Safely* (November 6, 2009); *I'm a Bike Victim* (November 20, 2009); *Off the Sidewalk* (November 24, 2009); *Bicycles are Dangerous* (December 13, 2009); Letter to the Editor response to *Critical Mass' Naked Spirit Rides On* (January 2, 2010); and *Watch Out, Angry Cyclist* (February 14, 2010). Two recent columns by Jon Carroll address the issue motorists and cyclists: *When You're Riding at Night, Wear White* (October 22, 2009); and *Why Can't We All Just Get Along?* (November 10, 2009).

A weekly San Francisco Chronicle Poll (December 12, 2009) inquired, *Do we need new laws to reduce tensions between motorists and cyclists?* While it is recognized that this is not a scientific study, but only a tabulation of readers' response, the results are interesting. The answers to the question: "No, obey the laws we have" registered 44.0% of the total 489 responses. "No, get cyclists off the road" rated 24.7% of the responders; followed by

19.6% who agreed with "Yes, and clarify the rights of cyclists" and 11.7% who agreed with "Yes, traffic laws are to maintain traffic flow, not protect cyclists."

A cyclist (Splork, undated) expresses his thoughts from the viewpoint of a cyclist in *I Am a Cyclist: An Open Letter to Car Drivers Everywhere*. It reflects the many concerns voiced by cyclists to the Civil Grand Jury about tensions arising from the sharing of the roadway.

I am a cyclist. I get on my bike and go for a pedal as time allows. I do it because it is what I do for exercise and recreation. I like the freedom. I like the rhythm. I love everything about it, except one thing: People driving cars.

I am under constant siege by people in cars. When I go for a bike ride I am typically alone. I try to go out when the traffic is at a minimum. I stay as far to the right on the road as I can without inflicting another kind of danger to my health. I am simply a man on his bike. Unfortunately I am not safe.

So what is it about a guy, or gal, on their bike that causes so much aggravation to people who drive cars? Is it jealousy? 75% of Americans are overweight. I'm not. The people I know who ride bikes are certainly not. Odds say that 75% of the people aggravating me on my bike are overweight.

Is it because we look different? I wear a helmet. I don't have a couple of thousand pounds of a metal shell protecting me. I wear tight shorts with padding in the seat. Why? Because it make[s] the activity more comfortable and it's hard enough to fight through the wind without baggy shorts flapping around. I wear gloves. Ever taken a fall at 20 miles an hour? The first thing that happens is you put your hand out to cushion the impact. Know how long it takes for road rash to heal on the palm of your hand? A long time. And it hurts. I wear sunglasses just like you. You wear them to keep the sun out of your eyes and to look cool. I wear them to keep the sun out of my eyes, to look cool and to keep debris out of my eyes. I wear a shirt with pockets in the back. It's my glove compartment.

People tell me they are mad at cyclists because they get in their way when they are driving. I'm sorry that I am going 18 mph in a 30 mph zone that you want to go 45 mph in. It's tragic. Wait for a safe place to pass. But why would you give me the one finger salute as you go by? Why do you need to throw your half empty water bottle at me? Why do you need to fling your cigarette butt at me when you pass? I don't think you'd do the same to someone in their car. Why the disrespect?

And why are you so impatient that you can't even pass me when it's safe? Do you have to be in such a hurry as we both crest a hill that you endanger yourself, a driver in the other lane and me as you pass to the left on a little country road, as we go over that hill? Why so impatient?

Why do you feel like you have to speed by me at 55 mph when neither of us have a shoulder to travel on? Even worse, why do you have to play chicken with me to see how

close you can get to me? I think 2-feet at 55 mph is a little close don't cha think? If you slow down and give me a little room then you can simply speed back up when you get around me safely. Is it that hard to press back down on the accelerator? Why is 5-10 seconds so precious out of your life that you are willing to sacrifice mine for it?

Why the hatred? I am riding a bicycle. I don't pollute. I don't use any gasoline in my travels. When you pass me by in your dual-king cab V-8 pickup truck towing a boat, you should be thanking me that I'm not using any gasoline in my recreational activity that you are, and will be, using. You would rather throw your fast food wrapper at me instead and tell me to get off the road. The very road that my tax dollars helped pay for too.

And by the by kind driver. It is absolutely and completely legal for me to ride my bicycle on the roads. It is absolutely not legal (in most communities anyway), to ride a bicycle on the sidewalk. So stop telling me to get on it! It's a sideWALK. Not a sideCYCLE. If we get on the sidewalk we get yelled at by the walkers. We get on the road and get harassed by drivers. I like to go fast anyway so I'll stick to the roads.

Tell your governments to build shoulders, at least, on the roads they build. Governments do not want to spend the money on bike lanes because they say no one will use them. Yet, when you ask people why they don't ride their bikes they say there aren't any place safe to do so. Catch-22 if I've ever heard one.

So I brought up legal stuff. Yes, I know you have all seen the cyclist that blew through the red light. Or didn't stop at the stop sign. Or was riding four abreast with his crew keeping you from being able to pass comfortably. These cyclists are jerks. No doubt about it. And since you never speed or do a rolling stop through a stop sign, I'm sure you are justified in getting huffy with these two-wheeled miscreants, right?

I see a lot of things when I ride my bike. You might be amazed at the number of fresh beer cartons I see on the side of the road during my early morning Saturday bike ride. Lots of people in cars are pigs in other ways. Cigarette butts adorn our roadways like you wouldn't believe. Litter is still a problem. I think if more people got out of their car they wouldn't be so quick to chuck stuff out of their windows....

When I'm riding my bike I feel smug. This past weekend I had the amazing opportunity to follow behind a hawk soaring 50 feet above me for like a quarter of a mile. It was beautiful. I'm glad people in cars never get that experience.

When I ride my bicycle I have to ride perfectly. Particularly on the Tennessee roads I ride on. There are no shoulders. The roads are built for 1930-40's farm traffic, not suburban dwellers driving around in their Suburban gasoline chuggers. If I make a mistake it puts me in the path of a vehicle behind me that isn't giving me much room to work with anyway. Car drivers aren't worried about being perfect. Why, they have too much stuff going on: Unwrapping a Big-Mac, getting the DVD spun up for the twin spawn in the back seat, texting their boyfriend the location of the par-tay, lighting up that

cigarette or fumbling about with the iPod, all at a comfy speed of 50 MPH in a 35 MPH speed zone.

The problem is, if I'm not perfect I pay for it with my life. If you aren't perfect, I pay for it with my life. It doesn't matter if you are right or I am wrong, or I am right and you are wrong, when it comes to sharing the road, the cyclist always, always, always loses. Always.

The next time you drive by me and decide it would be a great time to throw your soda can out the window in my path, consider if you would like for me to throw the same can at you when you are walking into the Feed and Choke for your 5 o'clock feeding. I doubt you would be very amused. I am certainly not amused at your antics that you perform from your car when I am riding my bicycle. A little respect would be really cool.

And for those of you who drive by at a reasonable speed and distance, who give a little wave and maybe a little knowing smile: It does not go unappreciated or unnoticed. Thank you. Believe me, we see and notice everything.

A study conducted at the University of Strathclyde (Glasgow, Scotland) in 2002 (Basford, *et al.*) examined drivers' perceptions of cyclists. When respondents were asked to specifically focus on cyclists, associations with them were found to be predominately negative. Positives of cycling regarded by drivers were that:

- Cycling was healthy and had personal and environmental benefits, and
- Cyclists were brave to cycle in motorist traffic despite the lack of any real protection

The negative descriptors associated by motorists to cycling or cyclists were:

- arrogant
- dangerous
- despised
- erratic/unpredictable
- inconvenient
- irresponsible
- vulnerable

In additional investigation, respondents were also asked to describe an "ideal cyclist." An ideal cyclist was found to be one who was responsible, exhibited awareness and courtesy toward other road users, and abided by the Highway Code as motorized vehicles are required to do. Drivers felt that cyclists who wore helmets and had working lights, reflectors, and mirrors were more likely to act responsibly (Basford, p. 9).

Overall, drivers perceived cyclists as posing problems. The main cause was unpredictability of cyclists' behavior. Secondly, drivers saw the underlying unpredictability as stemming from attitudes and limited competence of the cyclists

themselves, not the difficulty of the situations that cyclists are often forced to face on the road (Basford, p. 13). The study had three major recommendations (Basford, p. 31):

- Improve roadway design
- Raise awareness
- Increase enforcement

Tensions between the police and the cycling community are apparently considerable. To support this statement, here is a comment from Leah Shahum, Director of the Bicycle Coalition (sf.streetsblog.org, December 4, 2009) regarding the actions of police after an accident between a motorist and a cyclist: "It's not only deeply disturbing that this bias against bicyclists still exists within the SF Police Department, but I believe it is illegal, given the Department's responsibility to uphold the law fairly and without personal bias. Chief Gascon should make it a priority to educate his officers and hold them accountable. Without leadership from the new Chief, there is no doubt in my mind that bicyclists will continue to bear the brunt of a dangerously biased police force. In this day and age, San Francisco cannot turn a blind eye to this."

The relationship between the police and some cyclists can be gleaned from a review of complaints submitted to the Office of Citizen Complaints (OCC). The Office of Citizen Complaints was created as a separate city department by an amendment to the San Francisco City Charter (Section 4.127) in 1982 and placed under the direct supervision of the Police Commission. The mission of the Office of Citizen Complaints is to "promptly, fairly and impartially investigate complaints against San Francisco police officers and make policy recommendations regarding police practices." It is staffed by civilians who have never been police officers in San Francisco.

The Civil Grand Jury obtained data regarding forty-two OCC complaints filed against police officers by cyclists between February 27, 2008 and July 2, 2009. The types of complaints are as follows: unnecessary force; parking in bike lane; cited without cause; detained without justification; pat searched; inappropriate comments; drove unsafely; false statements; incomplete accident report; failed to report a traffic stop; failed to take appropriate action; improper crowd control; failed to investigate; threatened; inappropriate behavior; failed to follow a General Order; failed to take required action; and failed to provide medical attention.

Twenty-six (61.9%) of the complaints were dismissed due to insufficient information or lack of witnesses. Twelve (28.6%) of the police officers were found to have acted appropriately. One case was referred to another agency. The Office of Citizen Complaints upheld the remaining three cases, or 7.1% of the complaints. Two were due to technicalities or failure to follow a specific General Order and the third involved a motorcycle officer who made an improper left turn in front of a cyclist. Thus, a small percentage of complaints (7.1%) over a sixteen-month period was sustained.

Police officers report (Interview, December 2009) that of all the complaints filed against them, one percent are from motorists and twenty to thirty percent are from cyclists.

Officers commented that the potential for complaints from cyclists makes them reluctant to cite cyclists.

Summary: Attitudes and Perceptions

It appears from review of the literature and comments from interviews that the jury conducted, that motorists see cyclists as arrogant, dangerous, despised, erratic/unpredictable, inconvenient, irresponsible, and vulnerable. Cyclists are viewed by many non-cyclists as not paying their fair share. Cyclists see motorists as an impediment, selfish, materialistic, causing world havoc with financial systems and the environment. Cyclists embrace riding because it is good for the environment, the economy (including theirs) and the exercise. Cyclists love freedom and the lack of any fees or fines. Some police comment that the potential of complaints from cyclists makes them reluctant to cite cyclists for violations. Many bicycle community members view the police as biased against cyclists, and believe the police need to uphold the law fairly.

If San Francisco truly wants to increase responsible bicycle use, it will need to solve the issues of anger, misunderstanding, and mistrust between motorists and cyclists, and increase everyone's view of shared responsibility on the roadway. Addressing these issues will ease the conflict regarding facilities and the network of bike lanes, targeted enforcement and education. This effort will help develop a culture in which everyone regards himself/herself as a part of the community, as well as a cyclist or as a motorist.

Education and Enforcement/The San Francisco Bicycle Plan

*The San Francisco Bicycle Plan*¹ (Plan) (June 2009) recognizes bicycling as a "critical component to improving the future health and prosperity of San Francisco." (*San Francisco Bicycle Plan*, 2009). The Plan views bicycling as an integral part of daily life. The Plan's goals are (Plan, 2009, p. ii):

1. Refine and expand the existing bicycle route network
2. Ensure plentiful, high-quality bicycle parking
3. Expand bicycle access to transit and bridges
4. Educate the public about bicycle safety
5. Improve bicycle safety through targeted enforcement
6. Promote and encourage safe bicycling
7. Adopt bicycle friendly practices and policies
8. Prioritize and increase bicycle funding

In 1982, bicycle policies were added to the San Francisco General Plan: Transportation Element. The Department of Parking and Traffic (DPT) published the first San Francisco Bicycle Plan in 1997, which established an official network and policies to support bicycling. In 2001, DPT amended and re-adopted the Plan. The County Transportation Authority (CTA), the Planning Commission, the Citizens' Advisory Council (CAC), the Board of Supervisors (BOS) and the Mayor approved the 2005 Plan. The BOS adopted the Plan framework on June 27, 2006 by Ordinance No. 109-05. An Environmental

Impact Review (EIR), required as a result of a lawsuit, was completed in November 2008. The Plan EIR was certified and California Environmental Quality Act (CEQA) findings were subsequently approved. The MTA Board approved the projects in June 2009. As of this writing, the three-year old injunction prohibiting the implementation of the Plan, which prevented all physical improvements for bicycles, has been partially lifted.

Acknowledgement of various agencies, committees, boards, consultants, and government officials in the development of the June 26, 2009 Plan includes a list of 119 individuals: Mayor, Board of Supervisors; former supervisors; SFMTA Board of Directors; San Francisco County Transportation Authority staff; former San Francisco CTA staff; San Francisco MTA staff; former San Francisco MTA staff; an Oversight Committee (including members of Planning, Office of the Mayor, MTA, San Francisco Bicycle Coalition, and Transportation for a Livable City); a Technical Advisory Committee; San Francisco Bicycle Advisory Committee Bicycle Plan Review Task Force; San Francisco Bicycle Advisory Committee; former BAC members; San Francisco Bicycle Coalition; and a Consultant Team (Alta Planning & Design, Parisi Associates, and Pittman Associates). Not all stakeholders were represented. One police officer served on the Technical Advisory Committee. Pedestrians, public transit riders, non-cyclists and motorists were not represented.

In an effort to address the conflicts between motorists and cyclists, the Civil Grand Jury focused on two of the Plan's goals: Education and Enforcement. To this end, the Civil Grand Jury interviewed individuals from the San Francisco community, including members of the San Francisco Police Department, San Francisco Municipal Transportation Agency, the San Francisco Bicycle Coalition, the San Francisco Bicycle Advisory Committee, and the Livable City program. In addition, the Jury interviewed individuals from other cities and college campuses as well as doctoral candidates in city and regional planning and safe transportation/research. It reviewed numerous documents and data related to cycling.

Transportation-to-work bicycle usage in San Francisco has increased from 2.3% in 2007 to 2.7% in 2008. The 2009 Bicycle Count Report (SFMTA, 2010) indicates an 8.5% increase over 2008 to 2.9%. The methodology for collecting this data is designed to help identify trends and is not meant to measure that exact number of cyclists. It should be noted that the counts are done in the first three weeks of August when the weather is typically dry and longer periods of daylight encourage bicycling. Thirty-five counts were conducted between 5:00 and 6:30 PM at thirty-three locations. Twenty MTA part-time interns were available to do the counts. Some streets have had much higher than an 8.5% increase such as 11th and Market (48.3% increase from 2006). The American Community Survey (ACS) is a nationwide survey and a critical element of the U.S. Census Bureau's census program. ACS collects and produces population and housing information every year instead of every ten years. ACS shows the percentage of trips to work in 2000 at 2.1%; 2003 at 1.9%; 2006 at 2.5%; 2007 at 2.7%; and in 2008 at 2.9%. The estimated percentage of all trips by bicycles in San Francisco (2008) is 6.0% (SFMTA, 2010).

Education

The Education Chapter of the *San Francisco Bicycle Plan's* (Plan) focus is to educate the public about bicycle safety. The objectives are to create, fund and implement (Plan, 2009, p xi):

1. Bicycle safety curricula for the general public and targeted populations
2. Bicycle safety outreach campaigns for motorists, bicyclists, and the general public

To this end, the action plan (p. xi) recommends the following:

- Provide SFMTA bicycle safety information to diverse age, income and ethnic populations
- Provide SFMTA bicycle safety information in multiple languages
- Partner with other agencies to distribute SFMTA bicycle safety educational materials
- Work the SFPD to create a bicycle traffic school curriculum as an option in lieu of other pecuniary penalties for traffic law violations
- Increase SFMTA participation in Bike to Work Day activities
- Implement new outreach campaigns for improved bicycle facilities
- Develop SFMTA bicycle safety classes for city employees
- Develop an SFMTA bicycle safety workshop for transit vehicle and other large fleet-vehicle operators
- Develop bicycle education curricula for use in the San Francisco Unified School District and San Francisco public colleges.
- Work with the SFPD to promote a transportation curriculum in lieu of driver's education at city high schools

Training Materials

San Francisco Municipal Transportation Agency's 51-page *Bicycle Guide* is comprehensive as it covers a bicycle equipment check; general bicycle rules; traffic lane intersections and turn information; riding in bike lanes; riding on bike routes; bicycling at night; riding in rain and fog; riding near streetcars; trucks and busses; bicycle route signs; full use of lanes; parking; bikes on transit; helmets; avoiding collisions and injuries; grates, plates, trenches and potholes; collision information; the Co-exist Outreach campaign; bicycle safety information; the Waller Street bicycle learning area; parts of the bicycle; bicycling sizing and fit; gearing and shifting; brochures and publications; and important telephone numbers and Internet links.

In comparison to the SFMTA comprehensive *Bicycle Guide*, the Civil Grand Jury reviewed two documents that are used for training purposes for the police in basic bicycle skills and tactics. There is little correlation between the SFMTA document and the police training material. The SFMTA information is timely and current; the police training materials are outdated and incomplete. Current SFPD training materials that are aimed at training police do not have materials on controlling bicycle traffic.

The first police training document is the *Basic Bicycle Patrol Skills and Tactics*, a three-day course. The material is undated, but appears to have been written in the 1990s. The Table of Contents lists four chapters: I. Safety Policy/Course Objectives/Assembly Bill 2499 (1994). II. Course Outline. III. Physical Maintenance. IV. ABC Quick Check/Riding Techniques/Enforcement Procedures. These four chapters contain information about AB 2499 (1994) which is a one-page review of the Vehicle Code; two Department Bulletins from 1998 signed by Chief Fred Lau; fifteen pages of conditioning and training (for riding bicycles); one page of stretching exercises; one page on calculating heart rate; six pages on a nutrition primer; and nine pages on pre-ride inspection or the *Air, Brake, Crank (ABC) Quick Guide*. The enforcement procedures consist of eleven pages of items such as stealth technique, slide technique, slow riding techniques, negotiating curbs, descending curbs, panic braking/stopping, mounting and dismounting, remounting techniques, ascending stairs, descending stairs, suspect apprehension techniques, basic formations, intersections, commands, and riding in the rain. It is unclear why these topics fall under the heading of enforcement.

The second document, *10-Hour Bicycle Patrol Skills Course*, is also undated, but follows much of the same content as the above document. However, it contains six pages concerning the California Vehicle Code related to bicycles dated April 2002.

One source for updating the current police training materials is the State of California Commission on Peace Officer Standards and Training (POST) program established by the legislature in 1959 to provide support for police selection and training standards. POST funding comes from the Police Officers' Training Fund, which receives moneys from the State Penalty Assessment Fund. The POST program is voluntary and incentive-based; it is an information center that includes identifying trends and emerging needs to enable law enforcement to focus on and address society's changing issues. While numerous course offerings are virtually identical to the material in the SFPD manuals, it appears that the POST materials are current. POST has a procedure for suggesting modification to existing content of coursework.

Much literature and many materials exist related to Bicycle Education, so many that listing them here is not feasible. Many websites such as those developed by the San Francisco Bicycle Coalition, the Bicycle Advisory Committee or the San Francisco Municipal Transportation Agency are easily accessed online. Another recommended site for extensive cycling information is the League of American Bicyclists, which has extensive information regarding coursework and instructors by state, an instruction information section for instructors, and education videos. It provides current information regarding advocacy, bicycle community, and events.

The San Francisco Police Department and the Bicycle Coalition cooperated on the production of a video regarding safe cycling which can be viewed at http://www.sfbike.org/?bikelaw_sfpd_video. Excellent resources include an internal training video produced by the Portland (Oregon) Police Bureau (October 2009) (http://bikeportland.org/2009/10/07/portland-police-release-new-bicycle-traffic_enforce-

ment-training-video/). In the fall of 2009, the Chicago Police Department released a training video for its traffic enforcement officers. The video can be viewed at http://www.chicagobikes.org/video/index.php?loadVideo=police_training_2009.

Insurance

Not all cyclists are aware of the availability and the importance of property and liability insurance. Attorneys who represent cyclists in property and injury accidents frequently promote cyclist insurance.

According to San Francisco Examiner (August 11, 2009) reporter Danny Workman, bicycle owners are forced to cobble together at least three different types of insurance to approximate coverage under a comprehensive bicycle insurance policy.

- Insurance for the bicycle itself against damages or theft
- Medical protection for injuries to the bicyclist in case of an accident
- Third-party liability insurance that covers injuries and damages to another person or property

Bicycles are predominantly insured through the purchase of homeowners or renters insurance policies. While policies vary, most cover broad protection for personal possessions, liability and additional living expenses. According to the Insurance Information Institute (III)(<http://2.iii.org/index.cfm?instanceID=242793>):

Standard homeowners and renters insurance protects personal belongings against damage from fire, smoke, theft, water, lighting, vandalism, explosion, windstorm, and other disasters listed in the policy. Floods and earthquakes are not covered.

Bicycles have benefited from greatly improved technology making them light weight and durable. These improvements have increased the value of bicycles, particularly those used for daily commuting. This increase in value may require that bicycles be scheduled on an insurance policy, as are other high value items such as jewelry.

According to the III, Standard renters' and homeowners' insurance policies provide liability protection against lawsuits for bodily injury or property damage that policyholder and family members cause to other people. The liability portion of most policies pays for both the cost of defending the policyholder in court and for court awards, up to the limit of the policy. Liability limits generally start at about \$100,000. Higher limits are available and common in the Bay Area. Higher limits can also be purchased through an Umbrella or Excess Liability policy, which provides higher limits and broader coverage. Generally, umbrella policies cost \$200 to \$350 a year for an extra \$1 million of liability protection.

According to the National Highway Traffic Safety Administration (<http://www.nhtsa.dot.gov/>), 714 people were killed while bicycling in the United States

in 2008, and approximately 52,000 were injured. No statistics are available on how many of these people were insured.

Major insurers have not reported an upward trend in bicycle related insurance and claims issues. The insurance industry tends to be quick to react to such trends. For example, dog owners are now either surcharged or cancelled by many insurers if they own dog breeds considered to be at higher risk to bite. So it is a fair assumption that bicycle related insurance trends have not reached this point for the insurance industry.

According to BikePortland.org, *At-fault motor vehicle operators who have their own auto insurance should be liable for any damages to you and your bike. If you have auto insurance it will most likely cover a crash that you cause, even if you are on your bike. Problems arise when an uninsured motor vehicle operator and a person on a bike without auto insurance collide, or worse, in the case of a hit-and-run. Lack of insurance is also a problem in the case of single vehicle crashes, such as when you hit the light rail tracks at the wrong angle and go down. So what's a car-free, health insurance free, cycle-commuter to do? There is no outright equivalent to car insurance offered to those who don't own cars, but here are some ways our sources have found to fill in the hole.*

The major gap is for cyclists who do not purchase homeowners', renters' or auto insurance. Market size statistics are not available for this subset of the cycling community, however it is reasonable to assume that this demographic is present in San Francisco. If a bicycle is involved in an accident with an uninsured motorist, damage to the bicycle and the rider are likely to fall to the rider in most instances. While the physical damage to the bicycle and related liability might be significant, the health insurance risk related to the accident could easily amount to a catastrophic financial loss to the completely uninsured rider and become uncompensated care to the healthcare provider.

There is some movement around the country to create alternative markets for uninsured cyclists. According to BikePortland.org, *The catch: in order for the plan to be affordable to its members yet not pose a serious financial risk to the underwriters, it would have to cover a large pool of members outside of the highest risk group — cycle-commuters with no other insurance options.* The insurance industry has historically avoided such risky market segments, preferring to offer products which are secondary or tertiary to other, more established insurance lines such as homeowners, auto and tenants lines.

In other countries such as the United Kingdom, Australia and New Zealand, specialist insurance programs have been formed to offer cyclists protection against repair, lost wages, supplemental medical expenses and other accident related perils. There is some evidence of attempts to replicate these insurance offerings in the United States, but there has been little success to date. With the growth in cycling, these insurance products will likely experience further market development and growth.

Summary: Education

The Jury supports the Plan's focus to educate the public about bicycle safety. The goals are to create, fund, and implement 1) bicycle safety curricula for the general public and target populations; and 2) bicycle safety outreach campaigns for motorist, bicyclists, and the general public. While excellent resources are currently available, many others are being developed that support the goals of the Plan. Police should be included in the development in order to update and bring relevancy to police training materials. Renters' insurance (property and liability) is available to cyclists.

Enforcement

Chapter V of the *San Francisco Bicycle Plan* addresses improvement in bicycle safety through targeted enforcement. The objectives (Plan, 2009, p. xiii) are to:

1. Increase San Francisco Police Department enforcement of motorist and bicycle traffic violations that pose the greatest threat to safety, and
2. Provide San Francisco Municipal Transportation Agency bicycle safety information to San Francisco Police Department staff and to those cited for moving violations that focuses on safe cycling, relevant traffic laws, and safe sharing of the roadway.

The Plan's course of action (p. xiii) is to:

- Work with the San Francisco Police Department on enforcement of motorist and bicyclist violations that most frequently cause injuries and fatalities
- Work to develop a "fix-it" ticket for equipment violations
- Work with the Police Department to share non-collision bicyclists citations with the SFMTA
- Work with SFPD and Superior Court of California to develop a bicycle traffic school as an option for those cited for moving violations
- Support efforts to change California Vehicle Code section 21754 (passing on the right) so that it applies to bicycles,
- Increase parking enforcement and fines for violations involving vehicles parking or double-parking in bicycle lanes.
- Post "no-stopping bike lane" signs along bicycle lanes
- Work with the SFPD to increase enforcement of the prohibition of operating motorcycles in bicycle lanes.

Traffic Enforcement

Specific to the enforcement of motorist and bicycle traffic violations, the Civil Grand Jury reviewed the San Francisco Traffic Code, SFPD General Orders and Department Bulletins, and the California Vehicle Code. CVC 21200 states, "Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to

the driver of a vehicle..." SFPD General Order 9.01 sets policies and procedures regarding, in part, traffic enforcement and moving violations.

While a motorist is granted a privilege from the State to operate a vehicle on the public byways, a cyclist or a pedestrian does not require such a specific grant. A motor vehicle license and an operator license are required and are subject to revocation. This forms a basis for compliance. Pedestrians and cyclists are not subject to licensing and conditional usage, and therefore do not bear the same consequences for their failure to comply. CVC 12951 requires that an operator of a motor vehicle shall have a valid driver's license in his/her possession at all times when driving a motor vehicle upon a highway. It is also required that the driver present his or her license for examination upon demand of a peace officer enforcing the provisions of this code. Both a motorist and a cyclist are subject to arrest when he/she fails to present a driver's license or other satisfactory evidence of identity for examination (CVC 40302). A cyclist is required by law to correctly identify him/herself and produce either a driver's license or its "functional equivalent." This means some form of government-based identification that "bears the person's photograph, physical description, current mailing address, and signature, and is serially or otherwise numbered."

Failure to identify oneself is usually a misdemeanor charge, in addition to the charge for the original traffic violation. A citation is in lieu of custodial arrest and is dependent upon the violator identifying him/herself as required by law. The arresting officer may have discretion as to whether to issue a citation or take the violator into custodial arrest (Mionske, 2007).

Licensing

Should cyclists be licensed to ride or obtain bicycle licenses? Some Universities such as University of California, Davis and the University of California, Berkeley, and some cities such as Santa Monica and Davis require bicycle licensing.

The Department of Motor Vehicles (DMV) accepts money for and provides registration stickers and forms to the agencies that request them. These are usually college campuses, fire and police departments, park and recreation services. Vehicle Code sections 39000-39011 give legal backing to those cities and counties which adopt a bicycle licensing ordinance or resolution, but the code sections do not really involve the DMV in the management of the registration program, as the cities and counties having a bicycle licensing ordinance or resolution maintain the records themselves. DMV only issues stickers to those who request them. It keeps no database (Email, DMV, Division of Traffic Operations, November 25, 2009).

The University of California, Davis, provides six reasons, which are fairly standard for most cities or campuses, why bicycles should be licensed: 1) theft prevention and recovery; 2) accident victim identification; 3) funding for bicycle programs; 4) low cost of licensing (maximum that can be charged is \$12 for a three-year license); 5) ease of registration; and 6) requirement of law (at UCD). This program is successful, as it is

estimated that 70% of bicycles on the UCD campus are licensed. Unlicensed bicycles are impounded or cited. A bicycle without brakes is also impounded. The advantages of licensing at UCD are that owners of a lost, stolen, abandoned, and/or an illegally parked bicycle can be identified. If a lock has to be cut or if a key malfunctions, assistance is provided; thieves tend not to steal registered bicycles (Interview, November 2009). The San Francisco Crime Laboratory warehouse is currently holding 600 unclaimed bicycles (San Francisco Chronicle, April 9, 2010). UCD holds auctions of unclaimed bicycles to raise funds for bicycle projects (Interview, November 2009).

The Civil Grand Jury considered recommending bicycle licensing as it is recognized by some as a tool for theft prevention and recovery, accident victim identification, moving violation identification, and funds for bike programs. The Jury, however, does not support licensing because the potential revenue generated would not cover the cost of administering the program as the state limits the charge to \$12 for a three-year license. Enforcement would be most challenging, and police time is better spent on enforcing current California Vehicle Code and Traffic Code violations. No database currently exists statewide upon which to build a theft recovery program. The stickers are so small that they cannot be read from a distance to support identification. Each cyclist, however, is required to produce some form of identification and can be cited for this violation.

A brief by the SFMTA Deputy Director of Transportation Planning regarding the licensing of bicycles and cyclists in San Francisco was prepared for the SFMTA Board of Directors on September 10, 2009. It is attached as Appendix B.

Citations

The Jury collected enforcement data from the County of San Francisco Superior Court Traffic Division (Traffic) and reviewed data recently published in the SFMTA City of San Francisco Bicycle Report (Bicycle Report, 2010). The jury looked at traffic fine collections for Traffic (moving violations) and collections of the Department of Parking and Traffic (DPT) for revenue comparisons. It analyzed specific types and frequency of traffic citations given to cyclists as well as fines and fees associated with bicycle citation and compared data to that of motorists. And lastly, it reviewed attitudes of the police and members of the bicycle community concerning ticketing of bicycle infractions.

The San Francisco Police Department issued a total of 204,673 moving violation citations, including 1,968 tickets to cyclists for the period January through December 2009 (Traffic, January 2010). Only 0.96% of the citations for moving violations were issued to cyclists.² Over ninety-nine percent of moving violations were issued to motorists in 2009. (See Appendix C for a breakdown of the 1,968 citations.)

The Jury believes that increased citations will lead to safer behavior by motorists, pedestrians, bicyclists, and motorcyclists. With increased enforcement, the Jury posits that collisions will decrease and safety will be enhanced. Therefore, increased enforcement should be a priority. A comparison of baseline and future data should provide the public with information about the rationale for and the efficacy of increased

enforcement. (Note: Adjustments to data may be indicated when transportation usage changes, e.g., increased bicycle or decreased automobile usage over time.) (See Appendix D for three tables concerning the top five causes of collisions of motorists and cyclists (and assignment of fault) in San Francisco, including the number of fatalities and injuries to motorists, pedestrians, bicyclists, and motorcyclists for the period 2001-2008).

Some violations of the Traffic Code and the California Vehicle Code registered as few as one citation in 2009 (e.g., CVC 21210--bicycle lying on its side on a sidewalk; CVC 21462--obey official traffic signal). Two citations in 2009 were due to violation of TC 30--proceeding wrong way down a one-way street. On the relatively high number of citations issued are the following examples. TC 96--bicycles restricted (907 citations); CVC 21201(d)--bicycle, during darkness headlight, red reflectors or rear pedal reflectors and side reflectors required (211); CVC 21353(a)--failure to stop at limit line at red light (192); CVC 21650.1--bicycle on roadway or shoulder required to be operated in same direction as motor vehicles (84); CVC 22450(a)--failure to stop at stop sign limit line (237); CVC 21201(a)--bicycle, single wheel brake required (23); and CVC 21950(a)--failure to yield to pedestrian in crosswalk (33).

The recently published Bicycle Report (2010) collected data on 1) riding on the sidewalk, and 2) riding the wrong-way. SFMTA interns counted 1,316 violations of riding on the sidewalk within forty-nine and a half (49.5) hours of observation in 2009. For the year 2008, the count was 1,179 violations within forty-eight hours. Violations have increased 7.6% from 2008 to 2009. The greatest number was 461 (1.5 hours of observation) at Cervantes and Marina Boulevards. This behavior may highlight perceived unsafe conditions by bicyclists. The San Francisco Police Department issued 907 citations (or approximately half of the citations issued during the 2009 year) for violation of TC 96 (bicycles riding on sidewalk) (Traffic, 2010).

Cyclists riding the wrong-way were much lower with 211 violations in forty-six and a half hours of observation in 2009. For 2008 there were 172 violations in forty-eight hours for an increase of 2.1%. The highest count was at 11th at Market with a count of forty within one and one half hours. San Francisco Police issued two citations during the 2009 year for Traffic Code 30 (proceeding wrong way down a one-way street). SFMTA states that it will continue to monitor riding on the sidewalk and riding the wrong-way on streets (Bicycle Report, 2010).

Cyclists riding to and from work increased 0.2% from 2008 to 2009 (Bicycle Report, 2010), yet these violations (observed during commute hours of 5:00 to 6:30 PM) increased 7.6% for riding on the sidewalk and 2.1% for riding the wrong-way on streets. Disparity exists between the observations of the SFMTA and the number of citations issued by SFPD. The increase in violations for riding on the sidewalk and riding the wrong-way may be due, in part, to two variables: 1) increase in the numbers of cyclists; and/or 2) failure to enforce the Traffic Code or California Vehicle Code, which in turn, may give tacit approval to violate the codes.

Helmet usage is at 69%. For previous years, it was 65% in 2006, 72% in 2007, and 67% in 2008. (SFMTA City of San Francisco 2009 Bicycle Count Report.) Thirty-one percent of the riders observed in SFMTA City of San Francisco 2009 Bicycle Count Report (January 2010) do not wear helmets. No citations were issued in 2009 by the San Francisco Police Department for violation of CVC 21212 (a): Person under 18 operating or riding as a passenger on a bicycle without wearing an approved helmet. Only one citation was given for violation of CVC 21235(c) for operation of a motorized scooter or bicycle without a helmet.

The fine for a bicycle infraction of the Traffic Code or the California Vehicle Code is \$25. In addition to fines, Court fees range from \$113 to \$149 for a total citation value of \$138 to \$174 (Traffic, January 2010). Fines for motorists are about ten or twenty times as costly. (Uniform Bail & Penalty Schedule, California Rules of Court, January 2009).

The Traffic Court actual revenue for 2008-9 was \$6,000,036 (line item 25110) for moving violations (Office of the Controller, March 1, 2010). (Traffic Court line item 25950, late penalties, realized \$483,219.) The actual revenue for moving violations is increasing (\$4,763,807 in 2005-6; \$4,963,628 in 2006-7; and \$5,403,656 in 2007-8). The revenue (2008-9) is distributed among the following per state code: Community Health Services (\$1,117,765); General Fund Unallocated (\$3,739,435); Police Department (\$1,124,102); and the Trial Court (\$18,734). The Police Department receives the Traffic Court late fees. (See Appendix E for Moving Violation Revenue 2006-2010.)

In contrast to the San Francisco Police Department issuance of citations and collections of fines, San Francisco Municipal Transportation Agency is responsible for parking related citations. (It is recognized that police have far more to address than moving violations and issuing a moving violation takes fifteen times as long to issue as a parking ticket (Interview, March 2010)). There are approximately 2000 police officers and 280 Parking Control Officers (PCO)). Department of Parking and Traffic (DPT) issued 1,932,416 citations (DPT, 7/13/09) for a total parking revenue of \$92,920,218. (SFMTA Finance Section, 9/10/09). This is an increase of 3.9% and 3.2% respectively over the prior year. SFMTA collected \$170,767,615 (2008) from meter fees, parking lot and garage fees, residential parking permits, and parking tickets.

Bicycle Traffic Court/School/"Fix-it" Tickets

The Bicycle Coalition suggests that there should be an opportunity to work a ticket off at a Bicycle Traffic School. This does not yet exist, but the Bicycle Coalition is working on such as plan. A Bicycle Traffic School is also a recommendation of the Plan.

For motorists, the California Vehicle Code 1808.7 mandates that only one (1) citation in an eighteen month period be masked from public view on a driver's record. In addition to any court fees, the school fees are \$20 to \$45. The bail and a \$52 administrative fee must be paid to the Court prior to completion. Classroom and online coursework are available. Only motorists receive points on a driving record.

There is no comparable traffic school option for cyclists. The Civil Grand Jury explored the possibility of a Community Justice Program for addressing infractions and was informed that the Community Justice Program does not address infractions. The County of San Francisco Superior Court Traffic Division does not have a Traffic Court/School or an option for bicycle citations. One of the objectives of the San Francisco Bicycle Plan is to "work with the SFPD and the Superior Court to develop and implement a bicycle traffic school program as an option for those cited for moving violations" (p. xiii). "Fix-it" tickets (p. xiii) are recommended when the citation involves such violations as riding without lights and/or reflectors or brakes. Citations for moving violations³ are an opportunity for bicycle-safety education for both motorist and cyclist.

Summary: Enforcement

Scott James, cited earlier in an article concerning attitudes and perceptions, reports "Tickets [to cyclists] remain rare in San Francisco, although rider-ship is up 53% since 2006, and with that boom has come a fairly rampant disregard for the rules of the road. Stop signs (and sometimes red lights) are routinely ignored" (NYT, 2009). To support his statement, a 40-minute videotape was made during rush hour at the four way stop at Duboce and Steiner. View it at <http://bayarea.blogs.nytimes.com/2009/11/06/the-backlash-against-cyclists/>. The result: seven cyclists came to a complete stop; fifteen paused; and ninety-one went right through the intersection. The Executive Director of the Bicycle Coalition is quoted in this article, stating, "We're eager for law enforcement to prioritize dangerous activity in the streets in relationship to the harm that it can cause."

Neither motorists nor cyclists receive a lot of citations, but motorists receive far more than bicyclists (99:1). On average, a police officer writes one cyclist citation a year and one motorist violation every three days. A police officer commented (Interview, December 2009) that the most aggressive officer in the department has had only twenty-seven cars towed (period not specified) while the average in most cities is three times that amount. San Francisco Municipal Transportation Agency and the San Francisco Police data diverge in what is observed (Bicycle Report, 2010) and what is cited (Traffic, 2010). The Bicycle Coalition is interested in prioritizing dangerous activity, and supports increased enforcement, as do many other bicycle groups.

The Jury believes all traffic laws should be subject to increased enforcement because they are the law. The Jury encourages the police to focus on the most reckless ("most serious") behaviors first. For bicyclists, this might include not stopping at red lights or stop signs or riding against traffic. For motorists, this might include speeding, running red lights, cutting off cyclists while turning, parking or standing in a bicycle lane, or passing bicyclists at a distance less than three feet.

A campaign to publicize increased enforcement is very important. The message from police and other city officials should be that the police are stepping up enforcement to help make the city streets safer for all street users, including bicyclists, pedestrians, and motorists, and that equal enforcement of the law will help improve trust and general relations between people using different types of transportation.

In addition, the publicizing should also emphasize that increased enforcement of bicycle and motorist laws related to bicycling is being complemented by (and is important for supporting) the city's efforts to provide better bicycle facilities and a more connected bicycle network throughout San Francisco.

Enforcement is important. The police have a role to play in ensuring that traffic laws are followed. Both motorists and bicyclists are required to follow the rules of the road (for their own safety and for the safety of all other roadway users). Prior to initiation of a stepped-up enforcement program, public outreach is good practice to make all roadway users aware that police would be watching traffic laws more closely for bicyclists and motorists.

Enforcement: Attitudes/Perception

The San Francisco police are trained to use discretion in enforcing motorist and bicyclist traffic violations (Interview, December 2009). The overriding principle for the police action is discretion, which was defined by the officers as "enforcing the spirit of the law, not the letter of the law." The determining factor in citing a motorist/bicyclist is the severity or impact of consequence of the infraction.

Police report a disparity of complaints received regarding their actions from motorists versus bicyclists. Only one complaint is generated from 100 motorist citations; twenty to thirty complaints out of 100 involve bicyclists. Because of the high incidence of complaints from a certain segment of the population, the police are reluctant to cite bicyclists. One reported that he was in a situation where he directed a cyclist to go around a taped-off crime scene at a shooting of three individuals on Market Street. The cyclists refused and went under the tape. He could not do much as he was on foot and essentially the cyclist "thumbed his nose," compromising a crime scene. Another officer admitted tension between groups, and that he has to deal with a dual system. He explained there are laws, and some violations are addressed and some are not. We sensed frustration on the part of the police officers reporting. Another police officer stated that they have certain beliefs about enforcement, but have to follow directives about what is important to do in light of the large responsibility they have. They understand the bicycle community and the political power it wields.

Many members of recognized bicycles groups support stronger police enforcement (Interviews, 2009-2010) of both motorists and cyclists. A prominent member of the bicycle community believes that the police should do more. They should issue citations, and they should show up in court so that the citation is not dismissed. Another member stated, "We are not above the law" (Interview, March 2010). Bicycle advisory organizations support the passage of Senate Bill 1475, contingent that the penalties being less severe than for motorists, (San Francisco Chronicle, April 8, 2010) which would prohibit cyclists from talking or messaging on cell phones while riding on streets.

Nevertheless, while advocating for more enforcement, the Bicycle Coalition website (http://sfbike.org/?bikelaw_ticket.faq) informs cyclists how to protest or "beat" a ticket. It says that if a citation does not get entered into the traffic court system, it essentially goes away. If the ticket is in the system, but if the citing officer does not show up at the courtroom for the hearing, the citation is dismissed. Either way, it recommends setting a court date and reporting for the hearing as most likely the matter will be moot. It advises that last year a new fine went into effect, so if one does not pay the ticket and it is in the system, there is an additional \$300 fine.

The Bicycle Coalition continues to inform cyclists that if the ticket that is issued doesn't indicate "bicycle," on the ticket, then the ticket can be fought on a technicality. Currently, moving violation tickets do not have a box for "bicycle." It has to be entered on the ticket. The Bicycle Coalition claims that police are not experts on the vehicle code as it relates to bicycle violations. And lastly, it advises not wasting one's time going to the Hall of Justice, but to call and see if the ticket is in the computer. Nothing happens unless it gets into the computer. The Bicycle Coalition says, "The cop's ticket book may get lost or dropped in a cup of Krispy Kreme coffee, for example." If the ticket doesn't get into the computer, it doesn't exist. If you bring the ticket in, it will get entered into the computer. After 180 days, it is a "dead ticket."

Summary: Enforcement--Attitudes/Enforcement

Members of the police department have shared their frustration regarding the mixed messages they receive regarding ticket enforcement and the lack of support they receive from the community and clear and focused direction from the Department. The bicycle community, for the most part, desires more police enforcement.

Equity

Equity, defined as perceived fairness, is essential to the successful formation of bicycle policy on a citywide basis in a densely populated urban area.

Do cyclists pay their fair share as they claim? The bicycle community for the most part believes that:

- Bicycles are a low impact vehicle
- Cycling should be encouraged as any further financial contribution would act as a deterrent
- Fair share of taxes is paid through local and state sales taxes including the ½ cent sales tax (Proposition K).

Should the cyclists pay to share the road? If they did, would this improve motorists' attitudes? What is a fair share? Or what is just a share?

The primary objective of the Transit First Policy⁴ (TFP) is the safe and efficient movement of people and goods. While public transportation, taxis, and vanpools are

viewed as an economically and environmentally sound alternative to the transportation by individual automobiles, the TFP does not require one mode of transportation to financially support all costs associated with road usage. San Francisco should be careful not to pit one group against another through taxes, fines, and fees. The TFP does not preclude bicyclists from contributing to the cost of sharing the roadway.

A "negative registration" process could capture the names and other pertinent data about cyclists who are ticketed by SFPD for moving or equipment violations or otherwise involved in traffic accidents where the cyclist is cited at fault. The cyclist should be required to appear at a "bicycle court" where prescribed safety education would be required. The format of the court, including a cycle-friendly venue such as a ride-up location, and an educational curriculum should be provided through collaboration among SFPD bicycle officers, the Bicycle Coalition and other cycling advocates. Notices to Appear, if ignored, should be pursued through SFPD and the courts. A nominal fee raised through "negative registration" to reduce resentment would most likely not be a deterrent to cycling. There is potential for perceived equity and fairness. The data collected should contribute to the Chief of Police's goal of relevant community safety and law enforcement statistics. A database is established, fees are generated, and equity is addressed.

Summary: Equity

The data collected through "negative registration" should contribute to the Chief of Police's goal of relevant community safety and law enforcement statistics. A database is established, fees are generated, and equity is addressed.

New Directions

This section includes some recent developments that are indicative of change to come.

The Bike NoPA is a newly formed (2010) bicycle group that says while it looks like Critical Mass, "that illegal bicycle parade," it is not. The NoPA-Velo rider actually stops at red lights to let cross-traffic through. As they say, "that makes all the difference." They ride the last Sunday morning of the month. Thirty-five cyclists participated on the January 31, 2010 inaugural route. The rides are developed around themes, such as sites associated with Patty Hearst (January). The February Lake Merced route is entitled the *Deadly Duel*--the duel between a U.S. Senator and a Supreme Court Justice over abolition. NoPA-Velo is all about bicycling and livability in San Francisco's North Panhandle neighborhood. It is a joint venture of the police and the Bicycle Coalition.

Organizations such as Bike NoPA should ease conflict and support a culture in which everyone regards himself/herself as a part of the community, not as a cyclist or as a motorist.

Chief of Police George Gascon is considering addressing the issue of Critical Mass, the last Friday of the month ride that ties up traffic. Currently, the police assign officers and

a supervisor to a "pedal parade" that it cannot control. The Chief is looking at a New York policy that requires bicycle groups larger than fifty to obtain a permit. The permit would "put someone on the Critical Mass side down as responsible, map out a specific route, give drivers warning and possibly require payment for the police time expended escorting the group across the city" (*Curb Critical Mass*, San Francisco Chronicle editorial, March 17, 2010).

In response to concerns about an injury accident involving a taxi and cyclist where no citations were issued by the police, the bicycle community requested and received increased SFPD enforcement at the intersection at Fell and Masonic Streets. Captain Barrett, Captain of Park Station, has increased "sting" operations. Over the weekend of February 20-21, 2010, SFPD Park Station issued fourteen citations, thirteen to motorists and one to a cyclist, for red light running.

Challenge for Change (<http://getmorepeoplecycling.com/>) looks at the best way to change people's perceptions about cycling. One suggestion it proposes is to get people to support cycling through the experience of cycling. For example, encourage experienced cyclists to buddy up with a "rookie" cyclist. The Challenge for Change group felt that a suggestion such as this would break down people's negative perceptions towards cycling and create some new positive perceptions toward it.

Conclusion

The Civil Grand Jury investigated attitudes and perceptions of motorists and cyclists to improve the safety of all those who share the roads. If the City and County of San Francisco truly want to increase responsible bicycle use, it will need to solve the issues of anger, misunderstanding, and mistrust among motorists, cyclists, police, transit riders, and pedestrians, and increase everyone's view of shared responsibility on the roadway. Solving these issues will ease the conflict regarding facilities and network of bike lanes, targeted enforcement and education, and will foster a culture in which everyone regards himself/herself as a part of the community, not an isolated cyclist or motorist. Attitudes are changed and perceptions are informed through education, enforcement, and equity.

In this report, the Civil Grand Jury identified several areas that would encourage conversation and discourage confrontation between the cyclist and the motorist. Findings and Recommendations follow.

Footnotes:

¹*The San Francisco Bicycle Plan: November 25, 2009:* The San Francisco Superior Court partially lifted the three-year-old injunction prohibiting the implementation of the Bicycle Plan which prevented all physical improvements for bicycles in San Francisco. *June 26, 2009:* The San Francisco Municipal Transportation Agency (SFMTA) voted to adopt the 2009 San Francisco Bicycle Plan. Adoption of the Bike Plan and the full environmental review (EIR) are required to unlock the injunction. *November 2006:* Superior Court Judge Peter Busch handed down his verdict on the lawsuit against the San Francisco Bicycle Plan. The preliminary injunction in effect since June 2006 continues in force, forbidding the city from physical streetscape changes for the sake of bike improvements until the city has completed a full environmental review.

²The Bicycle Report of 2010 estimates that 6% of all trips are by bicycle (p. 4.) while 2.9% is the percentage of trips to work by bicycle (p. 4).

³Five top reasons for cyclist collisions in San Francisco where bicyclists were at fault (1998-2006):

1. Unsafe speed
2. Failure to stop at red light line limit
3. Wrong side of roadway
4. Failure to yield to approaching traffic
5. Failure to stop at STOP sign limit line

Five top reasons for collisions with cyclists where motorists were at fault:

1. Opening car door when unsafe
2. Failure to yield when turning left
3. Unsafe turn and/or without signaling
4. Unsafe speed
5. Failure to stop at red light limit line

Also see Appendix D for additional data concerning at-fault statistics and fatalities and injuries to motorist, pedestrians, bicyclists, and motorcyclists.)

⁴*Transit-First Policy.* San Francisco City Charter, Section 8A.115

a) The following principles shall constitute the City and County's transit-first policy and shall be incorporated into the General Plan of the City and County. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1.To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

2.Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle

and on foot must be an attractive alternative to travel by private automobile.

3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.

4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.

5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.

6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.

7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.

8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.

10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway. (Added November 1999)

(b) The City may not require or permit off-street parking spaces for any privately-owned structure or use in excess of the number that City law would have allowed for the structure or use on July 1, 2007 unless the additional spaces are approved by a four-fifths vote of the Board of Supervisors. The Board of Supervisors may reduce the maximum parking required or permitted by this section. (Amended by Proposition A, Approved 11/6/2007)

V. FINDINGS

VI. RECOMMENDATIONS

<p><u>Attitudes/Perceptions</u> (See pp. 6-11.)</p> <p>1. Issues of conflict, anger, mistrust, and misunderstanding exist among motorists, cyclists, and the police.</p> <p>Studies and reports of attitudes indicate motorists and cyclists both exhibit negative attitudes, hostility, and lack of understanding of each other's concerns.</p>	<p>1. Conflict, anger, mistrust and misunderstanding among motorists, cyclists, police, transit riders, and pedestrians have frustrated the successful implementation of the San Francisco Bicycle Plan. The Plan should be amended to address the different and sometimes hostile attitudes and perceptions. San Francisco should create innovative strategies so that residents can more fairly and safely share the roadways of the City. Amending the Plan should be a priority and be completed by January 1, 2011.</p> <p>The SFCGJ recommends that the Bicycle Advisory Committee, with active input and cooperation from the SFMTA and the SFPD, amend the San Francisco Bicycle Plan (the Plan) to include the recommendations set forth in this report.</p> <p>The amended Plan should be presented to the Mayor and BOS for adoption by January 1, 2011.</p> <p>The SFCGJ recommends that the BAC, SFMTA, and the SFPD meet annually.</p>
<p><u>Education</u> (See pp. 13-17.)</p> <p>2a. Availability of safe cycling educational materials in many formats is extensive, yet there is no systematic distribution to non-cyclists, motorists, and police.</p>	<p>2a. The Plan should be amended to include a comprehensive program to distribute, to the public as well as cyclists, the extensive available safe cycling educational materials.</p>
<p>2b. Police training materials are out-of-date and not relevant. The Plan's goals, objectives, and actions do not include the police. The California Commission on Peace Officer Standards and Training (POST) is a center for information on training materials.</p>	<p>2b. By January 1, 2011, Police should update training materials related to bicycles in a joint effort with the bicycle community and the California Commission on Peace Officer Standards and Training (POST). Updated materials should include CVC and TC enforcement in alignment with the current SFMTA Bike Guide. By January 1, 2011, the SFPD should have a plan to distribute these materials and train officers.</p>

<p>2c. Cyclists may not be aware of the advantages of having liability insurance. Homeowners' insurance covers those cyclists who own a home; renters' insurance (property and liability) provides coverage if one does not have homeowner's insurance.</p>	<p>2c. The Bicycle Plan should be amended by January 1, 2011 to include the importance and availability of property, liability, and health insurance for cyclists.</p>
<p>2d. Police involvement is critical to the success of the Plan, yet their involvement has been minimal; the authors of the Plan only included one officer (a member of the Technical Advisory Committee) among a group of 119 individuals listed under acknowledgements. Pedestrians, public transit riders, and motorists were not represented.</p>	<p>2d. The Plan should include the Police Department, pedestrians, public transit riders and motorists in any further discussion or revision. Representation should include at a minimum the Police Chief or his designee, and at least two officers familiar with cycling issues on appropriate committees.</p>
<p>Enforcement (See pp. 17-22.)</p> <p>3a. Traffic enforcement of the Traffic Code and California Vehicle Code is often lax. The bicycle community, for the most part, desires effective and consistent police enforcement.</p> <p>A campaign to publicize increased enforcement could help make the city streets safer for all street users, including bicyclists, pedestrians, and motorists. Equal enforcement of the law will help improve trust and general relations between people using different types of transportation. Publicizing should also emphasize that increased enforcement of bicycle and motorist laws related to bicycling is being complemented by (and is important for supporting) the city's efforts to provide better bicycle facilities and a more connected bicycle network through-out San Francisco.</p>	<p>3a. The Plan should insist that all users of the roadways comply with the current traffic laws. The Plan should consider a self-enforcement campaign along with the current co-exist campaign. Motorists and cyclists need to step-up to the plate to begin self-enforcement. The Plan should encourage and educate all users to act responsibly.</p>
<p>3b. The Plan calls for increasing SFPD enforcement of motorist and bicyclist traffic violations that pose the greatest threat to safety, and for SFMTA to provide</p>	<p>3b, 3c, and 3d. Police should enforce the Traffic Code and California Vehicle Code.</p> <p>Starting September 2010, the police should</p>

<p>bicycle safety education to SFPD staff and to those cited for moving violations that focuses on safe cycling, relevant traffic laws and safe sharing of the road. The Plan recommends that SFPD does the following: place a high priority on violations that most frequently cause injuries and fatalities; develop a "fix-it" ticket program for equipment violations; share data with SFMTA; and develop and implement a bicycle traffic school. The police are requested or will be directed to implement these programs, yet they appear to be the only group not included in the development of the Plan's Enforcement recommendations. Not all moving violation citations get into the computer. Some tickets are dismissed due to technicalities (e.g., no "bicycle" box on the ticket).</p> <p>3c. Neither motorists nor cyclists receive many moving violation citations. Enforcement of the Traffic Code and California Vehicle Code is weak. (See data on pages 19-21 and Appendix C.) Motorists receive 99:1 of the moving violation—citations. Police officers on average a bicyclist once a year and ticket a motorist every third day.</p> <p>3d. Bicycling to work is at 2.9%, an increase of 0.2 over the prior year. The increase in violations (2008 to 2009) for riding on the sidewalk (7.6%) and riding the wrong-way (2.1%) may be due to, in part, two variables: 1) increase in the numbers of cyclists; and/or 2) failure to enforce the Traffic Code or California Vehicles Code, which in turn, may give tacit approval to violate the codes.</p>	<p>have a goal of entering all bicycle citations into the database. By January 1, 2011, San Francisco moving violation tickets should include a box for "bicycle." By January 1, 2011, COMSTAT should include a section for bicycle related data.</p>
<p>3e. San Francisco does not require licensing bicycles or cyclists. Administering the program would be expensive and enforcement would be challenging. The usual reasons to support</p>	<p>No recommendation. (Any modification to current state traffic code requires an action by the legislature.)</p>

<p>licensing are: theft prevention, accident victim identification, and funds for bicycle programs.</p>	
<p>3f. There is no Bicycle Traffic School/Court or "fix-it" ticket option for cyclists. A Bicycle Traffic Court/School and a "fix-it" ticket program would provide an opportunity for bicycle education, which will increase safety for all.</p>	<p>3f. By January 1, 2011, the Traffic Court should establish a Bicycle Court Traffic School option, as a tool for education, patterned on Traffic Schools currently in use, for when bicyclists (and motorists with bicycle-related infractions) have been cited for moving violations. Such sessions will be scheduled at least once each quarter. The Traffic Court should consult with the BAC in the development of the Bicycle Court option.</p>
<p>3g. Because of the frequent complaints made about police by cyclists, the police are reluctant to cite cyclists. Members of the police department have shared their frustration regarding the mixed messages they receive regarding ticket enforcement and the lack of support they receive from the community. Police officers comment that they "enforce the spirit of the law, not the letter of the law." The determining factor in citing a motorist/bicycles is the severity or impact of the consequences of the infraction. The police cite the power of the bicycle community, and the power they are perceived to wield.</p>	<p>3g. There should be an overall citywide policy about how the existing CVC and TC codes will be implemented so police have the direction and support they seek and deserve.</p>
<p>Equity (See pp. 24-25.) 4. The bicycle community views itself as engaging in a low-impact activity, that cycling should be encouraged, and that any further financial contribution would act as a deterrent and that cyclists pay their fair share through state and local sales taxes. Most of the non-cycling community believe that cyclists do not pay a fair share. While it is difficult to provide exact numbers to support or deny this claim, it is found that some fees associated with cycling be considered. It would seem that some contribution, even a nominal amount,</p>	<p>4. The city should consider a form of "negative registration" to capture names and other pertinent data about cyclists who are ticketed by SFPD for moving or equipment violations or otherwise involved in traffic accidents where the cyclist is cited at fault. The cyclist should be required to appear at a "bicycle court" where proscribed safety education would be required. The format of the court, including a cycle friendly venue such as a ride-up location, and an educational curriculum should be provided through</p>

<p>would do something to reduce the tension regarding this strongly held belief by non-cyclists.</p> <p>The primary objective of the Transit First Policy (TFP) is the safe and efficient movement of people and goods. While public transportation, taxis, and vanpools are viewed as an economically and environmentally sound alternative to the transportation by individual automobiles, the TFP does not require one mode of transportation (e.g., automobile or transit) to financially support all costs associated with road usage. San Francisco should be careful not to pit one group against another. The TFP does not preclude bicyclists from contributing to the cost of sharing the roadway.</p> <p>A nominal fee raised through "negative registration" to encourage safety would most likely not be a deterrent to cycling. The data collected should contribute to the Chief of Police's goal of relevant community safety and law enforcement statistics. There is potential for perceived equity. A database is established, fees are generated, and equity is addressed. .</p>	<p>collaboration among SFPD bicycle officers, the Bicycle Coalition and other cycling advocates. Notices to Appear, if ignored, should be pursued through SFPD and the courts.</p>
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VII. REQUEST FOR RESPONSE

Responses to the recommendations in this report are required by the Board of Supervisors and city offices and department in accordance with the following list and state law. Responses are to be in writing and addresses to the Honorable James McBride, Presiding Judge, Superior Court of California, City and County of San Francisco, San Francisco Civil Center Courthouse, 400 McAllister Street, San Francisco, California, 94102.

Board of Supervisors	90 days
Office of the Mayor	60 days
Office of the San Francisco Police Department	60 days
Office of San Francisco Municipal Transportation Agency	60 days
Bicycle Advisory Committee	60 days

Respondent	1	2a	2b	2c	2d	3a	3b	3c	3d	3f	3g	4
90 Days												
BOS	X	X	X	X	X	X	X	X	X	X	X	X
60 Days												
Mayor	X	X				X				X	X	X
SFPD	X	X	X	X	X	X	X	X	X	X	X	X
SFMTA	X	X	X	X	X	X				X	X	X
BAC	X	X	X	X	X	X				X	X	X

XIII. APPENDIX

A. References

XIII. APPENDIX

B. Memorandum prepared at the request of SFMTA regarding the licensing of bicycles and cyclists in San Francisco, September 10, 2009.

XIII. APPENDIX

C. Traffic Court Cyclists/Motorist Citations 2009

XIII. APPENDIX

D. Bicycle/Automobile Collisions in San Francisco Where Bicyclists Were Most Frequently Assigned Fault; Bicycle/Automobile Collisions in San Francisco Where Motorists Were Most Frequently Assigned Fault (1998-2006; Fatalities and Injuries to Motorists, Pedestrians, Bicyclists and Motorcyclists 2001-2008.

XIII. APPENDIX

E. Moving Violation Revenue Fiscal Years 2006 to 2010

GLOSSARY

ACS	American Community Survey
BAC	Bicycle Advisory Committee
BC	Bicycle Coalition (SFBC)
BOS	Board of Supervisors
CAC	Citizens' Advisory Council
CEQA	California Environmental Quality Act
CTA	County Transportation Authority
CVC	California Vehicle Code
DMV	Department of Motor Vehicles
DPT	Department of Parking & Traffic
EIR	Environmental Impact Review
MEA	Major Environmental Analysis
NHTSA	National Highway Traffic Safety Administration
NYT	New York Times
OCC	Office of Citizen Complaints
PCO	Parking Control Officer
Plan	San Francisco Bicycle Plan
POST	Police Office Standards and Training
SFMTA	San Francisco Municipal Transportation Agency
SFPD	San Francisco Police Department
SWITRS	Statewide Integrated Traffic Records System
TC	Traffic Code (San Francisco)
TFP	Transit First Policy
UCB	University of California, Berkeley
UCD	University of California, Davis
UCLA	University of California, Los Angeles