



August 25, 2014

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

Dear Judge Lee:

Pursuant to Penal Code sections 933 and 933.05, the following is in reply to the 2013-2014 Civil Grand Jury report, *Ethics in the City: Promise, Practice or Pretense*.

First, I would like to thank the Jury for their interest in ethics and their work in drafting this report. Residents deserve ethical government decision-making and administration. When ethical behavior is absent, trust in government to perform effectively and in the public interest is lost.

It should be noted that the Jury states that "officials at all levels have impeded actions intended to establish a culture of ethical behavior" and that "Jury members were concerned about reports of apparent improper actions by City officials and departments with little or no evident enforcement responses." I respectfully disagree with these statements – no actual misdeeds or examples are provided as evidence in the report.

Citizens should understand that City leaders and staff conduct themselves responsibly, professionally, and ethically. Officeholders and decision makers must follow extensive local and state regulations and disclosure requirements which include the following:

- Public access to meetings
- Public records access
- Campaign finance disclosures
- Statement of economic interests disclosure
- Gift disclosures
- Gift of travel disclosures
- Behested payments disclosures
- Lobbyist disclosures
- Annual ethics and sunshine training
- Sources of outside funding disclosures
- Post-public employment restrictions
- Public officials calendar disclosure
- Whistleblower protections
- San Francisco Ethics Commission and Sunshine Reform Task Force enforcement
- State enforcement of the Political Reform Act through the Fair Political Practices Commission

Leaders and staff regularly comply with these requirements. On the rare occasions when those required to comply do not, remedy and enforcement can be sought through the Ethics Commission, Sunshine Reform Task Force, and Fair Political Practices Commission.

Thoughtful suggestions to improve the many laws, regulations, and procedures already in the Charter and administrative code are welcome. Just recently, the Board of Supervisors strengthened the lobbying ordinance. But it should be restated that the ethics laws in San Francisco are already comprehensive and wide in scope.

The Mayor's Office response to the Civil Grand Jury's findings and recommendations is as follows:

Finding 4: Some information currently reported and posted is not put into the standard searchable electronic format. The Jury specifically finds that contract approval forms, Form 700 forms, behested payments forms, and Lobbyists On Behalf Of the City forms can be converted to a searchable format before they are posted.

Response: *Agree.* Some information filed with the Ethics Commission is not currently in a searchable electronic format.

Recommendation 4: That contract approval forms be converted to a format which allows searches by the name of the official, by the name of the contractor, the value of contracts and the date the contract was signed. Behested payments information should be filed electronically in a format that allows for searches and data aggregation. Form 700s should be formatted to allow data to be searched on income sources, outside employment, gift sources and travel.

Response: *Recommendation partially implemented. (Recommendation will not be implemented for behested payments which are not filed with the Ethics Commission.)*

The Ethics Commission notes that they plan on implementing this recommendation over time as resources become available. Converting each type of form into a searchable format requires the development of software platforms. Absent the proper software, data would have to be entered manually. Manual entry is an unattractive option for the Ethics Commission due to the cost of staff time and the potential for transfer error.

It should be noted that 2014 is the first time that all Form 700 financial disclosures filed with the Ethics Commission had to be submitted electronically. Since there is no specified state electronic schema for these forms, creating a searchable database would be risky as it might not conform to state standards when they are eventually promulgated.

San Francisco is ahead of the majority of jurisdictions in this area and processes filings in a matter of minutes. The Federal Election Commission takes weeks and in some cases more than a month to process campaign finance filings of federal candidates.

Finding 5: Required filings are treated independently and cannot easily be cross searched electronically using common data reference fields like name and organization to access and aggregate information types, such as dollar amounts, that cross between filings.

Response: *Disagree in part.* Required filings are treated independently. However, campaign and lobbyist filings are compiled on DataSF and the information can be searched, aggregated, and visualized for effect.

Recommendation 5: The Ethics Commission work to develop a common format database for data posted to DataSF, initially aiming to combine campaign, lobbying and Form 700 data.

Response: *Recommendation partially implemented/partially awaiting state action.* The Ethics Commission and its Executive Director note in their response that campaign and lobbyist data are already available in a common database format on DataSF. Form 700 data is not on DataSF because a state data schema has yet to be defined by the Fair Political Practices Commission.

Finding 20: Both the Ethics Commission and the Sunshine Ordinance Task Force act in good faith. They are authorized to come to similar ends – transparency in government. However, there are legal and procedural differences between their process and their legal requirements. Therefore, the results of their work are not in harmony with each other.

Response: *Agree.* Unlike the Sunshine Ordinance Task Force, which is an advisory body, the Ethics Commission is a law enforcement agency with the ability to impose monetary and other sanctions and its procedures are more substantial. Often, differences are based more on interpretive actions.

Recommendation 20a: The Mayor's Office should establish a blue-ribbon committee of experts and stakeholders in open government, sunshine and transparency, including former Sunshine Task Force members. The Committee of Experts should review and update the Sunshine Ordinance as necessary and should report to both entities and the Board of Supervisors recommendations that would result in coordination and respect for the functions of each entity.

Response: *Recommendation will not be implemented, not warranted.* The establishment of a new committee is not necessary to revise San Francisco campaign and ethics laws. The Ethics Commission can submit legislation directly to the Board of Supervisors. Additionally, proposed revisions to the Sunshine Ordinance can be offered by experts and stakeholders outside of the committee process. Most recently, Supervisor David Chiu proposed changes to the lobbying ordinance that were eventually approved by the Board of Supervisors.

Recommendation 20b: For now, arrangements should be made jointly by the Ethics Commission and the Sunshine Ordinance Task Force to have complaints heard by an independent hearing officer who would develop a consistent legally sufficient record of the case for the decision of each body. This would allow the meetings of the Task Force and the Commission to focus on broader policy issues.

Response: *Recommendation will not be implemented.* There is no procedure in the voter adopted Sunshine Ordinance to allow for adjudication of complaints by an independent hearing officer. The Ethics Commission is the officially appointed body that investigates referrals and complaints from the Sunshine Reform Task Force.

Finding 24a: The Jury was unable to locate and the Ethics Commission was unable to provide copies of any reports or notes of oral presentations to the Mayor or to the Board of Supervisors as required in the Charter to report annually on the effectiveness of San Francisco's ethics laws.

Finding 24b: The Jury was unable to locate any reports that reviewed changes in laws aimed at transparency and ethical conduct adopted in other jurisdictions that might be relevant to San Francisco. The only references were to changes based on court decisions that resulted in less public disclosure and less protection against the influence of money in politics even when those decisions were not based on San Francisco cases.

Response (24a and 24b): *Disagree in part.* The Executive Director of Ethics Commission is in regular contact with both the Legislative and Executive Branch. The Ethics Commission provides comment and analysis of the legislative changes proposed by the Board of Supervisors.

Finding 24c: The proper standard to judge the effectiveness of laws is to consider their ability to achieve the purposes set forth when they were enacted.

Response: *Agree.*

Recommendation 24: The Mayor and the Board of Supervisors should request an annual written report from the Ethics Commission that meets the standards set out in the Charter for annual reviews of the effectiveness of the City's laws. This report should be posted on the Ethics Commission web site.

Response: *Recommendation will not be implemented, not warranted.* This recommendation appears unnecessary. The City Charter mandates an annual review of law effectiveness, not a written review. The Ethics Commission and the Executive Director communicate to the Mayor and Board through memos, oral testimony, in-person meetings and the Annual Report.

Finding 26: The Ethics Commission, though its staff, can catalog information reported elsewhere that is relevant for supplemental understanding of information currently reported locally. Links to this information would be a logical addition to the Ethics Commission web site.

Response: *Agree in part.* The Ethics Commission already provides links to information not reported in San Francisco.

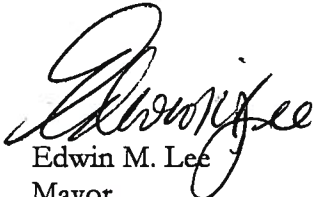
Recommendation 26: The Ethics Commission should determine information reported elsewhere that is relevant for supplemental understanding of information currently reported locally, and provide links to it on the Ethics Commission web site, if it cannot be imported and posted.

Response: *Recommendation already implemented.* The Commission's website is already considered among the best and most comprehensive sites in the country. Links to the Secretary of State's CAL-Access database and material on the Fair Political Practices Commission web site are easy to access. The website will continue to link to other relevant web sites where appropriate.

Mayoral Response to the Civil Grand Jury – Ethics in the City
August 25, 2014

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

Sincerely,



Edwin M. Lee
Mayor



Joy Bonaguro
Mayor's Chief Data Officer