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August 21, 2014

The Honorable Cynthia Ming-mei Lee
Presiding Judge
Superior Court of California
City and County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Re: In the Matter of the 2013-2014 Civil Grand Jury Report "Ethics in the City: Promise, Practice or Pretense"—District Attorney's Response

Dear Judge Lee:

Pursuant to California Penal Code sections 933 and 933.05, I write to provide the District Attorney's response to Findings 1a through 1f, and to Recommendation 1, of the Civil Grand Jury's report entitled "Ethics in the City: Promise, Practice or Pretense," issued in June 2014.

Finding No. 1a: The Ethics Commission lacks resources to handle major enforcement cases. These include, for example, cases alleging misconduct, conflict of interest, violating campaign finance and lobbying laws, and violating post-employment restrictions.

Response to Finding No. 1a: The District Attorney defers to the Ethics Commission's response to this finding.

Finding No. 1b: The Ethics Commission has only two investigators.

Response to Finding No. 1b: The District Attorney agrees with this finding.

Finding No. 1c: The confidentiality required of Ethics Commission investigations runs counter to the Commission's other duties to make information more public and to increase the transparency of government.

Response to Finding No. 1c: The District Attorney disagrees with this finding. The Commission is in the same position with respect to the timing of any public disclosure of violations whether the investigation is conducted by the Commission, the City Attorney, the District Attorney or the Fair Political Practices Commission. In order to insure that the investigation of an ethics complaint is not compromised, public disclosure typically must wait until the investigation is complete.

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

Response to Finding No. 1d: The District Attorney agrees with this finding.

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

Response to Finding No. 1e: The District Attorney has insufficient information to agree or disagree with this finding.

Finding No. 1f: Enforcement is best handled outside of the environment of political partisanship and preferences.

Response to Finding No. 1f: The District Attorney agrees that enforcement of ethics violations should be free from political partisanship and preferences. The District Attorney does not agree with this finding to the extent it implies this cannot be accomplished when enforcement is handled by local agencies.

Recommendation No. 1: The Jury recommends a contract with the Fair Political Practices Commission for at least a two-year pilot basis to enforce both state and related San Francisco law violations.

Response to Recommendation No. 1a: The recommendation will not be implemented by the District Attorney. The District Attorney has no role in contracting on behalf of the City. Additionally, the enforcement authority of the Ethics Commission is governed by the San Francisco Charter (see Section 3.699-12).

Respectfully,

George Gascón
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