

2006-2007 Civil Grand Jury
City and County of San Francisco

PARKING FOR THE DISABLED--ABUSE OR OVER-USE?

Report Released: July 9, 2007

Purpose of the Civil Grand Jury

The purpose of the Civil Grand Jury is to investigate the operations of the various departments, agencies, and officers of the government of the City and County of San Francisco to develop constructive recommendations for improving their operations, as required by law.

Each Civil Grand Jury has the opportunity and responsibility to determine which departments, agencies and officers it will investigate during its one-year term of office. To accomplish this task, the Civil Grand Jury divides into committees. Each committee conducts its research by visiting government facilities, meeting with public officials and reviewing appropriate documents.

The nineteen members of the Civil Grand Jury are selected at random from a pool of thirty prospective jurors. San Francisco residents are invited to apply. More information can be found at: http://www.sfgov.org/site/courts_page.asp?id=3680, or by contacting Civil Grand Jury, 400 McAllister Street, Room 008, San Francisco, CA 94102; (415) 551-3605.

State Law Requirement

Pursuant to state law, reports of the Civil Grand Jury do not identify the names or provide identifying information about individuals who spoke 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. For 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 report either (1) that the recommendation has been implemented, with a summary explanation of how it was implemented; (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or (4) that 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).

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PURPOSE OF THE REPORT

In this report the 2006-2007 Civil Grand Jury sought to find a balance between the needs of those with mobility limitations to have access to convenient parking and the need for all to be able to have access to curbside parking.

I. INTRODUCTION

There are more cars registered to San Francisco residents than there are legal, on-street parking spaces. This makes for intense competition for curbside parking. While many cars may be parked in residential or commercial garages, there is also an influx every day of thousands of additional vehicles -- from commuters, tourists, delivery services, and shoppers, which simply adds to the pressure of finding curbside parking.

This lack of easy parking results in "cruising", a term of art used by traffic engineers to refer to those who drive around -- and around, and around -- looking for an on-street parking space. Cruising adds to traffic congestion and to auto emissions of greenhouse gases.

Scarcity of easy parking close to their destination is especially troublesome to those people with disabilities who have significant mobility limitations. Parking at a legal spot on the same side of the same block as one's destination reduces the energy demands on the disabled person and reduces the risk of injury by a potentially slow crossing of streets.

Upon investigation, the 2006-2007 Civil Grand Jury found that the laws governing the issuance of blue parking placards (blue placards) enabling the holder to have preferential parking are within the exclusive purview of the State of California and the Department of Motor Vehicles (DMV). The City and County of San Francisco has no jurisdiction over the laws governing the issuance of blue placards. It does have enforcement powers regarding the lawful use of the blue placards, powers that, unfortunately, it does not exert to the fullest extent possible.

Additionally, the Civil Grand Jury concluded that it would be in the best interest of all residents of and visitors to the City to seek new legislation preserving the rights of those with disabilities to have access to convenient parking, while reducing possible abuse of the system. To that end, the Civil Grand Jury encourages the elected leaders of the City to request our legislative delegation to propose legislation revising the blue placard laws.

II. PROCEDURES

The 2006-2007 Civil Grand Jury interviewed staff at the San Francisco Municipal Transportation Agency and the staff of non-governmental organizations which track issues of interest to local government. The Civil Grand Jury also researched statistics on disability on file in the San Francisco Mayor's Office of Disability. Articles regarding the blue placards, which appeared in Bay Area mainstream media, were also reviewed.

III. CALIFORNIA ACCOMMODATION FOR DISABLED PARKING

In the 1980s, the State of California recognized that people with disabilities would benefit from being able to park close to a destination by enacting provisions to make parking easier for people with mobility impairments. California Vehicle Code Sections 22500, 22507, 22511, and 22522 authorized the issuance of the plastic blue placard, meant to be displayed from within the vehicle and provided enforcement provisions. This blue placard is intended to help people with disabilities keep their independence and their mobility by making it easier and cheaper to park close to their destination. Putting aside the economic implications of a policy which permits the holder to park free of charge, it enables those with limited mobility to avoid returning to the parking site to feed the meter.

Blue placards are issued, in compliance with California Vehicle Code criteria, by the California Department of Motor Vehicles, to those with any of many and varied, permanently disabling conditions. Possession of a blue placard allows one to park at any legitimate curbside space, any green zone, any blue zone, or in any City-owned parking lot, but not in a City-owned garage, for up to 72 hours without paying any fees.

A blue parking placard, by law, can be used only:

- when directly transporting the person issued the blue placard, but may never be used by someone who transports the blue placard holder, if the holder is not present; and,
- if the authorizing documentation accompanies the registered holder, when the blue placard is displayed.

California Vehicle Code Section 4461 specifies the possible penalties for the misuse of a blue placard. These possible penalties, including a criminal misdemeanor charge, are printed directly on the documentation a blue placard holder is supposed to carry; the severity of these possible penalties is meant to deter misuse.

Because blue placards are issued to persons with permanent disabilities they become a permanent benefit. They are reissued every two years in order to reduce the unauthorized use of such placards, in the event the authorized holder has died or moved out of California.

Blue placards are a State program without any control or restrictions by local jurisdictions. The most a local jurisdiction is authorized to do is set up a local oversight monitoring committee. This oversight committee, with access to DMV data, would be able to track whether any of the many health care providers authorized to certify eligibility are authorizing numbers of blue placard applications far out of proportion to their professional colleagues. The DMV acts only as a passive custodian of the information contained in blue placard applications. It is up to each jurisdiction whether to set up such a local oversight monitoring body and then do its own research into DMV records.

In an effort to address the problem of abuse the City's Board of Supervisors is currently considering proposed ordinance amending the City's Traffic Code to provide for the establishment of the "Disabled Parking Review Panel" to monitor applications for placards and the health practitioners who certify them. Board of Supervisors proposed ordinance File No. 070409, introduced March 27, 2007.

The Department of Motor Vehicles also issues "red" placards to those with a temporary disability. These red placards automatically expire after six months. Though the red placard allows for the same parking privileges as a blue placard, the six months maximum makes it much less likely to be subject to abuse. Accordingly, this report will not address any aspect of red placards.

IV. DEMOGRAPHIC TRENDS AND STATISTICS ON DISABILITY

According to information published in the San Francisco Chronicle on March 26, 2007, which was gleaned from data at the DMV and at the California Department of Finance, approximately 50,000 blue placards have been issued to residents of City of San Francisco. That is more than double the approximately 24,000 assigned to San Francisco residents in 1996. This, according to statistics from DMV and the California Department of Finance, is slightly less than 7% of the City's population. This 7% is statistically very close to the ratio for each of the other Bay Area counties and for the State of California as a whole. The other eight Bay Area counties have also experienced a doubling in the numbers of authorized blue placards in the past ten years.

United States Census Bureau statistics from 2000, and the estimates for 2004, indicate that the percentage of people age five or older with a disability in each Bay Area county ranges from 15 to 20%.

The data indicate that the number of people in the Bay Area with any form of disability (15-20%) is more than double the number of currently-authorized blue placards in each of the Bay Area Counties (7%). These statistics do not bode well for citizens who routinely engage in the competition for curbside spaces. In other words, if everyone with a permanent disability also acquired a blue placard, then practically overnight there could be another doubling of blue placards issued. Additionally, the aging of the population in San Francisco, as well as the longer life expectancy, means there could be even more people who would qualify for a blue placard under current criteria.

Misuse of a blue placard by the able-bodied makes it harder for the disabled to maintain independence and mobility, if they cannot find convenient parking.

V. ENFORCEMENT DIFFICULTIES

The portability of blue placards may have unintended consequences. Because not every disabled person with a blue placard also drives, a caregiver may put the blue placard in the vehicle's glove compartment, ready to be used when transporting that person. This very portability makes blue placards easily available to family members or friends, who borrow them to avoid paying parking meter fees and/or obtain multi-hour parking near their own destination -- even though the authorized holder is not being transported.

Often, a person has a disability not readily apparent due to the absence of evidence -- such as a cane, crutches, walker, wheelchair, prosthesis, and/or guide dog. For instance a person with pulmonary or circulatory impairment can meet the criteria for permanent disability, yet not fit the visual stereotype of "disabled."

Both the portability of blue placards and law enforcement's need to directly observe a failure of compliance, sometimes results in the decision of non-disabled people "to borrow" a blue placard from the holder and to take their chances on evading observation and enforcement.

In some parts of San Francisco, such as downtown and nearby areas, curbside spaces are frequently filled throughout the work day with cars displaying blue placards. Census data indicate that rates of full-time employment (25%) and of under-employment (66%) of people with disabilities are so low as to call into question whether all such cars displaying blue placards in the crowded central business district are actually transporting the disabled holders of the placards.

Legal requirements more cumbersome than those required for issuing normal parking violations impede the issuance of citations for violations of blue placard laws. Any enforcement action must be based on "probable cause," i.e., some observed violation of parking laws -- such as overtime parking at an expired meter. The requirement of the actual observance of a probable violation of blue placard compliance means that any

jurisdiction seeking to enforce compliance must allocate substantial resources of staff and time to the effort.

The San Francisco Municipal Transportation Agency's Department of Parking & Traffic (DPT) has developed a special unit for enforcement. Working in this special unit also requires additional training -- in conflict resolution and in sensitivity to people with disabilities. DPT's policy requires the presence of two Parking Control Officers for the issuance of a citation regarding blue placard laws. One officer interacts with the driver, while the other officer is there as a potential witness, in the event the citation is challenged. This burdensome process results in the issuance of fewer citations for blue placard violations than for any other type of parking offense.

This DPT unit also engages in "stings", whereby City blocks observed to have a disproportionate number of people using blue placards are the object of a stakeout by DPT enforcement staff who watch for violations. While somewhat successful, the sting operations are limited to two a month, until more Parking Control Officers are hired and trained.

VI. APPLICATION PROCESS AND IMPLICATIONS

State law authorizes many and various health care practitioners -- from audiologists all the way through to some categories of social workers -- to certify someone as eligible for a blue placard. This very multiplicity of types of certifiers also makes it easier for anyone to shop around for a practitioner who will quickly sign one's application for a blue placard. Further, since certification does not automatically require an actual full-scale exam by the practitioner, the application can be completed by office staff -- figuratively rubber-stamping the application. There is little incentive for practitioners to say no, but considerable incentive to agree to the certification. Practitioners might worry that their failure to sign the authorization may result in the loss of their patient to another practitioner.

VII. CONCLUSION

Misuse of placards hurts people with disabilities. Misuse also lessens cash revenues for both the City's General Fund and the San Francisco Municipal Transportation Agency (MTA), which includes the Department of Parking and Traffic (DPT).

Blue placards allow people to park all day -- and all night -- without paying a fee, without risk of a citation. The unusual benefits of blue parking placards -- free and nearly

unlimited parking at a metered space, for up to 72 hours make them attractive in a City with limited curbside spaces, practically guaranteeing misuse.

The low staffing levels at DPT impede all enforcement efforts, such as citing individuals and conducting neighborhood stings. This difficulty of enforcement, plus the wide-open eligibility criteria, the multiple types of health care providers authorized to sign-off on eligibility – all contribute to the probability of abuse -- first, in the issuance of and, second, in the use of blue placards.

Furthermore, California's blue placard provisions were enacted in the 1980s, prior to the passage of the Americans with Disabilities Act. Since the initial legislation, the State of California has never entertained any significant revisions, either to the qualifying criteria, or to the free and practically unlimited time for which a blue placard can be used at any one space.

The Civil Grand Jury does not know if DPT collects data from blue placard citations or analyzes data for whether:

- Blue placard citations are fined at the maximum levels possible;
- There is consistency in imposing fines for blue placard misuse; and/or
- There are actual guidelines for hearing officers and others involved in levying fines for blue placard citations.

The Board of Supervisors Ordinance File No. 070409, discussed earlier, also amends the Traffic Code to add a \$100 local surcharge to some of the existing fines for abuse of disabled parking laws. The additional collected revenue would be used for the purpose of improving enforcement of the disabled parking laws.

VIII. FINDINGS AND RECOMMENDATIONS

Finding I: San Francisco has no direct control over the issuance of blue placards to residents.

Finding II: San Francisco can only monitor the issuance of blue placards for apparent compliance.

Finding III: State law allocates to local jurisdictions only a small percentage of the fines collected for citations for blue placard abuse.

Finding IV: The Board of Supervisors has before it a proposed ordinance which appears to address abuse in the issuance and the use of blue placards.

Responses required from	The Office of the Mayor(60 days), Municipal Transportation Agency (MTA) (60 days), The Board of Supervisors (90 days)
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- **Recommendation I:** The San Francisco MTA should contact the League of California Cities, the California State Association of Counties, and the California Public Parking Association to determine whether they get complaints from their members about apparent blue placard abuse.

Responses required from	Municipal Transportation Agency (MTA) (60 days)
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- **Recommendation II:** The San Francisco Board of Supervisors should approve ordinance File No. 070409.

Responses required from	The Board of Supervisors (90 days)
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- **Recommendation III:** The San Francisco MTA should request the City of San Francisco's State Legislative delegation to consider requesting some form of state legislative hearing on blue placard abuse and on updating criteria for issuance and for use.

Specifically the State Legislative delegation should look at:

- Authorizing and requiring DMV to affix to the back of a blue placard a photo of the certified disabled user, so as to make easier and faster any determination of appropriateness of use.
- Consideration of whether eligibility criteria, written prior to the passage of the Americans With Disabilities Act are still fully appropriate for California's changing population, or whether blue placard eligibility criteria should be changed;
- Consideration of whether there should be any time limitation[s] on curbside meter parking.

Responses required from	Municipal Transportation Agency (MTA) (60 days), The Office of the Mayor (60 days), San Francisco State Legislation Committee (60 days), The Board of Supervisors (90 days),
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- **Recommendation IV:** The Municipal Transportation Agency should aggressively pursue funding for training more Parking Control Officers for monitoring of blue placard abuse.

Responses required from	Municipal Transportation Agency's Department of Parking and Traffic (MTA's DPT) (60 days)
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- **Recommendation V:** The blue placard hotline phone number should be added to all street cleaning signs and added on all signs marking a dedicated blue placard space.

Responses required from	Municipal Transportation Agency's Department of Parking and Traffic (MTA's DPT) (60 days)
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- **Recommendation VI:** Municipal Transportation Agency should request that sentencing guidelines for blue placard citations should be reviewed and then be strictly enforced, within the limits of judicial discretion.

Responses required from	Municipal Transportation Agency's Department of Parking and Traffic (MTA's DPT) (60 days) Office of the City Attorney (60 days)
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- **Recommendation VII:** The Board of Supervisors should pass the proposed Ordinance File No. 070409 to increase the fines for improper use of blue placards and the Mayor should sign such legislation.

Responses required from	The Office of the Mayor (60 days) The Board of Supervisors (90 days)
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IX. SUMMARY CHART OF REQUIRED RESPONSES

Findings	I	I	II	IV							
Recommendations					I	I	II	IV	V	VI	VII
Requires Response in 90 days:											
The Board of Supervisors	•	•	•	•		•	•				•
Requires Response in 60 days:											
The Office of the Mayor	•	•	•	•			•				•
Municipal Transportation Agency (MTA)	•	•	•	•	•		•				
Municipal Transportation Agency's Department of Parking and Traffic (MTA's DPT)								•	•	•	
San Francisco State Legislation Committee							•				
Office of the City Attorney										•	

APPENDIX:
BIBLIOGRAPHY

San Francisco Board of Supervisors, Proposed Ordinance File No 070409, ROBERT GREENSTRAND DISABLED PARKING PROGRAM, introduced March 27, 2007.

California Vehicle Code Sections: 22507.8, 22511.5, 22511.55, 22511.56, 22511.57, 22511.58, 22511.59, 22511.6, 22511.7, 22511.8, 22511.10, 4461

San Francisco Chronicle, March 26, 2007 – Disabled Placards Proliferate, by Rachel Gordon

United States Census Bureau QuickFacts [<http://quickfacts.census.gov/>]