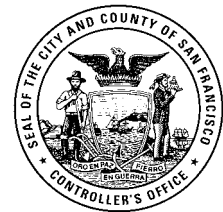


BOARD OF SUPERVISORS:

Status of the Implementation of the
Recommendations of the San
Francisco Civil Grand Juries for
Fiscal Years 2003-04 and 2004-05

**FINANCIAL AUDITS
DIVISION**



May 23, 2006
05070



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ed Harrington
Controller
Monique Zmuda
Deputy Controller

May 23, 2006

Audit Number 05070

Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

President and Members:

As required by Section 2.10 of the San Francisco Administrative Code, the Office of the Controller presents its report on the status of the implementation of the recommendations of the San Francisco civil grand jury.

As requested by the fiscal year 2004-05 San Francisco Civil Grand Jury, this office will track the implementation of recommendations of former civil grand juries until the respondent indicates an agreed-to-be-implemented recommendation is fully implemented or abandoned because it is no longer reasonable or warranted. This report presents the status of the implementation of the recommendations made by the San Francisco civil grand juries for fiscal years 2003-04 and 2004-05.

Respectfully submitted,

Original signed by:
Ed Harrington
Controller

PREFACE

This report by the Office of the Controller of the City and County of San Francisco (City) summarizes the findings and recommendations in the reports issued by San Francisco civil grand juries for fiscal years 2003-04 and 2004-05.

California Penal Code Sections 933.05(a) and (b) requires the responding party to report for each recommendation of the civil grand jury one of the following actions:

- 1) The recommendation has been implemented, with a summary of the implemented action.
- 2) The recommendation has not yet been implemented, but will be implemented in the future, with an anticipated timeframe for implementation.
- 3) The recommendation requires further analysis, with an explanation and the scope and parameters of any analysis or study; and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- 4) The recommendation will not be implemented because it is not warranted or it is not reasonable, with an explanation thereof.

We requested respondents to submit their responses following this format. While many of the respondents complied with our request, others did not. For all respondents, we present their responses in their entirety as received by this office.

CONTENTS

Part A **Fiscal Year 2003-04 Civil Grand Jury Reports**

Chapter 1	The Merger of Emergency Medical Services and the San Francisco Fire Department: A Match Made in Heaven or Shotgun Wedding?	1
Chapter 2	On-Time Performance & Service Goals Remain a Fiction: Muni's Mismanagement And Worker Problem	21
Chapter 3	The More Things Change, the More They Stay the Same: The City and County Of San Francisco and the San Francisco Unified School District Are Failing to Address the Educational Needs of the Bayview Hunters Point Community	37
Chapter 4	County Community Schools. Poor Stepchildren of the San Francisco Unified School District	43
Chapter 5	The San Francisco Sheriff's Department Grievances. A Solution	53
Chapter 6	Incarceration and Beyond. Where do we go from here?	59
Chapter 7	San Francisco Department of Child Support Services: Putting the Children First	65
Chapter 8	Continuity Report	73

Part B **Fiscal Year 2004-05 Civil Grand Jury Reports**

Chapter 9	Compensation Issues in the San Francisco Police Department	79
Chapter 10	A New Chief of the Juvenile Probation Department: An Opportunity for Reform	85
Chapter 11	The San Francisco Ethics Commission: Budgeting and Staffing Issues	97
Chapter 12	What is the Difference Between a Contract and a Grant?	103
Chapter 13	City Contracting and Affirmative Action	111
Chapter 14	Employee or Independent Contractor?	115
Chapter 15	Continuity Report	119
Appendices	Members of the Civil Grand Jury	125

Part A
Fiscal Year 2003-04
Civil Grand Jury Reports

CHAPTER 1

THE MERGER OF EMERGENCY MEDICAL SERVICES AND THE SAN FRANCISCO FIRE DEPARTMENT: A MATCH MADE IN HEAVEN OR SHOTGUN WEDDING?

BACKGROUND

The 2003-04 Civil Grand Jury investigated the status of Emergency Medical Services (EMS) that merged with the San Francisco Fire Department (SFFD) in 1997.¹ Following a national trend, the Department of Public Health (DPH) and the SFFD agreed to merge EMS into the SFFD in the late 1990s. The merger was seen as a way to get better and faster deployment of EMS services and to better utilize the rich resources of SFFD. Representatives from DPH and SFFD planned for the phased merging of the two services.

DPH paramedics joined the SFFD in 1997, and were given the choice to remain as paramedics or to be fully trained as firefighters. Firefighters were given the opportunity to become cross-trained as paramedics. Members who cross-trained were then eligible to serve in the newly created firefighter/paramedic rank. Cross-training was encouraged and incentives were put in place in addition to a 15% higher salary for firefighter/paramedics.

Since the merger, the Department has had three rather short-term Chiefs. As a result, continuous, long-term leadership at the top and a shared vision for the SFFD has been lacking. Chief Joanne Hayes-White, appointed in January 2004, is the fourth Chief since the merger took place in 1997. A lack of strong leadership has allowed for conditions in the Department, which adversely impact the integration of EMS and fire suppression into an effective team.²

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Civil Service Commission
Director, Department of Public Health
Fire Chief
Fire Commission
Health Commission

¹ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

² This report of the SFFD and EMS merger is issued by the 2003-2004 Grand Jury with the exception of one member of this Grand Jury who is an employee of the San Francisco Fire Department. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1 The planning document for the merger, “Optimizing the Configuration of San Francisco's Emergency Medical Services, Fire Based Response and Transportation System, Phase II Report, Amended February 1997,” (hereinafter referred to as the Phase II document), does not include criteria for success or for determining when the merger is complete.

1.2. Section 112 of the San Francisco Health Code authorizes the Fire Department to provide emergency medical services “without diminishing the authority of the (Department of Public Health) San Francisco Emergency Medical Services Agency.”

1.3. Although Emergency Medical Services are provided by the SFFD, DPH is responsible for its effectiveness.

1.4. There is no consensus among the Fire Commission, the Fire Chief and the DPH on whether the merger has been completed.

1.5. The Phase II document created the position of SFFD Medical Director, who reports directly to the Director of Public Health and serves as a consultant and advisor to the Fire Chief on medical issues. The responsibilities of the position are limited to quality improvement, medical control and accountability, and compliance with all applicable regulations and statutes. The SFFD Medical Director does not have a policy advisory role in SFFD and is not paid by SFFD. (See Appendix A, Phase II Organizational Chart.)

1.6. There is no reporting relationship between the Fire EMS Medical Director and the DPH EMS Medical Director who, as the head of the Emergency Medical Services Agency, is otherwise responsible for all EMS in the City and County.

1.7. The Chief of EMS in SFFD is one of eight division chiefs who report to the Chief of Department through the Deputy Chief of Operations. (See Appendix B, SFFD 2004 Organizational Chart.)

1.8. Although 70% or more of the calls to which the Department responds are EMS in nature, the fire suppression mission is valued above EMS by Department leadership, ranking officers, Local 798 and many rank and file.

1.9. Calls for EMS average about 200 per day, whereas those for actual fires (as opposed to false alarms and other calls that are counted as fire suppression responses) are one or two per day citywide.

1.10. Numbers of fire suppression calls are inflated. For example, according to the Controller's Office report, “A Review of the San Francisco Fire-EMS System, April 28, 2004 (hereinafter referred to as the Controller's report): “*suppression*, as a category, includes a number of response types not related to fires; *medical*, as a category, includes medical responses only.”

1.11. The Controller's report also found that 47% of the fire suppression workload is in responding to street box and commercial alarms. Twenty thousand responses a year or nearly 25% of suppression workload are for street box alarms. Ninety-five percent (95%) of street box alarms are false. Of those that are not false, 80% are calls for medical attention.

1.12. The Controller's report notes also that all alarms “are typically responded to with both a truck and an engine and are dispatched as highest priority (Code 3).” A Code 3 response to alarms seems excessive given the high percentage of them that are false.

1.13. Firefighter/paramedics are treated like second-class citizens by their fire fighting peers and some officers. (See specific examples in the section on harassment.)

RECOMMENDATIONS:

1a. SFFD and DPH should establish specific criteria for measuring the success of the merger. They should determine the steps necessary to complete the merger. Steps to be taken and the establishment of timelines should be delineated and agreed upon as soon as possible.

Department	Response	Explanation
Director, Department of Public Health	--	<p>Although we did not set specific criteria during the merger, I am pleased with the successes that we have achieved:</p> <ol style="list-style-type: none"> 1) Shorter response times to both life-threatening medical emergencies and to urgent calls. 2) Increased number of ambulances on San Francisco streets. 3) Single communication system for coordinating actions during emergencies. 4) Single chain of command for swift response during emergencies. <p>The San Francisco Fire Department and the Department of Public Health continue to work together to make adjustments to improve the configuration of pre-hospital care response and transport units. Since the merger, the San Francisco Fire Department has used firehouses throughout the City and County of San Francisco to deploy ambulances. Paramedics have mirrored firefighters and work 24-hour shifts.</p> <p>On average, there are 20 – 24 ambulances on duty 24 hours a day and two additional short shift ambulances during peak periods. In addition, the SFFD has augmented response efforts with 22 Advanced Life Support [ALS] fire engines.</p> <p>The SFFD discovered that for many paramedics, 24-hour shifts caused fatigue and impacted job performance. After meeting with the two labor unions representing the paramedic classes, the SFFD rethought deployment and is moving back to shorter shifts and a dynamic deployment model. The paramedic firefighters will continue to work 24-hour shifts, and will be rotated to fire engines to operate as first response paramedics, this will complete the deployment of ALS engine companies throughout the City. Those paramedics who will now be working on short shift ambulances will work a combination of eight and ten hour shifts to accomplish a peak load staffing and utilize a dynamic deployment of moving ambulances to satisfy the constantly changing resource needs throughout the neighborhoods of the City.</p> <p>The first class of experienced paramedics from outside of the Fire Department was started in mid March 2006 with the goal of preparing this new workforce to respond and transport starting in late April to early May. This class of newly oriented paramedics will be followed by three more in succession to fill in the ranks of dynamic deployed ambulances.</p> <p>When the project has been completed in 18 – 24 months, there will be 20 peak load staffed ambulances, dynamically deployed; four 24- hour special operations ambulances, and 42 ALS engine companies. As the system develops in parallel to a new Performance Management Program, additional quality management personnel will be added.</p>

Department	Response	Explanation
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	DPH merger of Paramedic Division into the SFFD on July 1, 1997 has been completed. Now into implementation phase of EMS reconfiguration.
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p><i>(2005 response)</i> Reference is made to the attached Fire Commission Resolution 05-4, which provides that the EMS Reconfiguration is to be measured as follows:</p> <p><i>"Success of the reconfiguration will be monitored and reported on a continual basis and measured by the following factors: maintenance or improvement of current patient outcomes; maintenance or improvement of current response times; achievement of uniform response times among the City's battalion districts; compliance with accepted and applicable standards for the provision of pre-hospital emergency care; compliance with EMSEO Section and Department agreed upon standards and Continuous Quality Improvement guidelines; reduction in the current level of fatigue experienced by EMS responders and transporters; fiscal accountability; and the effect on the ability of the Department to provide a balanced response to all types of emergencies;</i></p> <p><i>"The Chief of Department shall report to the Commission on a quarterly basis, or more often as circumstances warrant, on the progress and success of the reconfiguration, and shall make recommendations to the Commission concerning any proposed changes to the hiring and deployment schedule outlined above;"</i></p> <p><i>It should be noted that the EMS Reconfiguration is at the beginning stages, with no new personnel or apparatus deployed as yet. It is anticipated that the first new ten hour shift Paramedic/EMT ambulances will be deployed in January 2006.</i></p> <p><i>The Fire Commission continues to receive regular reports from the Chief of Department and her administration concerning the Department's provision of EMS services, including response times, quality of service, significant events and the progress of the EMS Reconfiguration.</i></p> <p><i>(2004 response)</i> Agree. The Commission agrees with this recommendation to the extent that it suggests the establishment of specific criteria for measuring the success of the Department's provision of Emergency Medical Services. This recommendation will be implemented, understanding that the Commission views the merger as having already been "completed", but with the view that goals and timelines for further improvement should be established and articulated and accomplishment of those goals measured.</p>
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

1b. Once criteria and timelines are established, the Chief and the Fire Commission should be held accountable by the Mayor for achieving them.

Department	Response	Explanation
Director, Department of Public Health	--	The Fire Department now submits a quarterly report with specific indicators to the Health Commission on the progress of the new configuration. The new Performance Management Program will augment existing efforts and improve quality assurance.

Department	Response	Explanation
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	Refer to 1a
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p><i>(2005 response)</i> <i>The Commission continues to agree that it should be accountable for all goals established for the Fire Department, and remains accountable for such.</i></p> <p><i>(2004 response)</i> <i>Agree, as noted in 1a, above. The Commission is accountable to the Mayor and agrees that it should be accountable for all goals established for the Fire Department.</i></p>
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

1c. The Mayor should appoint a health professional, preferably one with Emergency Medical Services experience, to the Fire Commission.

Department	Response	Explanation
Director, Department of Public Health	--	Not applicable to the Health Department
Fire Chief	--	Implementation independent of Department
Fire Commission	--	(The commission did not comment on this recommendation.)
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

1d. The Fire and Health Commissions should meet jointly at least quarterly for better oversight of SFFD EMS.

Department	Response	Explanation
Director, Department of Public Health	--	The Health Department agrees that joint meetings between the Commissions, as occurred during the pre-merger discussions, would be worthwhile. While no joint meetings have occurred this fiscal year, the Fire Chief attended one Health Commission meeting to discuss system changes within the Fire Department. Dr. John Brown, EMS Medical Director regularly attends the Fire Commission meetings.
Fire Chief	--	Implementation independent of Department
Fire Commission	--	(The commission did not comment on this recommendation.)
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in

Department	Response	Explanation
		the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations. I am writing to reiterate the Health Commission's commitment to implementing Recommendation 1d, which is that the Fire and Health Commissions meet at least quarterly. As Dr. Katz said in his response, no joint meetings have occurred this fiscal year, however the Fire Chief attended one Health Commission meeting to discuss system changes within the Fire Department. The Health Commission is committed to holding a joint meeting with the Fire Commission in the next year, and I will work closely with the President of the Fire Commission to schedule this.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

1e. Department leadership should define and communicate the values of the department so that EMS is seen to be at least as important as fire suppression, as stated in the SFFD's mission statement. The Fire Commission, the Chief and Department leadership should promote and support EMS by communicating the value of its mission throughout the Department.

Department	Response	Explanation
Director, Department of Public Health	--	Not applicable to the Health Department.
Fire Chief	Recommendation Implemented	Implemented as reported in June 2005 – The provision of Emergency Medical Services is an integral part of our core mission. This Administration continues to articulate that both the EMS and suppression missions define our organization. The message is clear and unequivocal; neither EMS nor Fire suppression has to win at the expense of the other. Our Department will only be successful if these two goals are integrated into a cohesive, unified vision for the future of our Department.
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p><i>(2005 response)</i> <i>The Commission continues to stress the importance of the EMS mission of the Department. This is evidenced by Resolution 05-4 and continues to be publicly stated by individual Commissioners during Commission meetings. The Chief of Department and her administration continue to communicate this message.</i></p> <p><i>(2004 response)</i> <i>The Commission agrees with this recommendation, which has already been implemented. The Commission, in its Annual Statement of Purpose posted on the Commission web site, recites that the provision of emergency medical services, together with fire suppression and fire prevention is an integral part of the Department's mission. The Commission has also communicated the importance of the Department's EMS mission in public statements during both regular and special Commission meetings.</i></p> <p><i>In addition, at a special meeting convened by the Commission on August 12, 2003 specifically for the purpose of considering steps to take to improve the progress of the merger and to respond to complaints from Firefighter-Paramedics, the Commission sought and obtained public comment from members. Following this meeting, two Commissioners undertook a series of individual meetings with all stakeholders in regards to the merger and the complaints since reiterated in the Report. These Commissioners publicly announced and repeated the importance of the EMS mission during the November 25, 2003 Commission meeting. (See minutes of August 12, 2003 Special Meeting and November 25, 2003 Regular Meeting.) Additionally, in communications with Department membership and administration, Commissioners have stressed the importance of</i></p>

Department	Response	Explanation
		<i>a team approach of all segments of the Department in carrying out its mission to provide fire prevention, emergency medical services, fire suppression, rescue and hazardous materials response. The Chief of Department has clearly and unequivocally communicated the same message.</i>
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

1f. Given that most alarms are false and those that are not are medical in nature, SFFD should respond with appropriate staff and equipment.

Department	Response	Explanation
Director, Department of Public Health	--	Not applicable to the Health Department.
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	The SFFD responds with the appropriate number and type of apparatus to the calls that are received. Until proven otherwise, every alarm is a true emergency. The Department currently responds, and will continue to respond, with all necessary apparatus and personnel, as determined by the Chief of Department and her Command Staff.
Fire Commission	Recommendation Implemented	<p>This recommendation has already been implemented as previously stated. (See below) At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p>(2005 response) <i>The EMS Reconfiguration has been developed by the Department and approved by the Commission as a means of further enhancing the provision of Fire-based EMS service to the public. The Department continues to respond with appropriate staff and equipment to fire, medical and other emergencies.</i></p> <p>(2004 response) <i>This recommendation has already been implemented. Additionally, the EMS configuration study is currently underway to refine the Department's delivery of EMS services and ensure that the most effective and efficient combination of resources is brought to bear on medical and other emergencies. The Commission does not agree with the inference that there has been a disproportionate emphasis on fire suppression, but agrees with the recommendation that the Department should respond with appropriate staff and equipment.</i></p>
Health Commission	--	The Health Commission and the Health Department have been asked to provide a status report on implementation of recommendations included in the 2004 Grand Jury Report on the merger of EMS and the San Francisco Fire Department. You received a response memo from Dr. Mitch Katz, Director of Health, dated April 11, which addresses the status of the outstanding Health Department/Health Commission recommendations.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department and Department of Public Health status reports.

FINDINGS:

- 2.1. Local 798 has been cited at all levels within and without the Department as a major impediment to the integration of EMS into the Department.
- 2.2. Local 798 and a vocal core of SFFD personnel perpetuate a culture that values fire suppression over emergency medical services.
- 2.3. An article in the November/December 2003 issue of “Mainline,” a Local 798 publication, targeted two EMS officers, accusing them of illegitimately negotiating with the City as representatives of the Department. In a letter to the Fire Commission a DPH official subsequently refuted the allegations. Shortly after Chief Hayes-White assumed office, these two EMS officers were demoted and reassigned. Whatever the reasons for the reassignment, the perception is that the demotions were made to satisfy Local 798.
- 2.4. Leadership of Local 798 has been accused of trying to intimidate firefighter/paramedics and other members of the Local by publicly accusing them of being “snitches” in Union meetings.
- 2.5. The Secretary of Local 798 labeled SFFD personnel who speak out and report on-duty drinking as “snitches” in the February/March issue of “Mainline,” the publication of local 798.
- 2.6. The Chiefs response (as quoted by the 3/26/04 San Francisco *Chronicle*) reminded members that they had an obligation to report violations through the chain of command. In addition, she said that retaliation or threats against those who report such violations is also a violation. Many saw this as a weak response to the Union. Further, her comments fail to recognize that the reason members have gone outside the Department chain of command is because the Department has failed to deal with the problem.
- 2.7. An article in the April/May issue of “Mainline” discusses the gatherings firefighters have when a member retires or dies and the feelings of pride the gatherings engender. The author seems to equate the recent termination of a probationary firefighter, who tested positive for alcohol levels in excess of SFFD regulations to termination due to death or retirement. The final sentence, “Are YOU finally PROUD?” is presumably directed at those whom the author feels are responsible for reporting that the firefighter was under the influence of alcohol.

RECOMMENDATION:

2. Department leadership should confront the commonly held perception that Local 798, rather than the Chief, is “running the department.”

Department	Response	Explanation
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	The Chief of Department attempts to maintain productive working relationships with all employee groups; however, she is the sole arbiter of decisions that affect the operations and administration of the Department.

FINDINGS:

3.1. The “Fire/EMS Project Preliminary Findings and Recommendations of the Controller's Office,” presented on March 22, 2004 states, “with 1150 firefighters and 250 firefighter/paramedics stationed at fire stations. . . .SFFD staffing is weighted towards suppression activities.”

3.2. Although current Department leadership maintains the merger will be complete when there is a firefighter/paramedic on every engine, there are no plans to hire additional firefighter/paramedics in the near future.

3.3. The current and previous administrations cite the higher cost of firefighter/paramedic salaries as a budgetary reason for not hiring more of them. However, a firefighter/paramedic is able to provide both firefighting skills and Advanced Life Support (ALS) services at a cost of approximately 15% more than a regular firefighter.

3.4. Firefighter/paramedics are trained in ALS. This enables them to start intravenous lines, administer medications, and place endotracheal tubes (artificial airways which pass through the larynx), provide advanced cardiac monitoring, and apply manual defibrillation.

3.5. In fiscal year 2002-2003, there were 138,171 medical responses by the SFFD. Of these, 77% (or 106,205) were for ALS emergency medical services.

3.6. Twenty-one (21) of 42 functioning fire stations in San Francisco are equipped with ALS engines. An ALS engine is one that is staffed with a firefighter/paramedic as well as two firefighters and an officer. The engine is equipped with a locked drug box containing medications that may be needed in providing ALS medical care. Many Bay Area jurisdictions have only ALS engines.

3.7. In the 7 years since the merger in 1997, SFFD has had three short-term Chiefs. The leadership necessary to successfully accomplish the merger of EMS into the Department was not in place. The Department now has a new leader who should be charged with achieving a successful merger and be supported in those efforts.

3.8. There is a widely held belief that nothing will change in the SFFD, particularly the allocation of more resources to EMS, because Local 798 will oppose it.

3.9. Local 798 is active and powerful in local politics. Local 798 has the ability to “put the bodies out” in support of politicians and issues, as President John Hanley was quoted by Matier and Ross in the March 26, 2004 San Francisco *Chronicle*. The City needs the cooperation and “give-backs” of Local 798 and other unions in order to balance the budget.

3.10. Changes to the current system in SFFD or reductions in service, no matter how warranted, are political hot potatoes that bring out predictable, knee-jerk reactions from politicians. For example, the Matier and Ross column cited above also quotes Supervisor Tony Hall as saying he “vowed to fight” the Controller's recommendation for alternate staffing among three underutilized fire stations. This same column stated that representatives from Local 798 would be out in support of Supervisor Hall's re-election campaign kick-off the following Tuesday. Supervisor Hall's quote appears in the April/May issue of “Mainline” and has become the rallying cry of Local 798.

3.11. San Francisco firefighters are paid 8.6% higher salaries and work an average of 7.3% fewer hours than firefighters in comparable fire departments according to the Controller's Report of April 28, 2004.

3.12. The same report states that San Francisco has more fire stations per square mile and a higher per capita budget by far than comparable jurisdictions.

RECOMMENDATIONS:

3a. Resource allocation and staffing should reflect the Department's change in workload from fire suppression to EMS.

Department	Response	Explanation
Board of Supervisors	--	<p>The Board of Supervisors' City Services Committee held a hearing on Thursday, September 16, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury presented their recommendations with a focus on harassment, alcohol and substance abuse.</p> <p>Fire Chief Joanne Hayes-White discussed the new EMS configuration plan, promotional exams, harassment and random drug testing.</p> <p>Fire Chief Hayes-White also provided the following target dates:</p> <ul style="list-style-type: none"> - EEO training for the Fire Department by end of FY 2004-2005 - Develop random drug testing policy by October 2004 - Promotional exam for H30, Fire Captain Exam, to go before the Civil Service Commission by December 31, 2004
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	The Department's workload is reflective of the demands that the public places on its resources.
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p><i>(2005 response)</i> As noted in the Commission's response, above, the recommendation has already been implemented. Since the response, the EMS Reconfiguration has been approved by the Commission as a means of further enhancing the Department's provision of emergency medical services.</p> <p><i>(2004 response)</i> Agree. This recommendation has already been implemented and is also undergoing further evaluation through the EMS Configuration process. It should be pointed out that although the medical dispatches amount to approximately 70% of the current dispatch volume, this medical workload has been layered on top of the Department's pre-merger fire and emergency response. These additional calls do not obviate the need to respond to suppression and other emergencies. Given the age and density of San Francisco's predominantly wood frame structures, quick and aggressive response by a sufficient number of personnel and apparatus is necessary to extinguish fires before they spread, which could otherwise result in conflagration. Resources cannot be allocated based solely on the daily series of dispatches, but must also be ready to respond to the regular occurrence of fire and the risk of earthquake, conflagration and other anticipated major events.</p>
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

3b. The Mayor, Board of Supervisors and the Fire Commission should direct and support the Chief in making resource allocation changes that properly support the EMS mission.

Department	Response	Explanation
Board of Supervisors	--	<p>The Board of Supervisors' City Services Committee held a hearing on Thursday, September 16, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury presented their recommendations</p>

Department	Response	Explanation
		<p>with a focus on harassment, alcohol and substance abuse. Fire Chief Joanne Hayes-White discussed the new EMS configuration plan, promotional exams, harassment and random drug testing.</p> <p>Fire Chief Hayes-White also provided the following target dates:</p> <ul style="list-style-type: none"> - EEO training for the Fire Department by end of FY 2004-2005 - Develop random drug testing policy by October 2004 - Promotional exam for H30, Fire Captain Exam, to go before the Civil Service Commission by December 31, 2004
Fire Chief	Will Not Be Implemented: Not Warranted or Not Reasonable	Refer to 3a
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p><i>(2005 response)</i> Since the above response, the Fire Commission has approved the EMS Reconfiguration to further enhance the Department's provision of emergency medical services to the public.</p> <p><i>(2004 response)</i> Agree. This recommendation has already been implemented and is continuing. The Commission has overseen the deployment of Department resources to carry out the EMS mission of the Department since the inception of the merger as noted in the Introduction to this response.</p>
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

3c. The Board of Supervisors mandated the review of SFFD recently conducted by the Controller's Office. The Board should now act on and direct the Chief to implement the recommendations.

Department	Response	Explanation
Board of Supervisors	--	<p>The Board of Supervisors' City Services Committee held a hearing on Thursday, September 16, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury presented their recommendations with a focus on harassment, alcohol and substance abuse.</p> <p>Fire Chief Joanne Hayes-White discussed the new EMS configuration plan, promotional exams, harassment and random drug testing.</p> <p>Fire Chief Hayes-White also provided the following target dates:</p> <ul style="list-style-type: none"> - EEO training for the Fire Department by end of FY 2004-2005 - Develop random drug testing policy by October 2004 - Promotional exam for H30, Fire Captain Exam, to go before the Civil Service Commission by December 31, 2004
Fire Chief	Will Be Implemented In The Future	On March 20, 2006 the Department launched implementation of EMS reconfiguration completion of reconfiguration is approximately 24 months and will result in peak period staffing and alternative staffing and shifts, both recommendations from Controller's Office.
Fire Commission	--	(The commission did not comment on this recommendation.)
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

FINDINGS:

4.1. Currently, there are not enough firefighter/paramedics in the Department to provide adequate relief for ambulance duty. There are barely enough firefighter/paramedics to staff existing EMS equipment, let alone increased equipment and services.

4.2. In order to be eligible for promotion, firefighter/paramedics (as well as firefighters) must have completed four months of service on both an engine and a truck. The firefighter/paramedic shortage makes it difficult for them to complete such service because they are needed on ambulances or ALS engines.

4.3. The Department has no plans to hire additional firefighter/paramedics in the near future.

4.4. In spite of incentives for firefighters to cross-train and become firefighter/paramedics, poor working conditions and heavy workloads have proven to be even stronger disincentives. Although the firefighter/paramedic job classification has only been in existence since 2000, 19 firefighter/paramedics have given up their higher salaries and returned to the firefighter job classification as of December 31, 2003.

4.5. The Controller's Office's April 28, 2004 report, states that 16% of firefighter/paramedics hired from fiscal year 1996-97, to date, have separated from the Department. In comparison, the separation rate for firefighters is 7% during the same period of time.

4.6. Firefighter/paramedics in command positions can help integrate EMS into the Department and change the emphasis of the Department from fire suppression. According to the Controller's report of April 28, 2004, "current SFFD practice does not use firefighter/paramedics who are promoted to command positions for paramedic functions on engines or medic units, despite the fact that the City pays them a premium if they retain their paramedic licenses."

4.7. There are four EMS Captains supervising firefighter/paramedics who respond to approximately 200 EMS calls per day, for a ratio of one supervisor for every 50 calls. EMS Captains are not part of the staffing on the engine or ambulance; they respond in their own vehicles. In contrast, all fire engines are staffed with one officer and three firefighters, providing a supervision ratio of 1:3. All fire trucks are staffed with 1 officer and 4 firefighters, a 1:4 ratio. Cross-trained officers would provide better supervision of EMS delivery and potentially better patient outcomes.

4.8. Firefighter/paramedics assigned to ambulances spend more time on EMS calls because they are responsible for transporting patients and for hospital admission procedures. Firefighter/paramedics assigned to ALS engines, on the other hand, provide immediate medical care and return to the station. Transport duties and hospital admission requirements can add an hour or more to a call, resulting in a heavier, inequitable workload.

4.9. The current shift of 48 hours off after a busy 24 hours on ambulance duty provides insufficient rest for many firefighter/paramedics.

4.10. Firefighter/paramedics working on ambulance duty get job burnout and leave the Department or return to firefighter status.

4.11. There are many options for alleviating workload. Some options that other jurisdictions have looked into, which the SFFD should explore, include: 1) 12 hours on ambulance, 12 on ALS engine, 2) 24 hours on ambulance duty followed by 72 hours off, and/or 3) using more private ambulance services for transport.

4.12. The issue of heavy workload for firefighter/paramedics assigned to ambulance duty has been around since at least 1997. The 1997 Phase II planning document recommended that tools be in place to evaluate, in particular, issues of workload and quality of care. The transcript from the Fire Commission sponsored EMS roundtable meeting on June 21, 2001 indicates that ambulance duty workload was still a major issue. In 2004, it continues to be a problem.

4.13. The Department has two Heavy Rescue Squads consisting of specially equipped Rescue Trucks staffed by an officer, a driver and two firefighters certified as Emergency Medical Technicians (firefighter-EMTs). Firefighter-EMTs can provide BLS medical services but not ALS. Rescue Squads are not staffed with firefighter/paramedics.

4.14. These two squads respond to the severest rescue conditions, such as extraction of people from car wrecks using the Jaws of Life, hazardous material situations, and the like. The people they rescue should have the highest level of emergency medical service immediately available to them. Firefighter/paramedics are trained in ALS and are able to provide a higher level of medical care than firefighter-EMTs. Given the types of emergencies the Rescue Squads respond to, a higher level of EMS seems appropriate.

RECOMMENDATIONS:

4a. Recruitment and retention of firefighter/paramedics is a critical problem that needs immediate attention. The Department should hire additional firefighter/paramedics and/or cross-train more existing personnel to be firefighter/paramedics as soon as possible.

Department	Response	Explanation
Fire Chief	Will Be Implemented In The Future	The report of the SFFD EMS Reconfiguration Committee and the subsequent adoption of its recommendations has compelled a change in focus from the recruitment and retention of currently cross trained Firefighter/Paramedics to the recruitment and retention of currently certified and licensed EMTs and Paramedics. A class of 24 single function Paramedics was hired into the Department on March 20, 2006 and will staff our transport tier. Future cross trained Firefighter Paramedics would be drawn from the ranks of Paramedics serving on the transport tier.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

4b. Officers should be cross-trained as well as rank and file firefighters. Officers who are already cross-trained should continue their paramedic licensure and use their paramedic skills in their command positions.

Department	Response	Explanation
Fire Chief	Will Be Implemented In The Future	Diversity in middle-management positions is critical to the long term health of any organization. While the cross-training of officers is a laudable goal, it is somewhat impractical. The Department believes that achieving diversity throughout its ranks is best accomplished by the steady promotion of Firefighter/Paramedics. Departments across the nation that have successfully integrated the EMS component have done so with "bottom-up" promotions and not a "top-down" imposition of policies. Future promotional examinations conducted by the Department will have significant emphasis on the EMS mission of the Department as well as the traditional fire suppression components.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

4c. Alleviation of heavy ambulance workloads should be addressed as soon as possible. The necessity for a 24-hour ambulance shift should be reviewed as well as other options for transporting patients.

Department	Response	Explanation
Fire Chief	Will Be Implemented In The Future	With the hiring of 24 single function Paramedics to staff our transport tier, the Department will be transitioning from 24 hour ambulance shifts to 10 hour ambulance shifts over the course of the next 24 months.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

FINDINGS:

5.1. Harassment is a major factor in firefighter/paramedics decision to leave the Department or returning to firefighter status.

5.2. Firefighter/paramedics are the new “whipping boys,” taking the place of women and minorities in many instances as targets for harassment. Women and minorities are in protected Equal Employment Opportunity classes. The EEO complaint process affords them recourse that is not available to firefighter/paramedics. The complaint process available to firefighter/paramedics is ineffective.

5.3. In some stations firefighter/paramedics have been excluded from meals.

5.4. Some firefighter/paramedics and women firefighters have been insulted and even shunned while on duty.

5.5. Firefighter/paramedics in some stations are routinely referred to as “f---- in' Medics” and “a--wipes.”

5.6. Harassment is tolerated or even encouraged in certain stations. Firefighters are allowed to select their station assignments and can stay at that station for their entire careers. Fire stations take on the personality of the group that is permanently assigned there, for good or ill. When the personality or culture of a station is one that allows harassment and disrespect of co-workers, the best solution may be to break up the group that perpetuates the behavior and culture.

5.7. Article 3953 of the SFFD Rules and Regulations states that assignments can be revoked and reassignments made by the Chief “for the good of the service.”

5.8. Weak leadership has allowed for a work environment that is hostile to firefighter/paramedics and women firefighters.

5.9. Ranking officers ignore bad behavior and/or apply inconsistent or no discipline. This dereliction of duty has occurred with no repercussions to themselves or their careers.

5.10. Sec. 4.108 of the City Charter states, “The Fire Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department.”

5.11. Specific examples of mistreatment of EMS personnel have been brought to the attention of the Commission and have been largely ignored. The Fire Commission's response to harassment complaints has consisted of expressions of sympathy for the plight of firefighter/paramedics as opposed to the exercise of their powers to "prescribe and enforce any reasonable rules" that might improve conditions for firefighter/paramedics.

For example, at the 2/27/03 meeting of the Fire Commission, Commissioner Pat Norman expressed concern that the SFFD remain unified and that firefighters and firefighter/paramedics not turn on each other since the function of EMS in the Department is as critical to the people of SF as is fire suppression.

While these comments show concern and sympathy, the Commission has not taken SFFD leadership to task for the ongoing harassment of firefighter/paramedics and the failure to integrate EMS and fire suppression in any meaningful way.

RECOMMENDATIONS:

5a. Department leadership should identify the stations where harassment is occurring. Those engaging in harassing behavior should be appropriately disciplined. The range of discipline should include suspension with or without pay and/or firing, depending on the degree of harassment. Harassers who are not fired should be reassigned to different stations.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	Harassment of any kind, and for any reason, is not tolerated by this Department. This administration takes our obligation to provide a safe and supportive workplace, free from harassment of any kind very seriously, and has already demonstrated its commitment in the discipline and termination of members who have committed this infraction.
Fire Commission	Recommendation Implemented	<p>Agree as previously stated and previously implemented. (<i>See below</i>) At this time, no further Commission action is necessary or anticipated on this recommendation.</p> <p>(2005 response) <i>Since the Commission's response, the Commission has heard additional disciplinary matters concerning incidents predating the Grand Jury Report and has appropriately disciplined those members found guilty of harassment. The Commission also disciplined an officer who did not take appropriate steps to stop harassment. There are currently no complaints of harassment before the Commission. Neither the Fire Commission, nor individual Commissioners, have received any complaints that harassment of Firefighter Paramedics, Paramedics or women members has occurred since the issuance of the Grand Jury Report to the present date.</i></p> <p>(2004 response) <i>The Commission agrees with, and has already implemented and pursued a policy that harassment of any type, including harassment of firefighter/paramedics, will not be tolerated. The Department should continue to investigate specific claims of harassment and, if verified, impose appropriate discipline, up to and including potential termination. The Department should take steps to eliminate structural impediments that are perceived as preventing enforcement of the Department policy that harassment will not be tolerated. The Commission recently terminated a member it found guilty of harassment.</i></p>

5b. Ranking officers should be held accountable for their actions or inaction related to harassment. Officers who participate in or allow those under their supervision to participate in harassment should be disciplined. The range of discipline should include suspension without pay, demotion and/or firing, depending on the severity of the offense.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	This administration is keenly sensitive to the issue of harassment, and continues to take its obligation to provide a safe and supportive workplace, free from harassment of any kind very seriously, and has already demonstrated its commitment in the discipline and termination of members who have committed this infraction. All members, regardless of rank, are held accountable.
Fire Commission	Recommendation Implemented	Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation. <i>(2005 response)</i> <i>Since the Commission's response, the Commission has heard additional disciplinary matters concerning incidents predating the Grand Jury Report and has appropriately disciplined those members found guilty of harassment and an officer who did not take appropriate steps to stop the harassment. There are currently no complaints of harassment before the Commission. Neither the Fire Commission, nor individual Commissioners, have received any complaints that harassment of Firefighter Paramedics, Paramedics or women members has occurred since the issuance of the Grand Jury Report to the present date.</i> <i>(2004 response)</i> <i>The Commission agrees with this recommendation, which has already been implemented.</i>

5c. The Fire Commission should hold Department leadership accountable for eliminating harassment.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	The Fire Commission is unwavering in holding Department leadership responsible for providing a safe and supportive work environment, free from harassment of any kind. The current Administration welcomes the accountability required from this Fire Commission.
Fire Commission	Recommendation Implemented	Agree as previously stated and previously implemented. <i>(See below)</i> At this time, no further Commission action is necessary or anticipated on this recommendation. <i>(2005 response)</i> <i>The Department leadership continues to be vigilant in eliminating harassment, as demonstrated above.</i> <i>(2004 response)</i> <i>The Commission agrees with this recommendation, which has already been implemented.</i>

FINDINGS:

6.1. Leadership and command training is currently offered every other year. This means that some officers assume command with no training for the role.

6.2. According to the schedule for a one-day Company Officer Management Course offered last year, only one half hour was scheduled for "Human Resources." Course materials indicate that the focus of this module was on EEO complaints. There are no training modules in team building, conflict resolution, professional behavior, responsibility or accountability.

RECOMMENDATION:

6. The Department should provide comprehensive leadership and command training for all officers prior to their assumption of command. Periodic training should emphasize professionalism, responsibility and accountability and be given on a regular, ongoing basis. Training should include conflict resolution and team building.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	<p>In the last nine months, management and supervisory classes were held for members accepting provisional promotions into the officer ranks. Curriculum included modules in customer service, professional demeanor, conflict resolution and teambuilding, administrative responsibilities, review of fire tactics, dealing with high risk, low frequency operations such as high-rise fires, BART / MUNI responses, management multi-casualty incidents and disaster operations. In addition, all supervisory level employees attended a Sexual Harassment training module in 2005.</p> <p>Accountability is a key element to the success of any organization, and is expected from every member of this Department regardless of rank. This administration continues to hold all its members accountable for performance and behavior.</p> <p>While the administration continues to hold all members accountable for their actions, promotional exams and permanent appointments are crucial to executing this recommendation. The Department looks forward to resolution between the Civil Service Commission and Local 798 regarding the promotional certification rule.</p>

FINDINGS:

7.1. No promotional examinations may be given until the Chief generates secondary criteria and submits it to the Civil Service Commission for approval. Once approval is obtained, the Department can post vacancies in the officer ranks and give promotional examinations to generate lists of eligible candidates to fill those vacancies. No permanent officer can be appointed until all of these steps are complete.

7.2. Using March 2004 data from the SFFD, Appendix C shows that temporary appointees hold 170 of 365 or 47% of all officer positions in the SFFD. One hundred and twelve (112) hold acting appointments and 58 are provisional. Captains and lieutenants typically supervise fire station personnel. Thirty-eight (38) of 69 captains or 55% have acting or provisional appointments. Seventy-two (72) of 199 lieutenant positions or 36% have acting or provisional appointments. Twenty-seven (27) of 27 or 100% of EMS-captain appointees are acting or provisional.

7.3. The Chief or her designee makes temporary officer appointments using criteria she deems appropriate. While such factors as performance and community service may enter into the appointing decision, there is no substitute for appointment from a list of eligible members who have passed a promotional examination and whose performance is objectively ranked.

7.4. The MOU provides for the filling of short-term vacancies, 60 days or less, on the basis of seniority. Long term vacancies, more than 60 days, are assigned by the Captain of the company "with due regard for seniority."

7.5. Temporary officers are assigned to various stations *as needed*, as opposed to having a permanent assignment at one station. They may be assigned to a different station every time they are on duty. When presented with a conflict or a problem, they often avoid dealing with it because of the temporary nature of

their assignments. "I'm just here for the day," is the widely used and understood phrase to describe this behavior. They have not been held accountable by their superior officers for shirking responsibilities.

7.6. The officer ranks of SFFD are severely weakened by having so many long-term temporary officers. SFFD's promotional system is designed to be merit-based, not based on seniority. The lack of promotional examinations is defeating the purpose of a merit-based system.

7.7. In addition to the reasons listed for taking the steps necessary to provide the Department with permanent officers, promotional examinations and officer selection would presumably get more firefighter/paramedics into the officer ranks, further integrating them into the Department. The fact that promotional examinations have not been given since the merger of EMS into the Department is more than a little suspicious.

7.8. The recent promotional examinations given in the SFFD were 7 years ago in 1997, for the rank of firefighter Lieutenant. Examinations for the rank of Bureau of Fire Prevention and Inspection Captain have not been given since 1985. The most populous Captain rank has not had exams since 1994, 10 years ago.

7.9. At least once every five years the Civil Service Commission is required to provide for examinations for each promotive rank in SFFD, according to Section 311.3 of Civil Service Commission rules.

7.10. There are potentially significant financial ramifications to the SFFD retirement budget as provisional officers are able to retire at the temporary higher rank they fill.

7.11. In February 2003, the Civil Service Commission adopted a new certification rule 313.3.4, Statistically Valid Grouping (Sliding Band). Local 798 is appealing this rule in the courts. Current SFFD leadership is also opposed the new rule.

7.12. Since the "Band" can "Slide" over the entire range of test scores, the new certification rule, in effect, makes everyone who takes the test eligible for promotion, regardless of test score.

RECOMMENDATIONS:

7a. Department leadership should develop and submit secondary promotional criteria to the Civil Service Commission for approval as soon as possible. Although there is a legal appeal in process and the Department will not be able to act until this appeal is resolved, it is imperative that the Department be ready to proceed with examinations and selections after the appeal is adjudicated.

Department	Response	Explanation
Civil Service Commission	Will Not Be Implemented: Not Warranted or Not Reasonable	The State Supreme Court heard oral arguments March 7, 2006. A decision is expected in the near future. Once the decision is rendered, an action plan will be developed to carry out the direction of the court. The decision and direction of the Court is not known at this point and therefore it is unreasonable to carry out this recommendation.
Fire Chief	Recommendation Implemented	The Department has worked in partnership with the employee groups to develop meaningful, measurable secondary criteria for promotional examinations and is working to assure that approved criteria will be in place after all legal issues are resolved and promotional exams are scheduled.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

7b. The Mayor should investigate why promotional examinations have not been given in the SFFD and determine what the financial ramifications are.

Department	Response	Explanation
Civil Service Commission	Will Not Be Implemented: Not Warranted or Not Reasonable	The State Supreme Court heard oral arguments March 7, 2006. A decision is expected in the near future. Once the decision is rendered, an action plan will be developed to carry out the direction of the court. The decision and direction of the Court is not known at this point and therefore it is unreasonable to carry out this recommendation.
Fire Chief	--	Implementation independent of Department.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

7c. The Mayor should investigate why the Civil Service Commission implemented a new certification rule that neither management nor labor want.

Department	Response	Explanation
Civil Service Commission	Will Not Be Implemented: Not Warranted or Not Reasonable	The State Supreme Court heard oral arguments March 7, 2006. A decision is expected in the near future. Once the decision is rendered, an action plan will be developed to carry out the direction of the court. The decision and direction of the Court is not known at this point and therefore it is unreasonable to carry out this recommendation.
Fire Chief	--	Implementation independent of Department.
Mayor	--	The Mayor's Office supports the response contained in the Fire Department status report.

FINDINGS:

8.1. The Department knows, or should know, it has a problem. Many SFFD personnel interviewed have witnessed on-duty drinking and other types of substance abuse. Many in the rank and file know the stations and officers that tolerate on-duty drinking. Follow up investigations by SFFD on recent tips have shown that on-duty SFFD personnel had alcohol or other substances in their systems.

8.2. Currently, Department leadership depends on tips, which are then investigated. Leadership also waits for those with alcohol or substance abuse problems to identify themselves and ask for help. The potential danger to SFFD personnel and the citizens of San Francisco is too critical for a wait-and-see approach. Procedures need to be in place to ensure that substance abuse is identified before it causes problems in the field.

8.3. In addition to being dangerous, maintaining the status quo rather than taking action to resolve the problem further lowers morale for the many members of SFFD who want to see an end to on-duty alcohol consumption and substance abuse.

8.4. The Substance Abuse Policy in place currently, was generated by Chief Robert L. Demmons in 1996. Under this policy, the Department may test for drugs only when there is "reasonable suspicion" that a person has "used an illegal/controlled substance or consumed alcohol while on duty or prior to duty."

8.5. The MOU, section 41.1, states, "Mandatory physical examinations shall include the submission of a urine specimen for routine analysis and screening for the presence of drugs and alcohol." Mandatory physical examinations are conducted under very limited circumstances.

8.6. This limited scope of testing for public safety personnel is insufficient to prevent dangerous or deadly situations that could endanger both SFFD personnel and the citizenry. The Grand Jury believes that the potential risk outweighs privacy rights in this situation

8.7. Identifying members of SFFD who have substance abuse problems allows the Department to refer them for appropriate treatment and potentially to retain individuals who have otherwise honorably served.

8.8. Like harassment, on-duty alcohol consumption occurs in certain fire stations. Several interviewees could identify those stations and they indicated that drinking was likely to occur at “cocktail time,” during dinner and at Sunday brunch. Unannounced stations visits made by investigators at appropriate times would likely uncover the problem stations.

8.9. The current procedure of supervisors' identifying members they suspect of substance or alcohol abuse is not working. On-duty consumption of alcohol and other drug abuse has been and continues to be tolerated in some stations. Some ranking officers in these stations are part of the problem.

8.10. In some stations, alcohol consumption and substance abuse are conducted covertly. Investigator access to lockers would eliminate one means of storing alcohol or controlled substances.

8.11. Article 3946 of the SFFD Rules and Regulations allows for lockers to be opened if the member is present, or in his or her absence, in the presence of the company officer and another member of the company or other officer.

8.12. When officers were sent to stations to conduct investigations following tips, they were known to look the other way while station members disposed of alcohol. In an organization that identifies its members as “brothers and sisters,” misplaced loyalty can sometimes supersede proper reporting of on-duty alcohol consumption. Officers’ investigations into substance abuse and alcohol consumption lack credibility with SFFD personnel who have witnessed years of on-duty alcohol consumption with no repercussions.

8.13. Substance abuse by members of SFFD is incompatible with the duties and obligations of a firefighter.

8.14. The Demmons' policy (cited above in number 8.4) is really a statement of procedures. The current Chief has been quoted as favoring a case-by-case policy, with the appropriate discipline to be determined by her. Case-by-case review and disposition can be viewed as unfair. Indeed, that criticism has already been leveled. A policy with a range of options for discipline and a clear statement of the circumstances under which each disciplinary action will be taken offers an alternative to case-by-case evaluation and avoids the potential for favoritism or inequities found in the Chiefs subjective approach.

8.15. Fire and Police Departments in other jurisdictions are dealing with or have already dealt with these same problems. The SFFD leadership should look to other departments that have been successful in resolving these problems and adopt their methods.

RECOMMENDATIONS:

8a. The Department needs to determine the extent of on-duty alcohol consumption and substance abuse among Department personnel as soon as possible.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	In September 2005, the Department embarked upon a cutting edge, first of its kind in the State, Random On-duty Drug & Alcohol Testing Program. It has proved to be an effective mechanism for evaluating members and is a model program nationwide.

8b. The Department should negotiate for expanded and random drug and alcohol testing as soon as possible.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	See 8a

8c. The Department should establish an Internal Investigative Unit that reports directly to the Chief. Investigators trained in identifying people who are under the influence should staff this Unit. The investigators should have complete authority to make unannounced visits to fire stations and to conduct drug and alcohol tests. They should have access to lockers used by firefighters for storage of personal items.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	The Investigative Services Bureau (ISB) is the internal investigative unit of the Department. Members assigned to the ISB completed training in the identification of people under the influence of substances.

8d. The Department needs to implement a strong, clear, and effective drug policy.

Department	Response	Explanation
Fire Chief	Will Be Implemented In The Future	The Department is finalizing an up-to-date overall Substance Abuse Policy that includes screening prior to hire, promotion, post accident, reasonable suspicion and random testing with anticipated completion by July 1, 2006.

8e. The Department should institute an outreach program to help identify and refer for treatment those members with alcohol and substance abuse problems.

Department	Response	Explanation
Fire Chief	Recommendation Implemented	An important component of the Department's new and renovated substance abuse policies is an outreach program designed to identify and find treatment programs for members with alcohol and substance abuse problems. Those members coming forth voluntarily will be provided with every resource available. In addition, the Department intends to provide a training module to raise awareness to its members of alcohol and substance abuse issues.

TERMS

Ambulance - A vehicle equipped to assess, treat and transport medical patients. Also known as Medic Units, they carry some firefighting equipment to provide medical and rescue support. The SFFD has 19 such units that are staffed by one firefighter/paramedic and one firefighter/EMT. The SFFD also staffs one or two ambulances per day with two paramedics. These ambulances provide ALS treatment and medical transport and carry less fire suppression equipment than Medic Units.

BLS - Basic Life Support. Persons trained in BLS can provide Cardio-Pulmonary Resuscitation (CPR), basic first aid and patient transport, and can use an external defibrillator

DPH - Department of Public Health.

EMS - Emergency Medical Services.

EMT - Emergency Medical Technician. A person trained and certified in BLS. SFFD requires that all new firefighters must have EMT-licensure. Currently, 74% of SFFD firefighters are EMT -1 certified.

Emergency Medical Response Times -The San Francisco Emergency Medical Services Agency of the DPH has performance standards governing the maximum allowable elapsed time, from call to arrival of the first responder to medical emergencies. The SFFD responds to two types of calls, Code 2 and Code 3. Code 2 calls are non-life threatening; Code 3 calls are those that are life threatening. The SFFD measures 3 responses to Code 3 calls:

- Responders capable of performing BLS and defibrillation. Response time is 5 minutes.
- Responders capable of performing ALS. Response time is 10 minutes.
- Responders capable of patient transport. Response time is 12 minutes.

Engine -A fire suppression apparatus staffed by an officer and three firefighters and equipped with a pump, hose and a water supply. Each of the 42 fire stations in San Francisco has an engine.

Firefighter -A member trained in fire suppression.

Firefighter-EMT -A member trained in fire suppression and BLS.

Firefighter-Paramedic -A member trained in fire suppression who is also a licensed paramedic capable of delivering ALS emergency medical care as well as BLS.

Heavy Rescue Squad -Staffed by an officer, a driver (firefighter) and two firefighter EMTs, the Department's two rescue squads are first responders on medical calls. The Rescue Trucks are specially equipped with infrared camera, Jaws of Life and scuba gear, as well as medical equipment and defibrillators. Rescue squad members are trained in scuba, surf, hazardous materials, cliff, tunnel and confined space rescue.

Like Work Like Pay -A short-term acting officer assignment, usually for a day at a time. The pay is at the higher rate for time worked only.

Medic Unit -A staff of either two firefighter/paramedics or one firefighter/paramedic and one firefighter-EMT: medic units provide ALS treatment and transport of ALS and BLS patients suffering in medical emergencies. Medic units also carry firefighting equipment and can provide medical and rescue support at fires and other emergencies. The SFFD has 19 such units. The term "ambulance" is used in this report to mean Medic Unit.

Member - Officers and other personnel of the SFFD.

MOU -Memorandum of Understanding between the City and County of San Francisco and San Francisco Firefighters Union, Local 1798, IAFF, AFL-CIO.

Provisional Officer -A temporary officer who is a step closer to permanent status than an Acting Officer. The member is appointed by the Chief for up to 3 years or more with approval of the Human Resources Director. A physical examination is required for a provisional officer appointment. Provisional officers are paid at the higher level when on duty and on vacation or sick leave. A provisional officer who retires will receive retirement benefits based on the higher salary.

Truck -Called "hook and ladder" by laymen, trucks are staffed with an officer (lieutenant or captain), one driver firefighter, one tiller firefighter, one firefighter-EMT and one firefighter. Trucks carry ladders and other equipment and are used to provide ladder access, rescue and ventilation.

Technical definitions derived from SFFD data and the City and County of San Francisco Office of the Controller's report, "A Review of the San Francisco Fire-EMS System, April 28, 2004.

CHAPTER 2

ON-TIME PERFORMANCE AND SERVICE GOALS REMAIN A FICTION. MUNI'S MISMANAGEMENT AND WORKER PROBLEM

BACKGROUND

The 2003-04 Civil Grand Jury investigated the operations of the Municipal Railway (MUNI) with respect to progress in meeting the goals mandated in Proposition E.³ This year, the MUNI administration will not meet on time performance and service delivery goals as setout in Proposition E. The Civil Grand Jury was unable to obtain from MUNI a timeframe in which they plan to achieve the original goals.

The Civil Grand Jury concluded that these failings result from management's lack of effective leadership--by not making the necessary changes and failing to develop new plans to meet goals, either through lack of competence or lack of will to do so.

The Civil Grand Jury also looked into the administration's control over the light-duty and battery-pay plans, training program and effectiveness of overall management. It was determined that light-duty and battery-pay plans are not effectively managed and are subject to abuse. Management is aware of the situation but has done nothing to eliminate infractions. The Civil Grand Jury also questioned the effectiveness of the existing training program, in light of the significant number and costs of claims that have occurred over the years.

RESULTS

The Civil Grand Jury required responses from the following:

Board of Supervisors
Office of the Controller
San Francisco Municipal Transportation Agency Board of Directors
San Francisco Municipal Railway

³ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1. Proposition E (1999) specifies that MUNI must achieve an on-time performance of 85% and service delivery of 98.5% by July 2004. MUNI management acknowledged that they will not achieve these standards for 2004, and they were unable to demonstrate a plan that would ultimately achieve these goals.

1.2. A strong leadership presence is non-existent. Some employees do not take the Executive Director's and General Manager's policies and statements seriously. Some individuals do not respect the Executive Director and General Manager.

1.3. Employees' disrespect of MUNI management has led to morale problems.

1.4. Management has failed to enforce its policies. As a result, many of management's instructions are disregarded.

1.5. MUNI does not compare the cost/benefits of its light-duty and battery pay plans and workers' compensation benefits with those of other major metropolitan transit agencies.

1.6. MUNI employees have stated that management is ignoring or not taking into consideration employee comments about safety, working conditions, and on-time efficiency.

RECOMMENDATIONS:

1a. MUNI management should prepare detailed plans to attain the on-time performance of 85% and service delivery of 98.5% mandated by Proposition E.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	<p>6/30/04 - The on time performance goal of 85% is not being met, however, Muni has made significant progress in this area. On time performance has gone from 48% in 1999 to 71.5% today. Steps are being taken to improve on-time performance, including:</p> <ul style="list-style-type: none">• New technology initiatives (e.g. Nextbus)• Street Management initiatives• Further Muni/DPT coordination efforts• Schedule review to determine feasibility of current schedules <p>For the quarter ending March 31, 2004, service delivery (employee and vehicle availability) was at 98.13%, which is .37 of 1% less than the mandated goal of 98.5%. The missing .37 of 1 percent represents 4 missed runs out of 1254 runs per weekday 843 and 788 runs on Saturday and Sunday. New technology initiatives should make this goal achievable.</p> <p>While an on-time performance of 85% may not be achievable, it should be noted that an independent audit concluded that Muni is making excellent</p>

Department	Response	Explanation
		progress toward the achievement of Proposition E goals. Reference: FY2003 Third Quarter Service Standards and Proposition E Municipal Transportation Quality Review Final Report

1b. The Executive Director of MTA, the General Manager of MUNI, and other senior management personnel should adopt proactive and highly visible leadership roles, establish accountability at all levels of management, ensure that all policies are enforced, and inform all employees of policies and the consequences of failing to adhere to them. In order to enhance morale and job satisfaction, the administration should encourage open communication between workers and management.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04- Below are examples of how this has already been implemented: <ul style="list-style-type: none"> • Yearly employee surveys • Annual establishment of MTA-wide and division goals for senior managers • Monthly letters from the Executive Director attached to each employees paycheck encouraging open communication. • Posters placed at all work locations about MTA-wide goals, Muni's Mission, Vision and Values Statement and congratulating employees on strong rider survey results. • Monthly, Quarterly and Annual Employee Recognition Program at all operating divisions • Monthly Special Recognition Award Program at MTA Board meetings • Annual Safe Driver Award Program • Executive Director and GM regularly visit all divisions (most recently to discuss the current FY budget) • Establishment of an "intranet" for the dissemination of information to employees. • Provide a wide variety of training programs including: new operator training, accident retraining, refresher courses, passenger relations and conflict training, Violence in the Workplace, Maintenance Training (including new revenue vehicle training), Ambassador Training, Supervisory Skills Training, Management Skills Training, Theories of Discrimination and the ADA, Preventing and Responding to Workplace Harassment, Preventing Violence in the Transit Workplace, Valuing and Managing Workplace Diversity, Rapport Building, Prohibited Employment Practices Under the Immigration Reform Control Act of 1986, Equal Employment Opportunity Programs After Prop 209 and New Employee Orientation to MUNI's EEO Programs and Services. • Annual Retiree lunch • Personal Bereavement letters sent to the family of employees who have passed. • Bulletins issued to Muni Operations Professionals to inform them about safety regulations, "sign-ups", special event route changes and compliance with traffic laws. • Biannual MTA Senior Management meetings to discuss plans to achieve MTA-wide goals; provide status updates on significant initiatives and projects; engage in team building exercises; and discuss how to improve communication within the organization.

Department	Response	Explanation
		<p>In 2000 and 2001, Muni partnered with TWU, Local 250-A in hosting a Muni-wide "Family Day and Health Fair". Muni also published monthly newsletters for all employees that highlighted internal activities and accomplishments. Due to budgetary constraints, these activities have been temporarily halted.</p> <p>Over the past four years, Muni has been involved in a cultural change initiative designed to improve customer service, enhance communications, improve labor-management relations, and strengthen the overall quality and character of management throughout the organization. A key element of this initiative was the crafting and distribution of a new Mission Statement in 2002.</p> <p>This Mission Statement represents the collective input of over 1,500 employees who directly participated in a series of 23 "interactive" workshops around the organization, and reflects a broad consensus of employee ideas and opinions about Muni's' mission, vision and values. This "mission" initiative continues today and is coordinated by a joint union-management committee - the Mission Action Center (MAC). MAC's primary goal is to develop, promote, and coordinate implementation of programs that encourage a common understanding of Muni's mission, and to ensure the daily practice of the values embodied in the Mission Statement. MAC looks for ways to empower employees in living our mission daily, and works directly with division managers, unions and employees in identifying current practices inconsistent with "living-the-mission," and uses collaborative efforts to find solutions to these roadblocks.</p> <p>The General Manager, along with the Assistant General Managers for Human Resources and Transportation and the Division Superintendents formally meet once a month with the Executive Officers of Local 250A and Chairperson of all seven of MUNI's operating divisions. The meetings usually last two to three hours. They are not grievance handling meetings but cover topics of concern to any participant. Issues such as operator comfort, uniforms, operator performance, safety, system performance and others are routinely discussed. These meetings have consistently occurred for the past 18 months.</p> <p>The General Manager holds a monthly Communication Meeting with 40 to 60 mid level managers. The expressed purpose of these meetings is networking among various departments in MUNI operations. Guest speakers are usually featured and have ranged from the FTA Administrator, to Southwest Airlines Customer Service Representatives. An ongoing emphasis of the meetings is emergency preparedness.</p> <p>In addition to meetings and site visits within the organization, the Executive Director of Transportation and senior staff participate in community meetings in all San Francisco neighborhoods, regularly attends meetings of and represents Muni's interests to the Board of Supervisors and Transportation Authority. The Executive Director and senior management serve in a leadership capacity in a number of regional forums including serving with the Metropolitan Transportation Commission's Partnership Board; Chairman of a regional subcommittee to implement Translink; serving on the CalTrain Joint Powers Board and the Transbay Terminal Joint Powers Board. At the regional and State level meetings include the Bay Area Air Quality Management District and California Air Resources Board, serving on the California Transit Association Executive Committee. At the federal level, the Executive Director serves on the ENO Transportation Foundation Board and, along with the Chairman of the MTA Board of Directors, also serves on the American Public Transportation Association Board of Directors.</p> <p>Reference: Mission, Vision, Values Statement, MTA Goals, paycheck letters, Operator Bulletins, Employee Surveys.</p>

1c. Management should determine where MUNI ranks, *vis-a-vis* other agencies, in terms of the cost/benefits of its light-duty and battery-pay plans and workers' compensation benefits.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/05. San Francisco MTA's Workers' Compensation costs; battery and assault pay and light duty programs are comparable to those of similar transit agencies. We continue to monitor both the light duty and battery/assault pay issues on a quarterly and annual basis.

1d. Management should ensure that MUNI's training and accident prevention programs are consistent with current industry standards.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04- Muni's new operator training program is based on the Federal Transit Administration's Bus Operator Training program and the our accident prevention training is based on the Smith System's Five Keys To Space Cushion Driving which is the recognized industry standard in both the transit and trucking industries.

1e. Management should consider employee comments and recommendations at all levels. Such action can lead to improved working conditions and morale and, ultimately, to improved service.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.

Department	Response	Explanation
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	<p>6/30/04- Muni has actively sought input from every employee and considers all comments and recommendations. Not all suggestions can be implemented for a variety of reasons including budget, labor agreements or other physical constraints.</p> <p>In the monthly letter sent to all employees, Muni asks for and encourages employee input. The MTA will continue to work to improve communications with employees.</p> <p>Reference: Paycheck Letters</p>

FINDINGS:

2.1. The light-duty program at MUNI allows an employee to be on this status for up to 180 days at full pay--regardless of hours actually worked. After an elapsed period of one year, some employees apply again for light-duty. According to *Sec. 1.04 of the Transitional Work Program Manual*: "Transitional Work assignments will not adversely affect the employee's normal bi-weekly gross wages or retirement benefits."

2.2. Some MUNI employees have been known to be on light duty in excess of 90 days. This is contrary to MUNI's policy as stated in the "*Transitional Work Personnel Procedures Guide*, " *Sec. 1.02 (1)*: "Transitional Work assignments will terminate on the date the employee is released for full duty. Under no circumstances will Transitional Work assignments exceed 90 days per injury."

2.3. A comparison of MUNI to other major transit agencies in the San Francisco Bay Area shows a higher percentage of MUNI workers are on light duty; the following table was prepared with information acquired from Human Resource Departments.

	MUNI	AC Transit	VTA No Such Plan	Sam Trans No Such Plan
Employees on Light- Duty	145	18		
Percentage of total workers	3.3% 4,400	0.8% 2,200		
Percentage of Operators	6% 2,400	1% 1,300		
Approximate Cost	\$10 million	\$800,000		
Time Limit	180 days Every other year	30 days Per year		

2.4. Representatives from VTA stated that they have no immediate plan to institute such a program. Officials at Sam Trans have expressed views that such a program is subject to abuse if not properly managed, and they also stated that they have no immediate plan to create a light-duty program.

2.5. MUNI management officials are aware that some employees have filed questionable batter pay claims. These employees, who make fictional claims, do so in order to collect compensation under the battery pay plan.

2.6. AC Transit is the only transit agency other then MUNI to have a battery pay plan in the San Francisco Bay Area. AC Transit's program is limited to a maximum of three days. After the third day, a worker may be eligible for workers' compensation.

2.7. Currently, the individuals who are responsible for verifying that light-duty personnel are present and performing their assigned duties are themselves, on light-duty; this monitoring process gives rise to a possible conflict of interest.

2.8. Some department managers of employees on light-duty have not supervised employees on light-duty assignments, and they do nothing about light-duty workers who are absent and not performing assigned tasks.

2.9. MUNI management agrees that the current light-duty procedures can lead to various forms of abuse.

2.10. Neither the Office of the Controller nor the Budget Analyst's Office has ever conducted any audits of MUNI's light-duty and battery pay plans and/or workers' compensation program.

2.11. MUNI employees who are on light-duty, battery pay, absent without leave, or on sick leave are, for payroll purposes, categorized as being assigned to the "Geary Division," (a paper designation that is relatively unknown inside or outside of the MUNI organization).

2.12. The payroll cost of the "Geary Division" is unknown; this information, though specifically requested, could not be provided to the Grand Jury. It was stated that such information has never been compiled, and doing so could involve considerable time and effort.

2.13. Approximately 12% percent of all MUNI employees are under the "Geary Division" designation.

2.14. AN employee who suffers a temporary and partial disability due to an industrial or non-industrial injury or illness can be placed on light-duty. The employee must get a written medical diagnosis stating that s/he is only able to work in a reduced capacity. It is management's position that some employees have been able to obtain a medical professional's release form, certifying that the employee can work only with restrictions, over the phone and without the employee ever being examined by a medical professional.

2.15. The cost to MUNI of employees on light-duty or battery pay is greater than if these individuals were placed on workers' compensation. In the state of California, benefits under workers' compensation plans are generally designed to replace two-thirds of lost wages, up to the current maximum of \$728 per week.

2.16. The following table compares the battery pay plans of the following transit agencies in the San Francisco Bay Area.

	MUNI (Average of two years)	AC Transit (As of 3/26/04)	VT A No Such Plan	SamTrans No Such Plan
Approximate percentage of employees	3.3%	Less than half of 1%		
Number of employees	56	2		
Length of Program	365 days	3 days		
Approximate cost of program as stated by their respective Human Resources Department	\$ 1 to \$2 million	Not known		

2.17. The table below compares workers' compensation costs of the major local transit agencies in the San Francisco Bay Area for fiscal year 2003.

	MUNI	SamTrans	VTA	AC Transit
Approximate Incurred Cost	\$20 million	\$1 million	\$4 million	\$9 million
Open Claims	2,167	115	1,269	1,070
Total Drivers	2,400	500	1,400	1,345
Total Employees	4,400	800	2,275	2,262

RECOMMENDATIONS:

2a. Management should determine and control the cost of its benefit plans and act to prevent abuses.

Department	Response	Explanation
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by MTA.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - Muni is controlling the costs of benefit plans and is actively routing out and eliminating abuse. The Municipal Railway is part of the City and County of San Francisco and strictly adheres to its established policies and procedures. The three benefit plans mentioned in the Grand Jury report: Battery Pay, Transitional Work and Workers' Compensation, each have specific components for preventing abuse.

2b. Management should consider basing pay under the light-duty plan on hours actually worked.

Department	Response	Explanation
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by MTA.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco	Recommendation Implemented	6/30/04- Muni employees in the Transitional Work Program are paid based on hours worked. In 1996, pursuant to Proposition J, the Budget Analyst performed a full management audit of the Public Transportation Department. One of his recommendations was to "discontinue the practice of paying

Department	Response	Explanation
Municipal Transportation Agency Board of Directors		overtime to Special Duty Operators in MUNI Headquarters, for time not actually worked". A review of the Action Plan prepared by Muni in response to the Audit shows that a policy was established in September 1996, and continues today, that Operators in the Transitional Work Program would be paid on an hourly basis and that staff would monitor compliance with this policy on an ongoing basis. (In 1996, the terms "Special Duty" and "Light Duty" were used interchangeably. Today, the program is called the Transitional Work Program.)

2c. Management must establish controls to ensure that those employees assigned to light-duty are eligible under the conditions of the plan and are actually performing their assigned tasks.

Department	Response	Explanation
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by MTA.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - A physician must diagnose all industrially injured employees in writing, before they are eligible for transitional work. A Transitional Work Program Coordinator as well as the supervisors and superintendents to whom transitional work employees are assigned monitors the work performed. In addition, Workers' Compensation staff conducts random spot checks. Employees assigned to the Transitional Work program are performing their assigned tasks.

2d. The managers of the departments to which light-duty personnel are assigned should be responsible for their presence and performance.

Department	Response	Explanation
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by MTA.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.

Department	Response	Explanation
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - Muni agrees with this recommendation and is confident that all transitional work employees are under supervisory control. A Transitional Work Program Coordinator as well as the supervisors and superintendents to whom transitional work employees are assigned monitors the work performed. Worker's Compensation staff also performs random checks.

2e. The Office of the Controller and the Budget Analyst's Office should conduct independent audits of the light-duty and battery pay plans and workers' compensation benefit programs to determine the actual costs of the plans and benefits and the feasibility of determining ways to reduce the overall costs of those programs.

Department	Response	Explanation
Office of the Controller	Requires Further Analysis	CSA is preparing our FY06-07 audit plan and depending on the risk assessment results, the MTA's light-duty and battery pay plans and workers' compensation audit may be completed in FY06-07. A response will be forthcoming by November 2006.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation is not within the jurisdiction of the MTA, however, we continue to welcome audits at any time.

2f. Compensatory plans should be examined to ensure that, although they may provide similar assistance, they do not duplicate the benefits.

Department	Response	Explanation
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by MTA.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.

Department	Response	Explanation
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - Muni has examined their plans and we are not aware of any compensatory plans that duplicate benefits to injured employees. Some employees may have obtained individual long-term or short-term disability policies that may be used to supplement Workers' Compensation benefits. Those plans are entirely outside of Muni's control.

FINDINGS:

3.1. MUNI eliminated the position of statistician in 2003.

3.2. MUNI has a problem with multiple accident entries or accident duplication in its current method of tracking accidents.

3.3. MUNI does not have a computer-based program to categorize each incident/accident by type, operator, transit line, division, claims and/or settlement costs and to establish whether incidents/accidents were avoidable or unavoidable.

3.4. In the MUNI program, bus drivers receive 6 weeks training. Sam Trans, VTA and AC Transit bus drivers receive 8 weeks training.

3.5. MUNI employees claim that the current training is inadequate. An improved training program could lead to a reduction of incidents/accidents.

3.6. MUNI employees claim that safety standards have been relaxed in order to meet operating schedules.

RECOMMENDATIONS:

3a. MUNI should establish a program to record and analyze the causes of all incidents/accidents. The system would categorize each incident/accident by type, operator, transit line, division, claims and/or settlement costs and whether avoidable or unavoidable. The system should be designed to prevent multiple accident entries. The data should be readily available so that it can be used to establish procedures to reduce claims and their associated costs.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.

Department	Response	Explanation
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - Muni has already done so.

3b. MUNI should evaluate the effectiveness of the current training program with an emphasis on accident prevention.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing August 12, 2004 on the Civil Grand Jury Report, On-Time Performance and Service Goals Remain a Fiction: MUNI's Mismanagement and Worker Problems. Representatives from the Civil Grand Jury addressed their findings and recommendations, and the Municipal Transportation Agency addressed certain disagreements with the Civil Grand Jury Report. Per Michael Burns, Executive Director, Municipal Transportation Agency, a formal written response to the Civil Grand Jury will be submitted within the required deadlines.
San Francisco Municipal Railway and San Francisco Municipal Transportation Agency Board of Directors	Recommendation Implemented	6/30/04 - This is done on an ongoing basis. The Executive Director of the MTA reviews all accidents/incidents daily and meets weekly to review employee accident records and retraining steps taken.

TERMS

AC Transit -Alameda-Contra Costa Transit District that serves most of the East Bay communities in Alameda and Contra Costa County.

Accident -Usually an unexpected undesirable event or collision resulting in damage to person(s) or property.

Battery pay -San Francisco Civil Service Commission Rule 20.15 and Administrative Code Section 16.170 provide that an employee injured as the result of a criminal act of violence while on duty is eligible to receive full pay for a period of up to twelve months.

Incident -An event which is considered a minor occurrence or disruption.

Light-duty -Also known as Transitional Work or Transitional Work Program. A work plan that allows employees injured on the job to work reduced hours and/or in assignments requiring reduced physical activity while still receiving full pay for a period of up to 180 days. An employee can be on light duty as often as every other year. AC Transit has a similar program (limited to three days); it is referred to as the modified work program.

Light-duty job assignments -Tasks that can be performed by light-duty workers include: “reduced hours driving, loader, receiver, passenger service clerk, service quality teams, training department clerk, central control clerk, yard starter, expeditor, finance department assistant, auto attendant, station operations assistant, discount I.D clerk, Pac Bell (sic) park revenue collection and cable car turn-table assistant.”

MUNI CAC -Citizens' Advisory Council formed by Proposition E.

Municipal Railway (MUNI) -The San Francisco public transportation system.

Municipal Transportation Agency (MTA) -The governing body responsible for the management of Municipal Railway (MUNI) and the Department of Parking and Traffic (DPT).

Proposition E -Passed by San Francisco voters in 1999 to incorporate MUNI and DPT into the MTA [Proposition E, Section 8A.1 03(c)] and to establish the following service standards:

1. On-time performance: of at least 85% of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and

2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5 percent of scheduled vehicles must begin service at the scheduled time.

In this report the above referred to as “on-time performance” and “service delivery”

Sam Trans -Part of the San Mateo Transit Authority that serves all of San Mateo County.

Statistician -A mathematician specializing in data analysis.

Third Party Administrator (TPA) -A person who processes claims and provides administrative services.

Valley Transit Authority (VTA) -VTA serves all of Santa Clara County.

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CHAPTER 3

THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME: THE CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT ARE FAILING TO ADDRESS THE EDUCATIONAL NEEDS OF THE BAYVIEW HUNTERS POINT COMMUNITY

BACKGROUND

The 2003-04 Civil Grand Jury investigated educational resources available to residents of the Bayview Hunters Point district (BVHP).⁴ The mission of the San Francisco Unified School District (SFUSD) is to provide each student with an equal opportunity to succeed by promoting intellectual growth, creativity, self-discipline, cultural and linguistic sensitivity, democratic responsibility, economic competence, and physical and mental health so that each student can achieve his or her maximum potential.

The Civil Grand Jury found that SFUSD and the City of San Francisco do not “provide each student with an equal opportunity” in Bayview Hunters Point, largely due to the lack of basic educational infrastructure in this community.

Historically, BVHP has been the largest African-American neighborhood in San Francisco; its children have been subjected to busing in order to achieve educational diversity in city schools. In 1954, the Supreme Court ruled unanimously, in *Brown vs. Board of Education*, that the doctrine of "separate but equal" education for blacks and whites was unconstitutional. The decision triggered much resistance in the South but marked the beginning of a civil rights movement that led to racial protections in public schools, accommodations, voting rights, housing, and employment.

RESULTS

The Civil Grand Jury required responses from the following:

Board of Education
San Francisco Redevelopment Agency
San Francisco Unified School District

⁴ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1. At present there is only one high school, Thurgood Marshall, in BVHP, and it is designated as an open-enrollment school available to students from all city districts. Of the 1005 seats available in Thurgood Marshall, 335 students are from BVHP.

1.2. As of September 2003, 1523, or 79.8%, of high school students in this neighborhood travel to get an education; 34% travel more than 2 to 3 hours. This community is unique in that almost its entire high school population must leave the neighborhood to attend school, with the result that travel times compromise students' ability to participate in after-school activities, reduce time for sleep and homework, and limit parent involvement in their children's schools.

An April 2003 Harris Poll indicates that a great number of high school students already suffer from poor grades due to lack of sleep. Adding a long commute to a student's day only serves to exacerbate the problem. According to the Harris poll:

Most high school students get less than eight hours of sleep on school nights, and one-third get less than seven. Those who get enough sleep do better in school, and vice-versa. Students who get less sleep are not only much more likely to fall asleep or daydream in class and to have difficulty paying attention, they are also much more likely to get poor grades and to consider dropping out of school.

1.3. 38% of high school students in BVHP drop out of school before senior year.

1.4. The Bayview Hunters Point region has the lowest ratio of school seats to student population of any San Francisco school district.

1.5. Of the total 2004 K-12 population of BVHP, which amounts to 6116 students, 75%, or 4570 children, commute to school in another neighborhood. In no other District are so many K-8 grade children required to travel as far for a quality education. The foregoing is based on May 2004 statistics provided by SFUSD.

1.6. Within the boundaries of Bayview Hunters Point there are 4080 children in K-8, but only 1,124 attend schools in the district. In other words, 2956, or 72%, are bused to schools outside their neighborhood. The foregoing is based on May 2004 statistics provided by SFUSD.

1.7. African-American students account for 14.7% of the SFUSD population, but they make up 38.9% of enrollment in the County Schools, the placement for SFUSD's most troubled and difficult students.

1.8. Bayview Hunters Point high school students' average GPA of 1.84 is the lowest of any group in the SFUSD.

1.9. The 1988 National Education Longitudinal Study found that middle-income parents were four times more likely than low-income parents to belong to the PTA and twice as likely to contact their children's schools on academic matters.

RECOMMENDATION:

1. SFUSD should provide the Bayview Hunters Point district with neighborhood schools commensurate to its population of eligible local students.

Department	Response	Explanation
Board of Education & SFUSD	Requires Further Analysis	The federal desegregation consent decree that governed student assignment for SFUSD expired in December 2005. The District is currently operating under the student assignment system designed to comply with the consent decree, but will be analyzing its options for a new student assignment system that will go into effect for the 2007-2008 school year. The Board of Education is currently reviewing options and information provided by the Community Advisory Committee on Student Assignment as well as experts on desegregation. The relationship between students' residential addresses and the schools they attend will be part of this discussion and analysis.

FINDINGS:

2.1. The Development of Parcel A of Hunters Point Shipyard should commence in the Fall of 2004. The developer, Lennar/BVHP, plans to build 1600 housing units.

2.2. Housing units are scheduled to open in 2006. These additional units will house families with children. The CGJ could not find that SFUSD and the Redevelopment Agency currently has plans to address an increased demand for schools in this district.

2.3. According to the 2002 report, "Demographic Analyses and Enrollment Forecasts for SFUSD," an additional 1,037 students will come to reside in BVHP between 2006-2010, yet no recommendation for additional local schools has been made, and it appears that these additional children will also be bused to existing out-of- area facilities.

RECOMMENDATION:

2. SFUSD and the Redevelopment Agency should forge a plan to build additional schools in the Bayview Hunters Point region in order to address projected needs arising from development of new housing.

Department	Response	Explanation
Board of Education & SFUSD	Will Not Be Implemented: Not Warranted or Not Reasonable	As noted in the District's original response, the Master Facilities Plan did not identify a short-term need to develop new schools. Moreover, the Redevelopment Agency's economic impact analysis similarly did not project a short term need for new schools based on the development of the Hunters Point Shipyard. The District will continue to re-evaluate the need for new schools based on the changing circumstances in the District.
San Francisco Redevelopment Agency	Will Not Be Implemented: Not Warranted or Not Reasonable	In 2004, the Agency hired Seifel Consulting Inc. ("SCI") to conduct a fiscal and economic impact analysis for Phase I of the Shipyard. Included in the study is an analysis of the SFUSD's June 2003 Facilities Master Plan. Additionally, SCI consulted with SFUSD regarding how to project student enrollment for the Phase I development at the Shipyard. Based upon SCI's analysis, approximately 494 SFUSD students are projected from Phase I. Additionally, by the year 2011, total public school enrollment in the SFUSD is projected to decrease by between 9 and 13 percent from its current enrollment of 60,900. Based on the aforementioned facts and data, SFUSD has not determined

Department	Response	Explanation
		<p>that additional schools will be required as a result of housing to be developed during Phase I of the Shipyard. Therefore, the Agency has determined that Recommendation 2 is currently not warranted and will not be implemented at this time.</p> <p>If in the future, SFUSD determines that additional schools are necessary in the Bayview Hunters Point region as a result of future development at the Shipyard, the Agency will cooperate with the school district to address the need for additional educational facilities.</p>

FINDINGS:

3.1. The 2003- 2004 Civil Grand Jury investigated educational resources available to residents of the Bayview Hunters Point district. Over the course of eight months, the CGJ visited over 20 SFUSD schools and facilities, interviewing SFUSD staff as well as teachers and students from BVHP.

3.2. In January 2004, SFUSD announced a new program to improve academic achievement in three poorly performing BVHP schools; the new program, named Dream Schools, is described on the SFUSD website as (emphasis added):

Three Bayview-Hunter's Point schools--Dr. Charles R. Drew, Gloria R. Davis and Twenty-First Century Academy--will mark the first of several sites for cutting-edge learning meant to boost students ' academic potential.

Dubbed "Dream Schools," the rigorous, pre-school to college program is meant to accelerate the academic growth of students with high expectations, individualized academic plans, staff development and meaningful parental and community involvement.

The high-achieving schools are built around comprehensive instruction tied to standards and safe, structured learning environments, uniforms and nightly homework. The schools are modeled on the successful Frederick Douglass Academy created by Dr. Lorraine Monroe and featured on CBS's 60 *Minutes*. Monroe took a Harlem, N. Y. school infamous for violence, low achievement and poor attendance and turned it into a scholastic powerhouse.

The San Francisco Dream Schools are rooted in the district's strategic plan, "Excellence for All," which is focused on creating excellent and equitable opportunities for all students throughout the city. The first three schools are expected to open in August 2004.

3.3. The CGJ found that in BVHP's existing elementary and middle schools, as many as 80% of the children qualified for free or reduced-cost lunch programs. For example 86.8% at Gloria R. Davis qualify, but staff has identified that as many as 20-30% of their eligible students (equally true for other BVHP schools) do not return appropriate documentation and, therefore, are denied free or reduced-cost lunches, lack of parental support being cited in most cases. These students also are most likely to be low-performing students.

3.4. Children in these target Dream Schools have to have a "signed parental participation contract" in order to attend the converted Dream Schools next fall.

3.5. CGJ interviews with staff in these schools produced information that the same 20-30% of the children who's parents aren't signing up for free/reduced cost lunches are also not doing the paperwork

necessary to enroll their children in the new Dream Schools. These are the children who will be left behind-the ones who most need a Dream School.

3.6. According to staff interviews, this 20-30% of BVHP students often come from the most troubled and dysfunctional families. A number of parents are incarcerated or are drug users. These children do not have the family support structure that allows for "a signed parental participation contract". Hence, most of these children will not be attending the newly converted Dream School but will, in fact, be assigned or reassigned to other unenriched schools. The CGJ could find no specific plan for relocation of these children.

3.7. While the CGJ finds that Dream Schools offer a marked improvement over existing programs in present BVHP schools, the CGJ has great concern about the estimated 20-30% of children that will not be able to attend even their current schools. The CGJ realizes that it is most likely that test scores for these schools will greatly improve, but accomplishing improvement by replacing lower performing students only improves the SFUSD's overall test scores and fails to address the needs of children most in want.

3.8. Staff interviews in BVHP schools found that there is little outreach, via mail, telephone or home visits, to insure that students' caretakers understand Dream Schools and can make enlightened decisions as to whether or not to enroll their children. Being transferred out of their schools due to a lack of custodial response is hardly fair to the children.

3.9. The CGJ holds the opinion that repurposing an existing BVHP school into a Dream School has little effect on the lack of educational resources in the BVHP region. The Dream Schools plan does not change the fact that Bayview Hunters Point will continue to have the lowest ratio of school seats to student population of any San Francisco school district.

RECOMMENDATION:

3. SFUSD should undertake greater outreach in order to insure that eligible students get enrolled in Dream Schools and that students not eligible are given every opportunity to attend their current school next year with equal or improved resources.

Department	Response	Explanation
Board of Education & SFUSD	Recommendation Implemented	No new response required—Original response notes that the recommendation had already been implemented. The District annually informs families and students about the educational opportunities available in the District.

FINDINGS:

[The Civil Grand Jury Report did not list a finding numbered 4.1]

4.2. In BVHP's existing elementary and middle schools, as many as 80% of the children qualify for free or reduced-cost lunch programs. For example, 86.8% at Gloria R. Davis qualify, but staff has identified that as many as 20-30% of the eligible students do not return appropriate documentation and, therefore, are denied free or reduced-cost lunches. In most cases, lack of parental support is cited as the root of the problem. These students also are most likely to be low- performing students.

4.3. Staff interviews gave the impression that there is little outreach, via mail, telephone or home visits, to insure that students ' caretakers or guardians are returning the very simple forms requesting free or reduced lunches.

RECOMMENDATION:

4. SFUSD should undertake greater outreach in order to insure that students who are eligible for free or low-cost lunches are receiving them.

Department	Response	Explanation
Board of Education & SFUSD	Recommendation Implemented	No new response necessary—original response notes that recommendation had already been implemented. The District continues to engage in detailed outreach to ensure that parents and guardians fill out free and reduced lunch applications, and does not deny any student a free or reduced price lunch due to their parent's failure to complete the required documentation.

TERMS

SFUSD -San Francisco Unified School District

BVHP -Bayview Hunters Point

HP -Hunters Point

CGJ -Civil Grand Jury

CHAPTER 4

COUNTY COMMUNITY SCHOOLS. POOR STEPCHILDREN OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT

BACKGROUND

The 2003-04 Civil Grand Jury investigated the San Francisco Unified School District's (SFUSD) administration of the County Community Schools (CCS).⁵ The California Education Code mandates that all children, except those who are legally excused, between 6 and 18 attend school full time. When students' special needs are not met by District Schools within a county, it becomes the responsibility of the County Offices of Education to provide educational programs for them. Programs are offered for children with exceptional needs, homeless students, pregnant minors, and youths detained in homes and camps. They include County Community Schools, vocation programs, and Community Day Schools. The funding for San Francisco's County Community Schools is \$93 million.

San Francisco's County Community Schools have the same oversight as the SFUSD schools, though technically, they are separate systems. The Superintendent and School Board of SFUSD are also the administrators of the county schools. The Civil Grand Jury found the duality of jurisdiction can be confusing, especially in the sorting out of budgetary allotments. The Civil Grand Jury found it nearly impossible to determine exactly how the CCS funds are allotted and why there appears to be a significant discrepancy in the per student amounts apportioned for CCS students and the amounts actually used. The Civil Grand Jury also discovered that San Francisco County could apply for a more rigorous alternative, Community Day Schools, a state program that requires a longer school day, has more classes, gives vocational training, and offers more services.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Board of Education
Superintendent of Schools

⁵ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1. When the Grand Jury arrived at 1950 Mission Street, the County Community Schools' Phoenix Campus, for its first interview, committee members were disconcerted by what they saw. The neighborhood, with a crime rate second only to San Francisco's Tenderloin, is disreputable. It is obvious to even the most unenlightened observer that drug use and prostitution are thriving here with impunity. In addition to an apparent lack of safety, the twelve outdated and obsolete brown bungalows, the asphalt schoolyard, and the one broken basketball backstop loom as an indication of the District's lack of interest in the CCS students' welfare. The school is surrounded by a very necessary chain-link fence, which promotes safety, but hardly a positive learning environment. It does not help that the school day ends at 1:30 PM, when "business" is brisk. A police officer told committee members that, at the local police station, this school has the nickname of "Heroin High."

1.2. On another school visit, CGJ interviewers noted that one of the one-room county schools (Community Youth Center) is located on the second floor of a building that houses a strip joint on the first floor. While the school's access is on a different street, the area would be deemed unsuitable for a city public school, as it should also be for CCS. As in the case of the Phoenix campus, SFUSD again ignores one of its stated goals (<http://portal.sfusd.edu>): "Maintain school environments that are *safe*, *secure* and *attractive*." (Emphasis added.)

1.3. One-room schools may soon become unfeasible-due to the change in the state's credentialing of new teachers.

RECOMMENDATIONS:

1a. SFUSD owns properties that are not presently being used for city schools. The Board and Administration should study the availability of suitable sites for relocation of Phoenix.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Requires Further Analysis	SFUSD is currently negotiating a proposal to place Phoenix High School at the John Swett Elementary School facility located at 727 Golden Gate Avenue, San Francisco, CA. 94102. If successful, the proposal seeks to relocate Phoenix High School to the John Swett facility beginning in the 2006-2007 school year.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has its own governing body and is not under the governance jurisdiction of the Mayor's Office.

1b. SFUSD should move immediately to relocate the CCS Phoenix School campus.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Requires Further Analysis	See response to 1(a), above.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

1c. Ideally, a new Phoenix School campus would be ready for the 2004-2005 school year.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Requires Further Analysis	See response to 1(a), above.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

1d. A secondary priority is the relocation of the Community Youth Center's one- room school from its location on Polk Street, above a strip joint.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Recommendation Implemented	The Community Youth Center one-room school that was located on Polk Street has been closed, and in the 2004-2005 school year students were relocated to a new site.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

1e. The five-year plan should include preparations to replace all one-room schools in the county system.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Recommendation Implemented	All one-room schools in the county system were closed and students were relocated to four consolidated county sites in the 2004-2005 school year, as described in the 2005 Update to 1(e), above.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has its own governing body and is not under the governance jurisdiction of the Mayor's Office.

FINDINGS:

2.1. It was only after repeated requests to various administrators that this CGJ committee was able to obtain budget print outs for SFUSD. The committee found it almost impossible to sort out the columns of figures in order to determine sources of funding for city schools and funding for county schools. The committee was able to ascertain that the 2003/2004 funding for CCS is approximately \$93 million, and the budget for County Community Schools, not including court schools or locked facilities, is almost \$4.5 million, a discrepancy that is unexplained in documents or by administration. What is of additional interest is per-student allotments:

- In the city of San Francisco's secondary schools, per-student amounts range from a low of \$3976.68 at Lincoln High School to a high of \$6497.53 at Balboa High School.
- The per-student allotment for CCS should be approximately \$8,000, but CGJ members could only verify a per capita expenditure of approximately \$1250. (Figures derived from information submitted to CGJ by SFUSD's Chief Business Officer.)

2.2. Although the Superintendent and the Board of Education members function separately for the city schools and for the county schools, it is not apparent that two separate budgets are maintained. Since the schools function independently and since funding sources are not the same, it would be reasonable to keep separate budgets to insure that each entity gets and uses all the money to which it is entitled.

RECOMMENDATIONS:

2a. SFUSD should make its budget readily available for inspection by authorized agencies, in particular, the Civil Grand Jury.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Recommendation Implemented	The Grand Jury received a copy of the budget in its preparation of the grand jury report. Additionally, SFUSD acknowledged that any other agencies will receive requested budget information as consistent with the Public Records Act, California Government Code Section 6250 et seq.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of

Department	Response	Explanation
		information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

2b. Budget information should be presented clearly, if possible, with explanatory summaries.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Recommendation Implemented	SFUSD acknowledged that requested budget information will be provided upon request, pursuant to the requirements of the Public Records Act, California Government Code Section 6250 et seq.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

2c. To insure the equitable distribution of funds and to avoid co-mingling of assets, two separate budgets should be kept for the separate school systems of city and county.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Warranted or Not Reasonable	As noted in the original response, this recommendation is unnecessary because the District's current budget system already separately tracks county community funds.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

FINDINGS:

3.1. In spite of its per capita allotment of approximately \$8,000, County Community Schools offer the minimum schooling and services required by California law- a 240-minute instructional day, minimum services, no libraries or librarians, no physical education or coaches, no music or art, no vocational training or community service--"bare bones" services.

3.2. The County of San Francisco is eligible to apply to the California Department of Education to become part of the enriched Community Day Schools Program. By so doing, SFUSD would increase funding for county schools, upgrade the curriculum, acquire additional services, and keep at-risk students in the classroom for a full school day.

RECOMMENDATIONS:

3a. Replace the minimum-service County Community Schools with the more challenging Community Day Schools.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Warranted or Not Reasonable	<p>County Community staff analyzed this recommendation and presented the information to the Board of Education Curriculum Committee. The County Community staff concluded that developing Community Day Schools was not necessary, for the reasons described in the 2005 Update to 3(a), below.</p> <p><i>(2005 update)</i> <i>The Director of County Community Schools and three of the CCS site administrators attended a conference in Sacramento to learn more about Community Day Schools. In May 2005, the CCS Director and the four CCS administrators made a presentation to the SFUSD Board of Education Curriculum Committee regarding the programs and services provided by county community schools.</i></p> <p><i>Among the topics discussed was the possibility of developing Community Day Schools in the District. Daniel Sackheim, the Community Day Schools consultant for the California Department of Education, made a presentation on this topic and distributed detailed information about the benefits and requirements associated with Community Day Schools.</i></p> <p><i>CCS staff determined that developing Community Day Schools was not necessary, because the District has already taken action to provide many of the enhanced resources available through Community Day Schools. For example, the District has extended the instructional minutes provided in CCS, has provided a low pupil-teacher ratio, school counselors, individualized instruction, and specified services for youth on probation.</i></p> <p><i>The District has also provided enhanced support and resources such as a social worker, parent liaison, and attendance liaison. Additionally, the District is planning to hire two curriculum specialists, a Program Administrator to oversee English Language Learner programs in county schools and an English Language Development teacher for the 2005-2006 school year. Finally, the District already receives enhanced per-student apportionments for students on probation, many of whom are in county community schools.</i></p>
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

3b. Use all available funding for county schools by upgrading and making the necessary commitment to Community Day Schools.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Warranted or Not Reasonable	<p>County Community staff analyzed this recommendation and presented the information to the Board of Education Curriculum Committee. The County Community staff concluded that developing Community Day Schools was not necessary, for the reasons described in the 2005 Update to 3(a), above.</p> <p><i>(Refer to 3a)</i></p>
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs

Department	Response	Explanation
		and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has its own governing body and is not under the governance jurisdiction of the Mayor's Office.

FINDINGS:

4.1. On its website, the School District has a section entitled, "About SFUSD." While it is not specifically addressing the County Community Schools, the clear implication is that the article addresses *all schools* under its jurisdiction. These are some points that are made:

- [San Francisco's comprehensive plan for improvement is] a commitment to providing an *excellent* education to all public school students.
- We have established *rigorous* academic standards indicating what all students are expected to know and be able to do.
- If we are to achieve our vision of an excellent education for all students, we must provide more intensive help to struggling schools and students.
- Additional funds are provided to schools for each English Language Learner, each Special Education student, and each student living in poverty. These students are recognized as having greater educational needs.
- Our comprehensive, five-year plan, Excellence for All, identifies several needed task forces to address important issues facing SFUSD, including high school and middle school reorganization. . . . [Emphasis added.]

Notwithstanding its good intentions, SFUSD has made no mention of its dual role as city *and* county administrations. A reasonable inference to be drawn is that this five-year plan applies only to the district's city schools and does not provide for excellence in the CCS.

4.2. Civil Grand Jury members spoke to an assistant administrator of Phoenix. The person did not know that there is no information on the District's website about County Schools. S/he could not recommend any publications with information and said, "Call the district." S/he was even unaware of the handout CGJ members had received on which are listed the eighteen schools and their teachers and/or contacts.

4.3. Several telephone conferences were conducted with teachers and/or directors. Most were followed up with school tours by CGJ members. The results are as follows:

- A representative of RAP/Hilltop Campus and RAP High School, said that there are actually two separate schools—one for pregnant teenagers, designed to meet their special needs; and RAP High School for students who are suspended, expelled or have dropped out. The representative is very enthusiastic about the good job they are doing at RAP with 75-80 students yearly. Approximately 25% of the students graduate with a regular SFUSD diploma. The school day is 8:30 AM-2: 30 PM, and the campus is located in a safe neighborhood. The person encouraged the CGJ to "drop by for a visit" and gave the committee copies of handouts that are distributed to incoming students.

- A representative of Community Scholars of Success Campus has been a part of County Schools since their inception in 1988. This person said that the program began with 18-20 youths in a single location and has grown to over 1300 children at eighteen locations. 72 students are currently enrolled at Community Scholars of Success Campus, and 10-15 earn diplomas each year. Wrap-around services (mental health, social workers, medical care) are available on campus. The representative agreed with CGJ members' impression that the work of these dedicated teachers is pretty much ignored, and the achievements of graduating seniors are not celebrated.
- Community Youth Center has 19-20 students, from grades 6-12. Achievements are a source of pride-especially the graduation of 18 students in 2003. A teacher will be retiring in June of 2004, and worries about whom the District will find as a replacement. Before coming to CYC, the instructor taught at Phoenix High School for two frustrating years, hating the location and the drug trading and prostitution that were carried on openly in the area. This person found the students to be very distracted (and, in some cases, corrupted) by the environs. By comparison, the Chinatown location of CYC "is ideal." The interviewee would like to see the school better supplied, especially since probation students bring more money to the district than do students who are not part of the Juvenile Justice System.
- A Walden House Schools employee discussed the basic difference between locked facility schools and the other County Day Schools. Boys and girls attend separate schools. Almost all of the students have criminal records, and most have serious mental health problems. The school is frustrated in attempting to get appropriate IEPs (Individual Education Plans) for students; the District is dilatory and resistant. The representative described the situation of one student who needed an IEP that would provide a resource specialist for him. It took nearly six months to get that IEP, and the resource specialist who was assigned is so burdened that she rarely makes an appearance. (Instead of 2 schools, she is assigned to 8). Nevertheless, teachers are proud of Walden's achievements; 12-13 seniors graduate every year. Four alumni are enrolled in college. CGJ members were warmly thanked for their interest in County Day Schools and members were assured that all CCS teachers and principals will be grateful for any light this committee can shine on their genuine needs and their unheralded achievements.
- At Ella Hutch Community Center, there are 30 students, grades 9-12, aged 15-18. Conditions are crowded, but the area is safer than Phoenix's, and CGJ visitors were told, "We got all new textbooks just this year." For the first time ever, County Day Schools will soon be getting a school nurse and a truancy officer-one of each to serve all eighteen schools. The interviewee said that students respond to a nurturing approach; for some, school is the only place where someone is kind or caring. Last year, six students earned SFUSD diplomas. Each year, there are good reports from alums who have gone on to colleges and vocational schools. They want to share their progress and achievements.
- A teacher at Bay High School for some time laments that there are no physical education classes, no drivers' education, no music or art classes. The school is really a group of schools, including Impact High School (a Juvenile Hall school) and a group of students from group homes. Teachers and students find the lack of resources enormously discouraging. The location of the school is safe and only a few blocks from the ocean. Even though a number of students have a 1 1/2 hour commute, they enjoy the safe and attractive location.

- At County Community Schools Middle School Academy the mood is enthusiastic and upbeat. Middle schoolers usually are there for the better part of a semester, then return to their former schools or are given a new placement. There was disappointment when district officials nixed an idea for a mural and some planting projects. One teacher said the biggest problem with the district is that they seem to regard the County Day Schools as *punitive*. The teacher believes it would be more correct to regard them as *therapeutic*. "These are not throw-away children." Many are disappointed that there is no vocational training for the students who do not want to go on to college but who aspire to learn a trade. It was suggested that training children how to fix and maintain bicycles could teach mechanical skills; at the same time children could be learning about protecting environmental resources.

RECOMMENDATIONS:

4a. Add comprehensive information about CCS to the SFUSD website and printed materials.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Recommendation Implemented	As described in the 2005 Update to 4(a), below. (2005 update) In January 2004, the District created an area on the SFUSD website that specifically provides information about county community schools, and this website was publicized on KALW FM radio 91.7, in the program entitled "Looking at Education." This website can be found at: http://portal.sfusd.edu/template/default.cfm?page=school_info.county .
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has its own governing body and is not under the governance jurisdiction of the Mayor's Office.

4b. Devise a separate five-year plan for county schools-with special consideration to upgrading to Community Day Schools--and publicize it.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Necessary or Not Warranted	As noted in the original response, the District will not create a separate educational plan for county community schools because Excellence for All applies to county community students.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has its own governing body and is not under the governance jurisdiction of the Mayor's Office.

4c. Educate district personnel about County Community Schools and familiarize them with descriptive publications and websites.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Necessary or Not Warranted	As noted in the original response, the District already provides opportunities for comprehensive and county community school educators to exchange information about their programs. Teachers and staff now have the additional resource of the SFUSD website that includes new detailed information about county community schools. Additionally, the District's Content Specialists regularly meet with the Curriculum Specialists for the County Community Schools; provide site visits to County Community sites; and participate in County Community professional development activities. County Community Department Coordinators attend the District's Department Head meetings.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

4d. Celebrate the dedication and hard work of administrators, teachers and students in the county system. Give them the supplies they desperately need. "Nothing succeeds like success," but even the most dedicated laborers will burn out if their efforts are not recognized.

Department	Response	Explanation
Board of Education & Superintendent of Schools	Will Not Be Implemented: Not Necessary or Not Warranted	As noted in the original response, the District recognizes the achievements and success of all of its county community and comprehensive school teachers and administrators. These teachers and administrators are all recognized as District staff, and are not treated as separate from each other.
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, October 21, 2004 on the Civil Grand Jury Report. The San Francisco Unified School District representatives discussed new programs and changes implemented since July 2004, which include addition of information on County Community Schools on its web site and an intake center to evaluate students to properly place them in the right school. Public comment was heard and the matter was filed.
Mayor	--	The recommendation does not apply to the Mayor's Office. San Francisco Unified School District has it's own governing body and is not under the governance jurisdiction of the Mayor's Office.

TERMS

SFUSD -San Francisco Unified School District

CCS -County Community Schools (County's current program)

CDS -Community Day Schools (proposed upgraded program for county schools)

CGJ- Civil Grand Jury

Wrap-around services -Provided by community-based health and social service agencies to continue and/or enhance SFUSD's services.

CHAPTER 5

THE SAN FRANCISCO SHERIFF'S DEPARTMENT GRIEVANCES: A SOLUTION

BACKGROUND

The 2003-04 Civil Grand Jury is charged with inspecting the county jails annually.⁶ The Civil Grand Jury, during the course of the inspection, spoke with the Sheriff, inmates, deputies and supervisory staff. The inmates had numerous complaints about the facility, treatment by some deputies and the grievance procedure. They said the grievance procedure is not always followed and, as a result, sometimes does not resolve their complaints. As a result, the Civil Grand Jury focused on the grievance procedure, how it works (or does not) and what steps can be taken to improve it. Investigation included interviews with the San Francisco Sheriff, senior staff, deputies, the former ombudsman and inmates. Policies and grievance forms for both San Francisco and Alameda counties were reviewed.

RESULTS

The Civil Grand Jury required responses from the following:

Board of Supervisors
Sheriff

⁶ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

- 1.1. The Policy and Procedure manual in San Francisco is not uniformly followed. As a result, inmate issues may be overlooked or lost.
- 1.2. The Department does not have an automated system to track grievances.
- 1.3. The Department previously employed an ombudsman to handle grievances. This did not prove satisfactory for a number of reasons. For example, allegations of deputy abuse (either physical or psychological) should be handled by department hierarchy, because it has authority over uniformed staff. There was also the suspicion that internal politics made successful execution of the ombudsman's duties difficult and sometimes ineffectual.
- 1.4. Software is available to develop an automated program.
- 1.5. Grievances are kept in each jail facility rather than at a central location. Facility commanders are responsible for maintaining the records in their facilities.
- 1.6. There does not any designated individual responsible for tracking grievances throughout the numerous jails. An inmate or deputy can move to another facility without the staff in the new facility having knowledge of any prior complaints against them by an inmate or any alleged deputy misconduct.
- 1.7. The grievance form is overly complex, leaving insufficient space for the grievant to express concerns.

RECOMMENDATIONS:

- 1a. The Department should review and amend, if needed, the current "Policy and Procedure" manual.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Recommendation Implemented	The Policy and Procedures Manual sections regarding the grievance procedure was reviewed in September 2004.

1b. The Department should purchase/develop software to automate the grievance procedure.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	At this time, our information technology priority is the implementation of the Jail Management System, which will automate the core functions of the Sheriff's Department and assist the City in implementation of the JUSTIS system.

1c. The Department should assign a full-time employee to input data. A senior officer should be assigned to oversee the program and provide periodic reports to designated senior staff.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	The Sheriff's Department lacks the staff required to dedicate one deputy to input data; and does not agree that this is the best way to address grievances.

1d. Every grievant should receive a written response to a complaint within ten (10) days of the date of filing.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	Not all grievances are best addressed in writing.

1e. Grievance forms should be placed by the inmate in a locked box or other secure location.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	Placing grievances in a locked box impedes communication between deputies and prisoners and is inconsistent with expeditious resolution of grievances.

1f. A history of grievances against a deputy should be maintained and forwarded when the deputy moves to another facility.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	Grievances are not an accurate measure of staff performance.

1g. The grievance form should be simplified.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Sheriff's Department were present at the hearing. The Sheriff's Department agreed with most of the findings and recommendations. The matter was continued until Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Board of Supervisors' City Services Committee continued the hearing on Thursday, October 21, 2004 to hear a progress report from the Sheriff's Department. The Department reported it is modeling a policy similar to Alameda County in order to track grievances, responses and corrective action taken. It will modify the grievance form and procedures, which will simplify the process for both the inmates and staff. What remains unresolved is the accessibility of a locked box where inmates drop off grievances. The Department is exploring alternatives to provide inmates confidential submission of grievances and the assurance of directing grievances to the appropriate individual(s). Target date for the completion of a revised policy and procedure is December 31, 2004. The Committee was satisfied with the progress report and the matter was filed.
Sheriff	Recommendation Implemented	The Prisoner Grievance Form has been simplified.

TERMS

Grievance- a complaint made by an inmate against an employee of the Sheriffs Department.

Grievant- an inmate who makes a complaint.

Ombudsman -a person employed by an institution to investigate complaints against that institution.

CHAPTER 6

INCARCERATION AND BEYOND: WHERE DO WE GO FROM HERE?

BACKGROUND

The 2003-04 Civil Grand Jury investigated programs provided by the Sheriff's Department for individuals incarcerated in the county jails.⁷ These programs are: Roads to Recovery, SISTER Program, RSVP (Resolve to Stop the Violence Project) and the 5 Keys Charter School. The Sheriff's Department has kept statistics on recidivism rates for these programs. The Jury also investigated a number of community-based services designed to serve the homeless.

Roads to Recovery is an in-custody drug treatment program that includes acupuncture, academic classes, life skills, relapse prevention, 12-step groups, anger management, family issues, community planning and recovery process groups. The 2000 recidivism study indicates that 55% of the non-treatment control group recidivated; while 44.8% of program graduates relapsed. Significantly the recidivism rate for program graduates who were transitioned into residential programs was only 35.7%.

The SISTER program, the only one for women in the jails, collaborates with the Walden House Drug treatment program to provide a substance abuse course similar to Roads to Recovery. The recidivism rate for women inmates who completed the program was 40%, and 55% for the control group.

RSVP is the first violence prevention program of its kind in the nation. Participants are held accountable for their violence as well as for refocusing and restructuring their attitudes, beliefs and behaviors. A 2002 study of recidivism, subsequent to release, for this group found the following:

- 2 months or more in the program: a 42.4% reduction in re-arrest for violent crimes;
- 3 months or more: a 50.7% reduction
- 4 months or more: a 79.7% reduction (Attachment 3).

The Sheriff's Department received \$1,352,491 for these programs in 2003- 2004.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Office of the Controller
Sheriff

⁷ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1. In-custody programs administered by the Sheriff's Department are beneficial to the inmates and should be retained. Inmates participating in these programs are low- risk, non-violent offenders, most of whom are incarcerated for alcohol and drug offenses.

1.2. The 5 Keys Charter School, although in operation for less than a year, holds great promise. Students enrolled in the school are enthusiastic about this program, respond well to the teachers and are eager to learn and achieve. They report a renewed sense of accomplishment and self-esteem.

RECOMMENDATION:

1a. The Mayor and Board of Supervisors should find in-custody programs at current or higher levels.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Rules Committee held a hearing on Wednesday, September 22, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury and the Sheriff's Department were present for the hearing. Per Jack McNulty, Civil Grand Jury Foreperson, a written response from the Sheriff's Department had not been received and requested to continue the matter. The hearing is continued until October 6, 2004. The Board of Supervisors' Rules Committee continued the hearing on Wednesday, October 6, 2004 on the Civil Grand Jury Report. Sheriff Mike Hennessey commended the Civil Grand Jury for its findings and recommendations. The Sheriff discussed the Five Keys Program High School for incarcerated juveniles, which is a Charter High School in county jails, and several of the programs that they have in jails that could be a resource after release. Sheriff Hennessey also pointed out due to budget reductions they are faced with a 15% reduction in jail programs. Public comment was heard and the matter was filed.
Mayor	Requires Further Analysis	This recommendation is considered annually during the budget cycle.

FINDINGS:

2.1. The Sheriff's Department does not have the staff or budget to develop community- based programs to serve released individuals, nor is it their responsibility.

2.2. Programs in existence are frequently difficult to locate, confusing to access, limited in capacity and often inadequate to the needs of this population.

RECOMMENDATIONS:

2a. The Mayor's office should determine the needs of individuals exiting the jails to assist in formulating effective programs

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the implementation of this recommendation through the Adult Probation Department and the Juvenile Probation Department.

Department	Response	Explanation
Sheriff	--	This recommendation is directed to the Mayor.

2b. Develop a computer program to track recidivism of individuals entering and exiting the county jail system.

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the response contained in the Sheriff departmental status report.
Sheriff	Will Not Be Implemented: Not Necessary or Not Warranted	While we agree that a computer program that tracks recidivism would be extremely beneficial in planning and evaluating jail education programs, to our knowledge, no such program exists, as there is no standard definition of recidivism, and currently no way to track the whereabouts of individuals who leave the county jail. The Jail Management System, which is currently in the implementation stage, will be of some help in this regard, but unless and until all automated criminal justice information systems are standardized, there is no system that will allow us to know if a San Francisco releasee recidivates in another jurisdiction.

2c. Prioritize services needed by individuals released from the county jails when planning for the homeless.

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the implementation of this recommendation through the Adult Probation Department, the Juvenile Probation Department and the Department of Human Services.
Sheriff	--	This recommendation is directed to the Mayor.

FINDINGS:

3.1. The cost to the taxpayers of San Francisco as a result of the negative effects of homelessness is great.

3.2. It is estimated that 40% -60% of the homeless are individuals who have been in the county jails at least once, and frequently numerous times.

3.3. Determining the needs of this population and addressing those needs can reduce the number of homeless people.

3.4. Providing permanent, safe and sober, clean housing is a priority for these individuals. Without an address and at least a message telephone, seeking and obtaining employment is nearly impossible.

3.5. The current shelter system is unreliable and inadequate. Roaming the streets during the day, hoping for a shelter bed each night, is discouraging and demoralizing.

3.6. There is no accurate data available to track people entering and exiting the jails. Identifying this population would allow proper planning for their needs.

3.7. These individuals need short-term assistance upon release from custody to help them navigate the "system". Only the most determined are able to persevere in programs suited to their needs.

3.8. Most inmates expressed a desire for assistance from a mentor/sponsor for a short period.

3.9. Existing agencies frequently provide similar or identical services, rather than specializing in one service. As a result, most programs are spread too thinly and can only provide limited assistance.

3.10. There does not appear to be significant oversight of agencies receiving public dollars. The quality of services varies greatly.

RECOMMENDATIONS:

3a. A mentor/sponsor program should be created to assist this population for a limited period after they return to the community from the jails.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Rules Committee held a hearing on Wednesday, September 22, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury and the Sheriff's Department were present for the hearing. Per Jack McNulty, Civil Grand Jury Foreperson, a written response from the Sheriff's Department had not been received and requested to continue the matter. The hearing is continued until October 6, 2004. The Board of Supervisors' Rules Committee continued the hearing on Wednesday, October 6, 2004 on the Civil Grand Jury Report. Sheriff Mike Hennessey commended the Civil Grand Jury for its findings and recommendations. The Sheriff discussed the Five Keys Program High School for incarcerated juveniles, which is a Charter High School in county jails, and several of the programs that they have in jails that could be a resource after release. Sheriff Hennessey also pointed out due to budget reductions they are faced with a 15% reduction in jail programs. Public comment was heard and the matter was filed.
Mayor	--	The Mayor's Office supports the response contained in the Sheriff and the Office of the Controller departmental status reports.
Office of the Controller	Will Not Be Implemented: Not Necessary or Not Warranted	This recommendation does not apply to the Controller's Office and should be addressed by the Office of the Sheriff.
Sheriff	Recommendation Implemented	At the time the Civil Grand Jury was studying this issue, the Sheriff's Department had a small mentoring program in place. While that program remains small, it has been expanded into the community. The Sheriff's Department is currently seeking opportunities for jail aftercare that may be available through Project Homeless Connect.

3b. An audit of all agencies currently charged with providing services to the homeless should be undertaken.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Rules Committee held a hearing on Wednesday, September 22, 2004 on the Civil Grand Jury Report. Representatives from the Civil Grand Jury and the Sheriff's Department were present for the hearing. Per Jack McNulty, Civil Grand Jury Foreperson, a written response from the Sheriff's Department had not been received and requested to continue the matter. The hearing is continued until October 6, 2004. The Board of Supervisors' Rules Committee continued the hearing on Wednesday, October 6, 2004 on the Civil Grand Jury Report. Sheriff Mike Hennessey commended the Civil Grand Jury for its findings and recommendations. The Sheriff discussed the Five Keys Program High School for incarcerated juveniles, which is a Charter High School in county jails, and several of the programs that they have in jails that could be a resource after release. Sheriff Hennessey also pointed out due to budget reductions they are faced with a 15% reduction in jail programs. Public comment was heard and the matter was filed.

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the response contained in the Office of the Controller departmental status report, and supports the implementation of this recommendation through the Department of Human Services.
Office of the Controller	Recommendation Implemented	The recommendation has been implemented. In May 2002, this office issued a comprehensive performance audit of the City's system for delivering services to the homeless and recommended how the City can improve its system for planning, delivering, and evaluating homeless services in San Francisco. As part of the City Services Auditor Division's annual audit plan, we will be conducting audits of organizations that receive funds from the City to provide various services. Agencies providing services to the homeless will be included as those subject to audit.
Sheriff	--	This recommendation is directed to the Mayor, Board of Supervisors and Controller.

TERMS

Recidivism - habitual or chronic relapse, especially into crime or antisocial behavior

Misdemeanor - an individual found to have committed a misdemeanor

RSVP- Resolve to Stop the Violence Project

Roads to Recovery - an in-custody drug treatment for men

SISTER - an in-custody drug treatment for women

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CHAPTER 7

SAN FRANCISCO DEPARTMENT OF CHILD SUPPORT SERVICES PUTTING THE CHILDREN FIRST

BACKGROUND

Because of child support complaints from parents, custodial and non-custodial, the 2003-04 Civil Grand Jury investigated the Department of Child Support Services (DCSS).⁸ The Civil Grand Jury concluded that DCSS is such a successful and smooth-running operation that it has few suggestions for improvement. However, after touring another facility and after learning about the activities of other DCSS agencies in California, the Civil Grand Jury recommended some changes. The Civil Grand Jury's consensus is that providing even better accessibility would result in even better service to the city/county of San Francisco.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Department of Child Support Services

⁸ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1.1. There is confusion about whom DCSS represents and what is its role. There is a persistent misconception that DCSS and the Family Court represent the custodial parent. Though untrue, that notion encourages unintended adversarial relationship (or worse, escalates an already bad relationship) between the parents.

1.2. DCSS sometimes fails to explain completely the agency's systems and paperwork. It is possible that the client is unable to ask the question that would provide necessary information.

1.3. Although the agency has a wealth of informative literature describing what parents will encounter within the system, it isn't always readily available. Even when it is, some parents are just unwilling or unable to read it or to file it away for future reference

1.4. Several interviewed parents did not seem to understand the process even though they were in the middle of it.

1.5. With community assistance and in collaboration with local radio and television stations, Monterey County DCSS broadcasts informational 30-second advertisements in English and Spanish.

1.6. Contra Costa County has, with volunteer dollars and expertise, produced several videos that explain DCSS, the process of obtaining child support, and many ancillary services. These teaching videos are shown in translation when appropriate) on local television stations and at outreach gatherings.

RECOMMENDATIONS:

1a. Written materials (in translation when appropriate) to be presented and explained at in-take should include a flow chart outlining the process to be undertaken from start to finish. Specifics should describe all of the players in the process and their roles-especially including DCSS, their computer and phone systems, and all its divisions: in-take, DSOs, attorneys and the ombudsperson.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Child Support handbooks are provided to the public in English and Spanish at the time of case opening and upon request throughout the life of a case or for informational purposes. A child support flowchart was developed describing the Intake process for all cases. The flowchart is available in the lobbies of all child support services sites (617 Mission, 170 Otis, 3120 Mission and Bayview Hunter's Point), as well as in each caseworker's cubicle. In addition the flowchart is provided at the offices of the Family Law Facilitator in an effort to assist in simplifying the explanation of our processes.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

1b. The role of the court and the Family Law Facilitator and how they can be accessed should be explained-especially if it appears that the parents will be unwilling or unable to stipulate a plan for child support.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Information regarding the services of the Family Law Facilitator (FLF) is included with all department Outreach materials. The FLF flyer is posted in all child support services lobbies (617 Mission, 170 Otis, 3210 Mission and Bayview Hunters' Point) as well as on internal bulletin boards. The FLF referral is part of the department's automated system. It is also available as a stand-alone document in order to provide information to that segment of the public that may not have a child support case. In collaboration with our office, the FLF has been provided an office at 617 Mission where they are available each between 8:30 am and -12:00 Noon. The department is currently in the process of providing the same service at the Bayview Branch office.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

1c. Packet information should be reinforced by the use and distribution of posters, flyers and videos made available in libraries, churches, shops, hospitals and community agencies.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	On-going since September 2003 The department's Outreach team distributes flyers, posters and other outreach materials and closely monitors each site to assure adequate supplies are maintained at various of community organizations frequented by its customers. Some of these are: The SF Public Library, Westside Community, Children's System of Care, Project Hope, Community College of San Francisco, Visitation Valley Community Center, California Correction Facility, San Bruno County Jail #7, Hawkins Health Clinic, at festivals, Filipino Pistahan Arts Festival, Sunset Community Festival, Harumbe in the Park Festival (Bayview), Chinese New Years Festival, Mayor's Summer Family Fair, Salvation Army Family Festival, Asian Heritage Month Festival, Providence Church, Chinese First Baptist Church and 3rd Baptist Church.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

1d. SFDCSS should add to its long-range plan the production of multilingual educational videos and television and radio advertisements. By collaborating with other agencies and by accessing volunteer time, talent and dollars, DCSS can expand its services to clientele.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Ongoing since April 2003 The SF DCSS has Public Service Announcements (PSAs) and public notices on the following television and radio channels: KPIX TV Channel 5 KGO TV Channel 7 KBHK TV UPN 44 KTSF TV Channel 26 CABLE TV 8 and 12 City Government Channel 26 Chinese Radio Station 1400am Spanish Radio Station LaGrande 1010am Articles also appear in the Spanish magazine, Avance.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

FINDINGS:

2.1. DCSS does not display leaflets prominently at in-take points and court offices.

2.2. Some information (The *START Book*) is not always available to clients, the court, or the facilitator.

2.3. The presence of metal-detectors and armed deputies at the front door of the main DCSS facility give the agency a very uninviting and forbidding aspect.

RECOMMENDATIONS:

2a. In an attractive and efficient manner. DCSS should set up, monitor and stock regularly display racks of written materials and handouts at all DCSS offices, law facilitators' offices and courtrooms.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Magazine display racks have been added to all SFDCSS offices (617 Mission, 170 Otis, 3120 Mission, Bayview Hunters Point) as well as in the FLF office and the court. SFDCSS Outreach staff regularly monitor and supplies each site.

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

2b. Re-arrange the main-office entry so that DCSS looks more like a sanctuary than a jail. {Pattern reception area after that of the Contra Costa County DCSS.}

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Implemented in August 2004. The lobby of the main SFDCSS office was provided a "face-lift" with warm pastel colors on the walls, new carpeting and comfortable attractive furniture, including coffee and end tables and plants that make the Lobby feel more like a living space than a "waiting area". Child support materials and parenting magazines are neatly situated on each table. A bulletin board is displays information updates on California's Statewide Conversion (CCSAS), job opportunities and community based organization materials. Also in the main office a career link center has been established with two computers at for all clients, Non-Custodial Parents (NCPs) and Custodial Parties (CPs)) to access the Internet for job availabilities. SFDCSS is in the process of installing a career link center at the Bayview Branch Office.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

FINDINGS:

3.1. Although DCSS staff maintains that calls are handled personally and promptly, parents insist that this is not the case.

3.2. More than 50 calls made to DCSS by members of this committee on every day of the week and at various times of the day were not answered in person.

3.3. Of 179 complaints filed with the ombudsperson in 2003, lack of response to phone calls or slow response numbered 22. A visit to Contra Costa and observation of their full-time phone team of 8 or more operators gave the CGJ insight into how an efficient phone system could work for SFDCSS.

3.4. Parents assume that DCSS and the court will handle their paperwork safely and with dispatch.

3.5. Members of this committee, sitting in on several procedures in the courtroom, observed that paper work was lost by DCSS or the court.

3.6. DCSS should make every effort to reconcile cross complaints by both parents and eliminate the need for a court appearance.

RECOMMENDATIONS:

3a. SFDCSS should plan for installation of a full-time phone team trained to deal with ordinary questions and problems of clients. CGJ recommends that it be patterned after that of the Contra Costa County DCSS. Otherwise, teams and the ombudsperson should make every effort to follow DCSS policy and answer phones in person as often as possible.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Implemented in December 2005. SFDCSS has always utilized its Child Support Officers (CSO) to answer telephones. The reason for this is to allow the public to receive the maximum service level at the earliest possible point. At the time of the Civil Grand Jury visit, the SFDCSS policy was to use one full time CSO per team (5 CSOs) with a back-up for breaks and lunch. Based upon the Civil Grand Jury's recommendations, the number of CSOs were doubled for coverage during the day. Currently the department is working with SF's Department of Telecommunications and Information Services (DTIS) to implement an enhanced phone system, wherein each CSO is responsible for all calls on his/her caseload. At that time SFDCSS will have approximately 60 people covering phones on a daily basis.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

3b. CSOs and/or attorneys should advise parents to keep back-up copies of all paperwork and bring it with them to court. The committee recommends that DCSS arrange to store all back-up information on computer so that information will not be lost.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	In addition to verbally advising customers, SFDCSS includes a flyer (English and Spanish) in all of packets of Motions and Order's to Show Cause served on the NCP and CP that reads: <i>"IMPORTANT NOTICE – It is important to keep a copy of the documents you provide this office for your records. If you are going to court, you need to make a copy of the documents you provide this office for your records. When opening a case, this office will make a copy of the records you provide. REMINDER, KEEP COPIES OF ALL YOUR DOCUMENTS".</i> Since the SFDCSS automated system (CASES) does not have scanning capability, all pertinent documentation received is forwarded to Court to be placed in the court file under a corresponding Court docket number.

Department	Response	Explanation
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

3c. DCSS should make every effort to reconcile cross-complaints by both parents and eliminate the need for a costly court appearance. However, when the court procedure is necessary, each parent should be given formal and timely notice.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' City Services Committee held a hearing on Thursday, September 23, 2004 on the Civil Grand Jury Report. Representatives from both the Civil Grand Jury and the Department of Child Support Services were present at the hearing. Child Support Services agreed to all but 1 of 9 recommendations by the Civil Grand Jury and may be willing to revisit this recommendation providing funding is available. Some of the recommendations have also been implemented. The City Services Committee has filed the matter.
Department of Child Support Services	Recommendation Implemented	Implemented in December 2004. In December 2004, SFDCCS was awarded a Federal Grant (Enhanced Parental Involvement Collaboration [EPIC]) to conduct a pilot project. This project explores alternative measures at critical stages of the establishment process. The philosophy behind EPIC is that it is better to establish appropriate orders rather than attempt to enforce non-collectable based on unreasonable order amounts given case specifics. EPIC specifically addresses the issues of notice to the NCPs and educational, cultural, and economic barriers that prevent or deter NCPs from participating in the process. A major objective of the goal is to increase NCP participation in the establishment process. With the collaboration of the FLF, EPIC staff have been trained on how to assist NCPs in filing Answers. Due to initial success, at the end of the pilot project in April 2006, the concepts will be officially implemented into standard business practices of the department. Lastly, it has always been procedure that upon proof of service of a Summons and Complaint on an NCP, a Default Warning Letter is mailed to the NCP giving a 30 to 45 day advance notice to settle out of court or file an Answer. Prior to filing a Default Judgment, a CSO will attempt phone contact with the NCP.
Mayor	--	The Mayor's Office supports the response contained in the Department of Child Support Services status report.

TERMS

DCSS -Department of Child Support Services (county, state, federal)

CGJ- Civil Grand Jury

CSO -Child Support Officer

CALWORKS -California Work Opportunity and Responsibility to Kids

MEDICAID -Source of government funding for medical- and health-related services for people with limited income.

FOSTER CARE -Social Services Department's paid placement of a child with foster caregivers instead of with birth family.

WICSEC -Western Interstate Child Support Enforcement Council

SACSS -State Automated Child Support System

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CHAPTER 8 CONTINUITY REPORT

BACKGROUND

The 2003-04 Civil Grand Jury noted that each year the Civil Grand Jury selects various entities of city or county government that it chooses to investigate. Additionally, the Civil Grand Jury determines whether to pursue any issues raised or recommended by previous juries. The 2003-04 identified several issues for the 2004-05 to pursue.

The State of San Francisco's Emergency Planning

The 2002-2003 Grand Jury was highly-critical of the state of emergency planning for San Francisco, and it recommended that the Office of Emergency Services address the inadequacy of its emergency resources in areas of communication and technology.

Additionally, it recommended that the City should improve its methods of budgeting for emergency response. The Jury report elicited a scathing rebuttal by the then Mayor Willie Brown, who denied that there were any deficiencies in the City's emergency planning and subsequently demanded that the Grand Jury be abolished. Despite the Mayor's public histrionics, the Jury stood by the integrity of its report.

On his first full day as Mayor, Gavin Newsom convened the San Francisco Disaster Council and directed municipal departments to update their preparedness plans for earthquakes, terrorist acts and other emergencies. He gave departments until the end of March to update their response plans and ordered the Department of Emergency Services to create a new citywide operations plan by the end of June. Within the same week, the Director of Emergency Services resigned. The position has since been filled.

Presently, the Office of Emergency Services is located in the northeast quadrant of San Francisco and operates from the Emergency Operations Center which handles 911 calls for police, fire and medical emergency dispatching. The Center is undergoing a transition which will civilianize practically all its staff. Additionally, there is an on-going review of its triage protocols which are used to assess incoming emergency calls and to dispatch first responders.

Because of the vital nature of both the Office of Emergency Services and the Emergency Operations Center, it is suggested that their activities be considered as a matter of interest for the 2004-2005 Grand Jury.

Fire Safety in Local Detention Facilities

The Jury recommended that the San Francisco Police Department discontinue use of detention cells at Northern, Richmond and Ingleside district stations because the cells do not comply with state and local fire codes. However, detention cells in those stations continue to be used notwithstanding safety and fire deficiencies noted by the State Board of Corrections and the lack of clearance from the San Francisco Fire Department.

Each year since 1997, the Police Department has made requests for funds to bring the holding cells into compliance with state and local fire codes in its capital improvements budget. However, the City's Capital Improvement Assessment Committee and the Mayor's Budget Office have denied funding because refitting the stations to meet safety and fire standards was not considered high priority.

Since October 1997, the station commanders have been under orders to implement an alternate means of protection -a fire watch-in the cell area every 30 minutes to check on the safety of any prisoner incarcerated there. Inspectors from the San Francisco Fire Department's Fire Prevention and Inspection Division do not consider the fire watch to be a permanent or satisfactory remedy; it was allowed only as a temporary measure, in 1997, in anticipation of refitting the stations within a reasonable time. As a result, the inspection service will not issue a fire clearance pending correction of physical safety and fire deficiencies which have existed for seven years.

The 2003-2004 Civil Grand Jury suggests that the 2004-2005 Civil Grand Jury consider whether funding is again allocated for the correction office and safety deficiencies at the three stations or whether the Police Department discontinues use of the facilities.

The Lack of Cooperation by the San Francisco Police Department With the Office of Civilian Complaints

During its inquiry into how the San Francisco Police Department related with the OCC (Office of Civilian Complaints), the Jury noted a distinct and palpable lack of cooperation and coordination between the two entities. The disunity between the two departments has caused the dismissal of many meritorious citizen complaints which affected the due process of the citizens complaining and of the officers being investigated. Record keeping of complaints and investigative files were slipshod; necessary documents were not shared in a timely way, and the Police Commission omitted the necessary management oversight to keep the complaint investigative process operating effectively and efficiently. The Jury's report called attention to the obvious lack of cooperation between the Police Department and the OCC and offered several remedial recommendations to the two departments.

During the past few months, a number of remedies to the complaint investigative process have been implemented. New leadership, which bodes well, was instituted: a new head of the OCC was hired; a new police chief was appointed and a new Police Commission was sworn in. Additionally, an ordinance was enacted (Chapter 96 of the San Francisco Administrative Code) which codified responsibilities and duties of the Police Department, the Police Commission and the OCC in the timely handling and reporting by citizens of police misconduct. The ordinance requires that the status and disposition of sustained complaints be made public and that instruction on the OCC's processes and procedures for investigating citizen complaints be required for officers and police commissioners.

Because the new leadership has been in office for a short time, it is suggested that the 2004-2005 Civil Grand Jury, midway through their term of office, consider, as a matter of interest, how the revised process for handling citizen's complaints against police is working.

The Management of the Department of Building Inspection

In its inquiry into the management of the Department of Building Inspection, the Jury found that preferential treatment was being afforded to certain Department of Building Inspection (DBI) customers. It recommended quality control procedures in both the Plan Check and Inspection Services divisions. Additionally, it recommended that DBI comply with state law by determining the actual costs of providing services. Lastly, there is a need to improve management and leadership skills of those in DBI positions of responsibility. The report of the Jury's inquiry and its recommendations brought public condemnation of the Jury by certain members of the Department who demanded that the names of the persons who cooperated with the Jury be revealed. The Jury refused to identify the individuals interviewed, pursuant to California Penal Code Section 929, and it stood behind the allegations made in its report.

In March 2004, Mayor Gavin Newsom appointed Rudy Nothenberg, retired former Chief Administrative Officer of San Francisco, as an "unpaid advisor" to the Mayor. Nothenberg's charge was to investigate whether there is preferential treatment of certain DBI customers, as alleged in the Jury's report. Additionally, the Board of Supervisors has proposed an application-tracking process to reveal any evidence of favorable treatment by DBI employees.

Nothenberg estimated that the report of his inquiry would probably be concluded in three months and then presented to the Mayor. Since the inquiry was commissioned by the Mayor, the Mayor would determine its acceptance and manner of distribution. Nothenberg's conclusions would be a choice matter of interest for the 2004-2005 Grand Jury.

Truancy in the San Francisco Unified School District

Even though State law specifies the content, manner of delivery and time at which truancy notices are given to the student and to the student's parent, District schools do not follow a uniform truancy notice procedure. The 2002-2003 Grand Jury concluded that promptly-sent notices would reduce the District's truancy rate. Since the School District is entitled to State reimbursement for every first and third truancy notice it sends, the District annually collects less State monies than it could.

According to the District's Pupil Services Department, a process will be implemented shortly to ensure that the District will mail its truancy notices on time and thereby reduce its truancy rate and promptly capture the State funding to which it is entitled. Since the 2003-2004 Grand Jury did not have the opportunity to view the truancy abatement process, it is suggested that the 2004-2005 Grand Jury consider it an area of interest.

The Conduct of the November and December 2002 Elections

Currently, the Department of Elections operates in and from six major facilities during an election period—a condition which can easily endanger the integrity of the election process. Therefore, the Grand Jury made a strong recommendation that the City consolidate all operations of the Department of Elections into one site. The recommendation received concurrence by management of the Department. However, to date, an appropriate site has not been located, nor have any City funds been set aside for such a consolidation.

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Part B
Fiscal Year 2004-05
Civil Grand Jury Reports

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CHAPTER 9

COMPENSATION ISSUES IN THE SAN FRANCISCO POLICE DEPARTMENT

BACKGROUND

The 2004-05 Civil Grand Jury initiated its investigation of the compensation of police officers in San Francisco in response to several complaints from citizens regarding aspects of compensation.⁹ The Civil Grand Jury researched these allegations in the context of all compensation practices in the San Francisco Police Department (SFPD) and compared those practices to other City departments as well as to other police departments in the State considered comparable.¹⁰ The Civil Grand Jury identified the compensation practices as examples of opportunities to reduce costs without jeopardizing the public's safety.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Department of Human Resources
San Francisco Police Department

(The Civil Grand Jury indicated that the named departments should reply to those recommendations that are within their jurisdictions.)

⁹ The Civil Grand Jury noted that one member of the jury has a family member in the employment of the San Francisco Police Department and did not participate in the investigation or acceptance of the report.

¹⁰ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1. San Francisco spends more per resident on police protection than other comparable jurisdictions in California. Likewise it has more officers per resident and per square mile of geographic area than these jurisdictions.
2. Top managerial staff of the SFPD are paid OT and accrue CT in lieu of OT payments, although federal labor law exempts such positions from OT and does not mandate CT. In contrast, most comparable jurisdictions do not pay OT/CT benefits to most of these positions, nor do other public safety departments in San Francisco.
3. The POA MOU sets no limit on the CT accrual of top managerial staff until 6/30/05. When the current MOU expires, top managerial staff will still have a CT limit that is 2.7 times greater than rank and file officers.
4. Top managerial staff of the SFPD are better compensated than comparable job titles in other City public safety departments.
5. All officers of the SFPD, including the top managerial staff, have received greater salary increases than other City employees in a time of budgetary constraint.
6. Seventeen officers below the rank of captain with CT balances of 480 hours or more on 7/2/04 were permitted to accrue more hours of CT during the six-month period ending 12/17/04, in violation of the CT cap established by the MOU.
7. The SFPD is assigning vehicles to high-ranking officers for transportation to and from their homes in excess of the number of vehicles allowed by the City's Administrative Code in apparent violation of the City's policies.
8. SFPD CT policies and practices are more generous than other City departments and other comparable jurisdictions. Although CT banks are being managed by the SFPD, they remain a large liability for the City.

RECOMMENDATIONS:

1. The City should negotiate with the POA for elimination of OT/CT benefits for top managerial staff and consider less costly alternatives such as limited administrative leave as provided by other jurisdictions and City departments.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.

Department	Response	Explanation
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Be Implemented In The Future	This item may be addressed in the NEW Memorandum of Understanding amongst the City and County of San Francisco, The Police Commission, the Chief of Police, and the San Francisco Police Officers' Association scheduled for July 1, 2007 -June 30, 2011.

2. If top managerial staff continue to be eligible for CT accrual, the City should negotiate limits in the MOU on their accrual comparable to rank and file officers.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Be Implemented In The Future	This item may be addressed in the NEW Memorandum of Understanding amongst the City and County of San Francisco, The Police Commission, the Chief of Police, and the San Francisco Police Officers' Association scheduled for July 1, 2007 - June 30, 2011.

3. The City should negotiate to pay CT balances prior to the effective date of promotions to limit the inflationary effect of carrying CT balances for long periods of time.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Be Implemented In The Future	This item may be addressed in the NEW Memorandum of Understanding amongst the City and County of San Francisco, The Police Commission, the Chief of Police, and the San Francisco Police Officers' Association scheduled for July 1, 2007-June 30,2011.

4. The SFPD should manage the CT banks with the objective of minimizing the long-term liability of large CT balances. Such management must include enforcement of CT caps. The law allows that such management may include requiring officers to use their accrued CT.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Recommendation Implemented	This recommendation has been implemented. Commanding officers are provided with periodic updates for reduction management. The HRMS (Payroll) system has been modified to not accept data that exceeds established limits.

5. Given that rank and file officers will have had four years to reduce their CT balances to 480 hours by the end of the current MOU, the City should negotiate for the next MOU, some penalty for continuing to maintain a CT balance greater than 480 hours, such as forfeiture of hours above 480.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Be Implemented In The Future	This item may be addressed in the NEW Memorandum of Understanding amongst the City and County of San Francisco, The Police Commission, the Chief of Police, and the San Francisco Police Officers' Association scheduled for July 1, 2007-June 30,2011.

6. The SFPD must manage their vehicle fleet in accordance with Administrative Code 4.11 as well as optimize the use of this valuable resource for police protection.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Recommendation Implemented	This recommendation has been implemented. In addition to a reduction of 18% in overnight vehicle use, the Department has been working with the Administrative Services division to ensure Administrative Code compliance, fleet reduction, and fleet management of fuel usage.

7. The City should negotiate to include all forms of premium pay available to all officers in comparisons for the purposes of salary setting.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Be Implemented In The Future	This item may be addressed in the NEW Memorandum of Understanding amongst the City and County of San Francisco, The Police Commission, the Chief of Police, and the San Francisco Police Officers' Association scheduled for July 1, 2007 -June 30, 2011.

8. The Board of Supervisors should request that the Budget Analyst update the management audits of 1996 and 1998 regarding SFPD policies and practices and make recommendations for opportunities for cost savings.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audits Committee conducted a public hearing June 27, 2005 to discuss the findings and recommendations of the Civil Grand Jury and the Police Department's response to the Report. Police Chief Heather Fong and Philip Ginsburg, Director, Department of Human Resources presented at the hearings. The item was continued to the call of the chair so that any members of the Civil Grand Jury or members of the Committee may check in and see how various findings and recommendations that have been concurred to with the Police Department are being implemented over time. Pursuant to Board rules, the item was filed in January 2006.
Department of Human Resources	--	The department elected not to respond.
Mayor	--	The Mayor's Office supports the responses contained in the Police Department status report.
SFPD	Will Not Be Implemented: Not Necessary or Not Warranted	This recommendation was made for the consideration of the Board of Supervisors.

TERMS

CT – Compensatory Time: Leave time accrued at time-and-one-half in lieu of overtime pay

CT Cap – Compensatory Time Cap: Maximum hours of accrued Compensatory Time permitted by the POA MOU

FLSA – Fair Labor Standards Act: Federal law regulating employment and compensation

MEA – Municipal Executives' Association

MOU – Memorandum of Understanding: Collective Bargaining Agreement between bargaining unit and the City and County of San Francisco

OT – Overtime Pay: pay at time-and-one-half of time worked

POA – Police Officers Association: Collective Bargaining Agent for sworn police officers of the City of San Francisco except Chief, Assistant Chief, and Criminologist

SFPD – San Francisco Police Department

Top Managerial Staff – Deputy Chiefs, Commanders, and Captains within the context of this report only. Excludes Chief, Assistant Chief, and Criminologist who are represented by another bargaining agent.

CHAPTER 10

A NEW CHIEF OF THE JUVENILE PROBATION DEPARTMENT: AN OPPORTUNITY FOR REFORM

BACKGROUND

The 2004-05 Civil Grand Jury initiated its investigation of the juvenile justice system in response to press reports suggesting serious issues in the San Francisco Juvenile Probation Department (JPD).¹¹ The Civil Grand Jury focused on only a few of the many issues that are presently preventing the juvenile justice system from being as successful as it can be. The Civil Grand Jury report focused on the considerable efforts that the City and County of San Francisco (City) has made to reduce the rate of detention of youth in secure facilities and the lack of success of these efforts.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Juvenile Probation Commission
Juvenile Probation Department
Mayor's Office of Criminal Justice
Office of the Controller
Police Commission
San Francisco Police Department

(The Civil Grand Jury indicated that the named departments should reply to those recommendations that are within their jurisdictions.)

¹¹ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1. San Francisco has made large investments of resources in providing alternatives to detaining youth in secure facilities, such as the creation of CARC and the funding of CBOs.
2. These investments have not resulted in a decrease in the rate of detention of arrested youth.
3. Although, the Risk Assessment Instrument (RAI) indicates many times that youth need not be detained, probation officers (POs) often override the RAI in order to detain anyway. This is one of many indicators that the resistance of POs appears to be the chief obstacle to reducing the population of non-violent youth in secure detention, such as youth arrested for violating the terms of their probation.
4. Lack of management controls at the JPD appears to be a leading factor in persistent resistance of POs to alternatives to detention. For example, supervisors are not reviewing the PO's overrides of the RAI as required by JPD policy.
5. Reduced hours and inconvenient location of the Community Assessment Referral Center (CARC) is apparently a factor in preventing police from referring all arrested youth first to the CARC for assessment as required by SFPD policy.
6. Police have been instructed to make initial contact with CARC regarding arrested youth by a Police Department Bulletin. However, these instructions are not in the Department's General Orders, which is a higher level of authority that could increase compliance.
7. The role of community-based programs (CBOs) in preventing detention is not clear. Some CBOs may be more effective than others in preventing detention.
8. The Juvenile Probation Commission may not be providing the necessary leadership to achieve the objective of reducing detention.

RECOMMENDATIONS:

1. The Juvenile Probation Department (JPD) must develop and enforce policies and procedures that support the goal of reducing the population of detained youth that are unnecessarily detained. For example, supervisors of probation officers (POs) must approve all overrides of the Risk Assessment Instrument, as required by policy.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.

Department	Response	Explanation
Juvenile Probation Department	Recommendation Implemented	A policy requiring supervisory review and approval of all RAI overrides was introduced in May of 2005. Beginning in September of 2005, probation officers were directed to submit a written report of all RAI overrides to the Chief Probation Officer at the end of each shift. Additionally, the Chief Probation Officer convenes a weekly houselist review meeting with the Probation Division Director and supervisors along with the Juvenile Hall Director to identify youth who might benefit from the development of an expedited release plan. Additionally a variety of detention alternative programs are being examined for inclusion into an Administrative Sanctions Continuum to be developed in 2006.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Recommendation Implemented	This recommendation has been implemented in May 2005. The Juvenile Probation Department supported and encouraged by the Mayor's Office of Criminal Justice has developed strict protocols that require review of all overrides of the Risk Assessment Instrument. Further, the Chief is informed of all such overrides and reviews them daily. Further, the department is presently exploring the expansion of alternatives to detention such as evening reporting centers and non-secure shelter beds.
Office of the Controller	Will Not Be Implemented: Not Necessary or Not Warranted	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Recommendation Implemented	This has been implemented. The SFPD Juvenile Division has worked closely with the Juvenile Detention Alternative Initiative (JDAI) to establish the existing Risk Assessment Instrument. This tool, required to be used by Juvenile Probation Officers before accepting a custodial arrest, attempts to identify offenders who present significant risk to the community as demonstrated by their actions, history, and nature of the offense. Offending youth who do not present a risk are provided alternative placement. The JDAI and Disproportionate Minority Confinement (DMC) monitor compliance and review criteria. The OIC of SFPD Juvenile Division participates in both committees.

2. The new chief of the JPD should make the supervision and management of JPD staff, particularly the POs, a top priority for his administration. For example, all POs must be evaluated routinely with respect to their adherence to Department policies and procedures.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.

Department	Response	Explanation
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.
Juvenile Probation Department	Recommendation Implemented	The Chief Probation Officer meets with Division Directors on a day-to-day basis given exigent circumstances or needs. Performance appraisals are being completed on all staff for 2005. Several staff have required the necessary application of corrective or disciplinary action as remedy to poor performance. The implementation of this recommendation will be ongoing.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Recommendation Implemented	The implementation of this recommendation began during the summer of 2005. The Chief Probation Officer has directed that baseline evaluations be conducted for all managers, probation officers and support staff. These evaluations have been completed. The goal of the evaluations is to establish performance benchmarks and provide staff with specific feedback regarding their compliance with department policies, procedures and directives. Supervisors are being held accountable to the performance of their assigned staff (e.g. Any motions to show cause against probation officers are being placed on a corrective action track for purposes of holding officers accountable to court and departmental expectations. Supervisors are also expected to provide participate in the development of the corrective action plan and communicate the results to the Director of Juvenile Probation.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	This is not a Police issue. This item appears to fall under the provisions of the Juvenile Probation Department and the Juvenile Probation Commission.

3. The new chief of the JPD should engage all stakeholders within the context of the Juvenile Detention Alternative Initiative in a reconsideration of the Risk Assessment Instrument (RAI), with the goal of strict adherence to the use of the RAI by POs.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.

Department	Response	Explanation
Juvenile Probation Department	Recommendation Implemented	The Executive Committee of JDAI has carefully considered the recommendation to reconsider the current RAI. The committee supported the suspension of any adjustment of the current instrument until such time as its use could be converted to electronic scoring so that all data captured, as well as the final decisions, could be sorted and tabulated. This was completed in December of 2005. An examination of the RAI's elements, weights and thresholds will commence in December of 2006. A change in the supervisor of the unit responsible for this function has improved the use of the RAI. This recommendation will require continued vigilance.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Recommendation Implemented	This recommendation has been implemented. The Chief has engaged the stakeholders in discussions to review the current RAI and its application. The Mayor's Office of Criminal Justice supports the department's decision to engage the Juvenile Detention Alternatives Initiative Executive Committee in this dialogue. In addition, a review of the items, weights, and application of the Risk Assessment Instrument will be conducted during December 2006. The group determined that the instrument would not be revised at this time. However, managerial changes have occurred in the supervision of the RAI application.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	JPD Chief William Sifferman actively includes all stakeholders in the context of JDAI. The SFPD has no standing in whether or not Probation Officers adhere to Risk Assessment.

4. The Community Assessment Referral Center (CARC) should be open 24 hours per day, 7 days per week and staffed by POs. This will accomplish the original intention for it to be the single screening point of entry into the juvenile justice system.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.

Department	Response	Explanation
Juvenile Probation Department	Will Not Be Implemented: Not Warranted or Not Reasonable	The conversion of the Community Assessment Referral Center (CARC) into a 24/7 operation has been determined to be cost prohibitive at this time given a cost/benefit analysis that favors maintaining the existing schedule since the volume of anticipated youth served during expanded hours would not justify the concomitant expenditures.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation will not be implemented at this time. The department has conducted a cost benefits analysis and determined that it would not be cost-effective to operate the Community Assessment Referral Center on a 24 hour basis. MOCJ believes that the consistent application of the RAI should serve to divert youth from YGC when arrested during those hours when CARC is not operational.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	This is not a Police issue. CARC guidelines for operation fall under the Mayor's Office of Criminal Justice.

5. CARC should be moved closer to the Youth Guidance Center (YGC) to facilitate activities with YGC and to make transportation of arrested youth more convenient for transporting police officers. The School of the Arts directly across the street from YGC should be surveyed as a possible site for CARC.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.
Juvenile Probation Department	Requires Further Analysis	The Juvenile Probation Department, CARC, the SF Police Department, and the Mayor's Office of Criminal Justice will continue to engage in dialogue that will address the viability of relocating the center of these diversion services to the benefit of all parties and to the provision of youth services. Discussion with the San Francisco Unified School District will continue.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.

Department	Response	Explanation
Mayor's Office of Criminal Justice	Requires Further Analysis	The implementation of this recommendation requires further analysis.. MOCJ will continue to participate in the discussion and planning around this important consideration. A final decision on this recommendation should be achieved within the next 3 months.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Requires Further Analysis	The SFPD has no standing in whether or not CARC relocates. Very few custodial bookings originate from CARC. If a decision is made to relocate CARC, the SFPD Juvenile Division and the Field Operations Bureau should be given the opportunity to comment on the geographic location, inasmuch as a central location would be preferred. Otherwise, SFPD involvement in the decision to relocate CARC is not warranted.

6. Procedures requiring arresting officers to make initial contact with CARC rather than YGC should be incorporated into the SFPD's General Orders in order to reinforce compliance with this requirement.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.
Juvenile Probation Department	--	The Juvenile Probation Department cannot respond to this Recommendation.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Will Be Implemented in the Future	This recommendation has not yet been implemented. While the SFPD expectation continues to be that arresting officers make initial contact with CARC rather than YGC, during the hours that CARC is operational, the SFPD has continued their efforts to incorporate their Juvenile Arrest policies into the General Orders of the Department. Such modifications require review and approval of the Police Commission.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned

Department	Response	Explanation
		to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Recommendation Implemented	This has been implemented. DB 04-138, "Juvenile Procedures-Arrests," and DB 06-050, "Mandatory Juvenile Bookings," address this issue. The new DGO 7.01, "Policies and Procedures for Juveniles detention, Arrest, and Custody," is currently in the approval process.

7. Standards for evaluating the effectiveness of community-based organizations (CBOs) should be improved to provide the necessary balance between competing interests. Management performance audits of CBOs should be conducted periodically by the Controller's Office.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.
Juvenile Probation Department	Will Be Implemented in the Future	The Community Programs Division of the Juvenile Probation Department will accelerate its community based organizations (CBOs) evaluative initiatives once funding to fill a staff vacancy and funding support for an objective, full scale program evaluation becomes available in the FY 2006-07. Until that time, the Community Programs Division Director and Senior Analyst will coordinate with the Controller's Office in conducting management performance audits of CBOs.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Will Be Implemented in the Future	The Mayor's Office of Criminal Justice believes very strongly that community-based organizations should be evaluated and their service delivery measured against the outcomes of the service recipients. Our allocation of funding for FY 06-07 seeks to include resources for program evaluation for this very purpose. If authorized, the office will identify an evaluator and protocols to assess CBOs. The office supports and encourages performance audits conducted by the Controller's Office.
Office of the Controller	Recommendation Implemented	The Controller's Office has created a program setting citywide fiscal and compliance standards for CBOs and coordinating the contract monitoring process among the departments that engage CBOs. In addition, financial and performance reviews of groups of CBOs were done directly by the Controller's Office during FY05-06 for a number of compliance purposes. Each of these process will continue in FY06-07.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.

Department	Response	Explanation
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	While the SFPD has no current standing in these performance audits, it should be given the opportunity to comment. MOCJ should be provided with this same opportunity. Management performance audits of CBOs are critical to quality measurement and evaluation of efficiency and effectiveness. All sides benefit from performance audits.

8. CBOs that are most likely to reduce rates of detention should be given top priority for funding in the future. Towards this end, CBOs serving youth now in the juvenile justice should have a higher funding priority than those that do not.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	--	While the entire report of the Civil Grand Jury is germane to the oversight responsibilities of the Juvenile Probation Commission, and the Commission has given the Chief Probation Officer the discretion to take appropriate actions in the addressing each of the first 8 points.
Juvenile Probation Department	Will Be Implemented in the Future	The Juvenile Probation Department will be issuing new Requests For Proposals (RFPs) in April-May, 2006 that will require demonstrable performance indicators of positive outcomes as a key element for the Juvenile Probation Department to consider in all future program proposals and will be tied to all contract awards. Past program efficacy will determine the number of points an applicant will be granted during the deliberation of the new program proposal.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Requires Further Analysis	This recommendation requires further analysis in that there presently does not exist sufficient independent data to support the efficacy of one community-based organization over another. While there is anecdotal feedback regarding various CBOs, the evaluation discussed in recommendation response #7 are needed to facilitate fair and equitable decision-making relative to funding priorities.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Department.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	This is an issue for the Controller's Office and the MOCJ.

9. Appointees to the Juvenile Probation Commission should be knowledgeable about the issues that confront youth at-risk of detention and the organizations that serve them. They should devote the time and be willing to inform themselves of juvenile justice issues. Commissioners should not have any direct relationship with a CBO that may receive funding from the juvenile justice system. Commissioners should be evaluated according to these criteria and replaced when their terms expire if necessary.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Juvenile Probation Department's response to the report. William Siffermann, Chief Probation Officer, presented at the hearing. Implementation of some recommendations has been initiated. Further analysis is being done on others. The Controller's Office is addressing Recommendation 7 concerning management performance audits of community based organizations. The Committee filed this item.
Juvenile Probation Commission	Recommendation Implemented	<p>The members of the Commission all have a familiarity with the juvenile justice system, all having had personal relationships with non-profits that serve youth in some way. Some are currently working in the field of youth development (eg. Commissioner Rojas works with the Boys and Girls Clubs, Commissioner Feticio is co-founder of the 7 Teepees organization, Commissioner Beijen teaches at the Life Learning Center, Commissioner Hale works with Bayview youth in athletics.) Together they share a wealth of knowledge regarding the field of at risk youth and youth serving organizations, and continue to learn more via their involvement in the Commission's oversight activities for the Juvenile Probation Department.</p> <p>Commissioners are taking time to learn more deeply about the operation of the Juvenile Probation Department and those issues that determine its activities. New commissioners have taken tours of the Department through Youth Guidance Center, Log Cabin Ranch and the new juvenile hall facility, and are actively becoming more familiar with the operations and issues that surround the Department. Commissioners work actively in the Commission's committees to get familiar with both the fiscal and programmatic processes, so they can make better informed decisions. Commissioner Feticio particularly is trying to bring a transparency to the fiscal processes that will assure accountability and fiscal responsibility. They also attend community forums and will be holding future Commission meetings in various communities to hear first hand from residents about their concerns and issues.</p> <p>While in the past there were commissioners who had a direct connections to CBOs that were receiving funding from one or another juvenile justice entity – eg. Probation dept, Mayor's Office of Criminal Justice), there are no current commissioners who are directly related to any CBO that receives such funding.</p> <p>Commissioners will be holding themselves to a high criteria of being informed and reasoned in his/her dealings and decisions for the Juvenile Probation Department, and will be asking for a similarly high standard for the Department's staff. As to replacing commissioners when terms expire, the Commissioners are appointed at the pleasure of the Mayor.</p>
Juvenile Probation Department	--	The Juvenile Probation Department cannot respond to this Recommendation.
Mayor	--	The Mayor's Office supports the responses contained in the Juvenile Probation Department, Mayor's Office of Criminal Justice, Office of the Controller and Police Department status reports.
Mayor's Office of Criminal Justice	Recommendation Implemented	This recommendation has been implemented in part. Since Mayor Newsom took office, two years ago, the Mayor's Commission Secretary screens each commission candidate with the City Attorney. As part of this vetting process, candidates who have conflicts of interest are ruled out as ineligible to sit on

Department	Response	Explanation
		the commission. Further, the Commission Secretary and MOCJ to determine their history in working with at-risk youth as well as their knowledge of other youth serving organizations screen candidates.
Office of the Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by Juvenile Probation Commission.
Police Commission	--	The Police Commission Office has received the above request from the Controller's office. Of the nine recommendations, it appears that the San Francisco Police Department, also a named respondent, is better positioned to respond to the recommendations that relate to Police Department operations. Therefore, the Police Commission would defer to the responses received by you from the Police Department.
SFPD	Will Not Be Implemented: Not Warranted or Not Reasonable	This is not a Police issue. The Mayor's Office, The Board of Supervisors, and the Juvenile Probation Commission should address this item.

TERMS

CARC – Community Assessment Referral Center: The screening point of entry into the juvenile justice system.

CBO – Community-Based Organization: Private organization providing services to youth, usually through contracts or grants with the City.

Detention – Detention results when arrested youth are held in a secure facility such as YGC. Youth arrested for misdemeanors must be given a hearing by the Court within 24 hours to be detained longer. Youth arrested for felonies must be given a hearing by the Court within 72 hours to be detained longer.¹²

JDAI – Juvenile Detention Alternative Initiative: The program that encourages that arrested youth be provided alternatives to secure detention.

JP Commission – Juvenile Probation Commission: The Commission that is responsible for oversight of the Juvenile Probation Department.

JPD – Juvenile Probation Department: The City department that is responsible for supervising youth in the juvenile justice system.

JR – Jefferson Report: “Creating a New Agenda for the Care and Treatment of San Francisco’s Youthful Offenders”, prepared for the San Francisco Juvenile Court by Jefferson Associates and Community Research Associates, April 1987

NCCD – National Council on Crime and Delinquency

PO – Juvenile probation officer in the context of this report.

Referrals – Citation issued to youth to appear before a probation officer or youth taken to Juvenile Hall by arresting police officers for allegedly committing a criminal act. Other law enforcement agencies and the courts also make referrals.¹³

RAI – Risk Assessment Instrument: A questionnaire used by POs to evaluate whether or not youth are a danger to themselves or to others or are a flight risk and therefore should be detained in a secure facility.

YGC – Youth Guidance Center, commonly known as Juvenile Hall. YGC contains a secure facility for detaining youth.

¹² JPD Annual Report, 1999

¹³ Ibid.

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CHAPTER 11

The San Francisco Ethics Commission Budgeting and Staffing Issues

BACKGROUND

The 2004-05 Civil Grand Jury examined the operations of the San Francisco Ethics Commission.¹⁴ The Civil Grand Jury focused on those areas that occupy most of the Ethics Commission staff's time:

- Complaints and Investigations
- Statement of Incompatible Activities/Statement of Economic Interest
- Lobbyists and Campaign Consultants
- Campaign Finance Reform

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
Ethics Commission

¹⁴ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS: Complaints and Investigations

1. Investigative resources of the EC do not appear to be adequate because they are primarily responding to complaints rather than initiating their own investigations. *Furthermore, they are not able to complete investigations in a timely manner.*
2. The EC has attempted to respond to the fact that it has inadequate resources by prioritizing complaints and closing investigations that are unlikely to be resolved.

RECOMMENDATION:

Investigative resources of the EC should be increased by some combination of available alternatives: increases in budget, decreases in mandated responsibilities, and/or delegation of existing investigative duties to other City departments within the limits of the law.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Ethics Commission's response to the report. John St. Croix, Executive Director, presented at the hearing. Implementation of some recommendations has been initiated. Some recommendations are being addressed in a proposed Charter amendment that has been submitted for the November ballot. Other recommendations have been addressed in the budget process. The Committee filed this item.
Ethics Commission	Will Be Implemented In The Future	The budget for Complaints and Investigations was increased enough to hire one Assistant Investigator in 2005. While this additional staffer has helped reduce the backlog of cases and made it possible to reactivate several pending investigations, the Commission still faces a heavy complaint backlog caused by the filing of new complaints and the implementation of the streamlined enforcement program to address candidates and campaign committees that failed to file campaign disclosure reports. In the upcoming fiscal year, the Ethics Commission seeks to hire one additional Investigator and one clerical support staff for the division that, pending budget approval, will produce a greater reduction of the backlog. The Commission anticipates that additional staff will need to be absorbed in future years to enable the Commission to become the far more proactive investigations and enforcement unit that the Charter mandates, the Civil Grand Jury envisions, and the people of San Francisco expect.
Mayor	Recommendation Implemented	Recommendation Implemented July 17, 2005. The Mayor's Office 2005-2006 budget provided a 10% increase in both permanent and temporary staffing to eliminate the backlog of audit cases and investigations, as well as \$30,000 in new funds to improve online filing options and access to data.

FINDINGS: Statement of Incompatible Activities/Statement of Economic Interest

1. No random audits of statements of economic interest (SEIs) on file in City departments are being conducted by the EC. Consequently, there is no means of confirming that the SEIs are indeed on file, as required.
2. There is no supervision by EC staff of the public file room for SEIs filed in the EC. Therefore, it is theoretically possible for the public to alter the content of an SEI on file in that room.
3. There are no random audits of the content of SEIs. Therefore, the content of the SEIs is not questioned unless there is a specific complaint from the public.

RECOMMENDATIONS:

1. If the staff of the EC is expanded, random audits of SEIs required to be on file in City departments should be conducted.
2. If the staff of the EC is expanded, random audits of the content of those SEIs on file in the EC should be conducted.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Ethics Commission's response to the report. John St. Croix, Executive Director, presented at the hearing. Implementation of some recommendations has been initiated. Some recommendations are being addressed in a proposed Charter amendment that has been submitted for the November ballot. Other recommendations have been addressed in the budget process. The Committee filed this item.
Ethics Commission	Will Not Be Implemented: Not Necessary or Not Warranted	The Commission has been able, using staff funded by temporary resources, to conduct facial audits of all SEIs filed with the Commission in the last four years. At this point the Ethics Commission does not have the staff resources to conduct random audits of City departments to ensure that all designated employees have filed SEIs—instead, we rely on Filing Officer Reports in which department heads must certify that all designated employees who are required to file SEIs with their respective departments have done so or, if not, list the names of those who have not complied. With respect to full audits of SEIs filed at the Commission, such audits are of necessity limited by law. The SEI requires individuals to disclose only certain financial interests that may be materially affected by governmental decisions they make or participate in making; the Ethics Commission's authority extends only to investigating suspicions of non-disclosure of <i>required</i> disclosures. Constitutional concerns would likely preclude wholesale audits of financial assets of individuals.
Mayor	Recommendation Implemented	Recommendation Implemented July 17, 2005. The Mayor's Office concurs with the Ethics Commission procedures for random audits for SEIs to ensure compliance with City regulations

FINDINGS: Campaign Finance Reform

1. There is no adequate method of evaluating the efficacy of campaign finance reform.
2. Public financing of candidates for supervisor has not been successful in reducing campaign expenditures.

RECOMMENDATION:

As the elected representatives for the citizens of San Francisco, the BOS must initiate an independent, rigorous, and ongoing (it will take several election cycles) evaluation of the campaign finance ordinance and the voluntary public financing program.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Ethics Commission's response to the report. John St. Croix, Executive Director, presented at the hearing. Implementation of some recommendations has been initiated. Some recommendations are being addressed in a proposed Charter amendment that has been submitted for the November ballot. Other recommendations have been addressed in the budget process. The Committee filed this item.
Ethics Commission	--	Although you ask for a response regarding lobbyists and campaign consultants, the 2004-05 Civil Grand Jury Report did not make findings or recommendations related to lobbyists and campaign consultants. Instead, the finding to which the recommendation listed was made refers to Campaign Finance Reform . Here, the recommendation addresses the Board of Supervisors. While the Ethics Commission cannot answer for the Board of Supervisors, the Commission notes that the Commission has just completed a rigorous, eight-month review of the Campaign Finance Reform Ordinance and produced a host of reforms, updates and clarifications which it has adopted and which are currently pending before the Board of Supervisors. Members of the Board throughout the year have also initiated legislation to amend the Campaign Finance Reform Ordinance.
Mayor	Recommendation Implemented	Recommendation Implemented July 17, 2005. The Mayor's Office concurs with the Ethics Commission that it will take several elections cycles to fully evaluate this program, and will cooperate with any such evaluation.

FINDINGS: Education and Training

The Civil Grand Jury did not identify any s for this area but made the following recommendations:

RECOMMENDATIONS:

The Ethics Commission should hire a well-qualified Education and Training Officer who would:

1. Train newly elected and appointed officers of the City to explore the ethical dimensions of their prospective positions. (A useful beginning model is to be found in Appendix D.)
2. Offer seminars for officials on a regular basis, focusing on specific issues such as improving decision-making in one's domain, dealing with the media, establishing and improving ethical standards within one's jurisdiction, understanding how and why the discretionary power one has, though a highly valued asset, is ethically problematic and dangerous, and the like
3. Assist in performing all other City Charter mandated education and training functions.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, July 25, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Ethics Commission's response to the report. John St. Croix, Executive Director, presented at the hearing. Implementation of some recommendations has been initiated. Some recommendations are being addressed in a proposed Charter amendment that has been submitted for the November ballot. Other recommendations have been addressed in the budget process. The Committee filed this item.
Ethics Commission	Will Be Implemented In The Future	One of the budget priorities for the next fiscal year is funding for a full-time Educator/Outreach Coordinator. Assuming budget approval, this person will be responsible for developing a training curriculum for both campaign and ethics rules, create ongoing and one-time seminars on relevant topics, and coordinating other educational forum activity of the Commission.
Mayor	--	The Mayor's Office supports the response contained in the Ethics Commission status report.

TERMS

CFRO Campaign Finance Reform Ordinance

CGJ 2004-2005 San Francisco Civil Grand Jury

EC Ethics Commission

FPPC Fair Political Practice Commission

Proposition C passed 11/03; transferred the task of handling the whistleblower telephone hotline to the Controller's Office

Proposition E passed 11/03; revised and updated the City's conflict of interest laws, requiring all City departments, boards, and commissions to develop statements identifying "incompatible activities."

Proposition G passed 11/97; Campaign Consultants Ordinance; mandated, expanded audits of financial statements filed by candidates and political committees.

Proposition J passed 11/00; 'the taxpayer protection amendment' was intended to reduce the influence of gifts and prospective campaign contributions on the decisions of public officials.

Proposition K passed 11/93; created the Ethics Commission, transferring ethics functions then divided among five city departments to a single Ethics Commission

Proposition N passed 11/95; called for the enforcement and administration of the CFRO.

Proposition O passed 11/00; amended the San Francisco Campaign Finance Reform Ordinance (CRFO), by providing for the limited campaign financing of candidates for the Board of Supervisors.

San Francisco City Charter The fundamental law of the City of San Francisco

SEI Statement of Economic Interest; required by CA Codes, Gov't. Code Section 87200

SIA Statement of Incompatible Activity; required by San Francisco Government Code Section 1126

Administration Code XIIB Section 16.535-539 Mandates electronic filing for certain campaign filing entities.

State Proposition 208 went into effect 1/97; required the Ethics Commission to implement further campaign reform provisions to be in compliance.

CHAPTER 12

What Is the Difference Between a Contract and a Grant?

BACKGROUND

The 2004-05 Civil Grand Jury investigated grants funded by the City and County of San Francisco. The questions it asked city departments included the following:

- What is a grant?
- How is a grant different from a contract?
- Would City funds being disbursed by the City as grants be more appropriately disbursed as contracts?

The Civil Grand Jury focused its inquiry on grants funded by the City, as opposed to those funded by the state or federal government, because state and federal governments usually require that grants they award to the City be disbursed in the form of grants. In contrast, grants awarded by the City could, and perhaps should, be disbursed as contracts.

RESULTS

The Civil Grand Jury required responses from the following:

Board of Supervisors
City Attorney
Controller's Office
Ethics Commission

(The Civil Grand Jury indicated that the named departments should reply to those recommendations that are within their jurisdictions.)

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1. The recent indictment of a prominent San Franciscan for alleged misuse of grant funds illustrates the potential for fraud and abuse of public funds in the awarding of grants.
2. There are no apparent legal or functional differences between contracts and grants.
3. As contracting procedures have become more cumbersome, the granting mechanism for purchasing goods and services has been used increasingly.
4. There are no Citywide rules and regulations regarding the awarding of grants. Therefore, procedures vary from one City department to another.
5. Grants are apparently being awarded to for-profit entities, in violation of existing policies regarding grants.
6. The procedures being used to award grants do not ensure on a Citywide basis adequate competition amongst potential applicants because they do not require publication of opportunities to compete for grants. Inadequate competition can increase price unnecessarily.
7. The procedures being used to select grantees from amongst applicants do not ensure on a Citywide basis that grantees are capable of performing the services being purchased, or that the grantee is the most competitive with respect to quality and price.
8. The City's conflict of interest law (Charter 3.2220), which prohibits City officials from contracting with the City, specifically exempts grantees from this prohibition.

RECOMMENDATIONS:

1. The Controller's Office and the City Attorney's Office should conduct an analysis of grants made from City fund sources to determine if there is—or ought to be—any legal or functional distinction between contracts and grants.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	The City Attorney's response, dated July 18, 2005, reported that there is a functional and legal distinction between grants and procurement contracts, and explained the legal difference. The distinction is set forth in City Attorney Opinion No. 84-29. The City Attorney's response also stated that the blurring of this distinction in practice presents an administrative rather than a legal issue. After the Civil Grand Jury made its recommendation, the Controller's Office consulted the City Attorney's Office concerning possible guidelines. It is our understanding that the Controller's Office review of possible guidelines is ongoing.
Controller's Office	Recommendation Implemented	<u>Date of implementation:</u> October through November 2005 <u>Summary of implemented action:</u> The Controller's Office interviewed major granting

Department	Response	Explanation
		departments to determine how they distinguish between grants and contracts, analyzed a sample of grant agreements and compared them to the City's standard professional services contract form (P500), conducted a literature and comparative practices review and developed a set of recommendations on how to distinguish between a grant and a contract. These recommendations include development and clarification of definition and coding and processing policies (ADPICS, FAMIS, approval path).
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

2. The analysis by the Controller's Office should address the question of whether or not all grants presently reported as grants to for-profit entities are properly categorized as such.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is directed to the Controller's Office, not the City Attorney's Office. We are prepared to work with the Controller to improve that review process.
Controller's Office	Recommendation Implemented	Date of implementation: December through March 2006 Summary of implemented action: The Controller's Office identified grant payments made to for-profit entities and asked departments to comment on them. While analyzing such payments back in FY 02-03, the Controller's Office found that a significant portion of these transactions were with public entities doing non-profit business with the City. The Controller's Office observed that the dollar value of the grant payments to entities properly coded as for-profit has decreased over the last few years. The Controller's Office is proposing to set up a category of vendors in the FAMIS database that would encompass any public agency (districts, authorities) that does business with the City. Some specific categories already exist (GOV or G) but have not been used in a consistent manner over time. The Controller's Office's goals are to clean up the current codes and set up guidelines for a more uniform identification process through the City's Business Tax Declaration Process. The circumstances upon which departments will be authorized to award grants to this specific category of vendors remain to be decided by the Board of Supervisors.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

3. The City Attorney's Office should not approve grants to for-profit entities unless existing policies are revised to permit them. If these policies are revised, they must provide specific justification for grants to for-profit entities.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	<p>The City Attorney's response stated that grants are subject to approval as to form by the City Attorney and the Controller. Deputy city attorneys are aware that the City may not evade procurement rules by labeling a procurement contract as a grant. Our office declines to approve as to form procurement contracts that City agencies have awarded without following the correct procedures.</p> <p>The City Attorney's response explained that a grant could properly be awarded to a for-profit entity if the criteria for a grant, as opposed to a contract, were satisfied. The response stated: "For-profit entities may also engage in programs for the community that do not involve the procurement of goods or services for the City or services that the City has an obligation to provide. That the grantee is a for-profit would not by itself make the grant inappropriate." It is a matter of policy for the Mayor and Board of Supervisors to decide whether to ban grants to for-profit entities.</p>
Controller's Office	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

4. If there is a meaningful or functional distinction between contracts and grants, the Board of Supervisors should pass legislation to define grants.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is not directed to the City Attorney's Office. The City Attorney's Office is not aware of any legislation enacted by the Board, but is prepared to assist should we receive a legislative request.
Controller's Office	Requires Further Analysis	<p>Timeframe: To be determined.</p> <p>Comments: The Controller's Office is currently working with the City Attorney's Office to determine the appropriate course of action for Board consideration.</p>

Department	Response	Explanation
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

5. Such legislation should include Citywide procedures for the application and award process for grants.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is not directed to the City Attorney's Office. The City Attorney's Office is not aware of any legislation enacted by the Board of Supervisors, but is prepared to assist should we receive a legislative request.
Controller's Office	Requires Further Analysis	Timeframe: To be determined by the Board of Supervisors. Comments: Based on its analysis of existing practices among City departments and best practices as identified in other jurisdictions, the Controller's Office is proposing citywide procedures to ensure an open and competitive selection process for grants. These procedures are consistent with what already exists for professional services contracts.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

6. Such legislation should define criteria for competitively awarding grants that ensure the most efficient use of public funds. For example:

- That grantees are capable of performing the work for which the grant is awarded.
- That grantees are the most qualified applicant, capable of performing the work for the lowest price.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is not directed to the City Attorney's Office. The City Attorney's Office is not aware of any legislation enacted by the Board of Supervisors, but is prepared to assist should we receive a legislative request.

Department	Response	Explanation
Controller's Office	Requires Further Analysis	Timeframe: To be determined by the Board of Supervisors Comments: Based upon its analysis of some existing practices among departments and best practices as identified in other jurisdictions, the Controller's Office is proposing criteria to ensure an open and competitive selection processes. Among these criteria are: history and experience of the organization, description of the proposed use of grant funds, information on schedule and expected benefits of the project and detailed budget information (including a breakdown of expenditures: salary, operating and capital, if any.)
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

7. The process of selecting the most competitive grantee must ensure that knowledgeable City officials with no conflict of interest make these decisions transparently.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is not directed to the City Attorney's Office. But current City and State laws (California Government Code Sections 1090, et seq. and 87100, et seq.; San Francisco Campaign and Governmental Conduct Code Section 3.206) already ban officials with conflicts of interest from participating in any grant or procurement contracting decisions.
Controller's Office	Requires Further Analysis	Timeframe: To be determined by the Board of Supervisors Comments: The Controller's Office is proposing a set of guidelines to ensure an open and competitive selection process. Among our recommendations are: the review panel should be composed of a minimum of three knowledgeable City employees or outside City's staff who do not have any conflict of interest. The review panel's members should regularly rotate and be provided with some guidance on how to evaluate proposals.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

8. The posting of contract and grant awards to non-profits on the Controller's website, should indicate if the awarding mechanism was a contract or a grant.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney	--	This recommendation is not directed to the City Attorney's Office. Although the City Attorney's Office does not play a role in the postings on the Controller's website, we are prepared to assist in differentiating contracts from grants should the Controller undertake this posting.
Controller's Office	Requires Further Analysis	Date of implementation: To be determined. Comments: As part of a larger initiative to improve City accountability to the public, the Controller's Office launched a new website that provides comprehensive information about payments made to vendors by all departments in April 2006. Designed as an interactive tool, users can create their own data reports by selecting a specific type of good or services (such as city grant programs or employee expenses) or vendors (such as "non-profit only"). As such, payments that are coded as grant payments (code 3800) can be easily identified by department and by vendor. Searchable information which is updated on a weekly basis, includes: vendor status, FAMIS document number, payments made, payments that are in process (a voucher has been posted but the check has not been issued yet), as well as remaining balances on encumbrance documents. To complete the implementation of Recommendation 8. and to ensure the accuracy of information, the Controller's Office has been working to clean up and verify City vendor codes. The first phase of the project consisted of verifying status information regarding the non-profit vendors. If a vendor has been incompletely coded as a non-profit organization, departments have been asked to provide a copy of the IRS 501 (c)(3) form or the City's Business Tax P-25 form. All vendors that do not meet the criteria to be categorized as a non-profit vendor will have their status changed. A second phase of the project will be to look into the vendor payments coded under the "3800" category (City grant programs) to check whether they are linked to a grant agreement. As recommended in our guidelines, code 3800 shall be used exclusively for outgoing grant transactions to eligible vendors.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	The Ethics Commission is willing to review or provide input to any analysis conducted by the City Attorney or the Controller.

9. The Ethics Commission should recommend a Charter Amendment to the voters that would remove an exemption for grants from Charter Section 3.2220 regarding conflict of interest of public employees and officials

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented

Department	Response	Explanation
		at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.
City Attorney		This recommendation is not directed to the City Attorney's Office. The correct citation, however, is Campaign and Government Conduct Code Section 3.222. This is a question of policy directed to the Board of Supervisors and the Ethics Commission. The Code may be amended by a 2/3 vote of the Board and approved by a 4/5 vote of the Ethics Commission.
Controller's Office	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office.
Ethics Commission	Will Be Implemented in the Future Requires Further Analysis Will Not Be Implemented: Not Warranted or Not Reasonable	<p>In the Commission's July 2005 response, the Commission stated the following:</p> <p><i>The Ethics Commission believes that the Civil Grand Jury meant to address section 3.222 of the San Francisco Campaign and Governmental Conduct Code ("S.F. C&GC Code"), which prohibits members of boards and commissions from contracting with the City and County of San Francisco, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District or the San Francisco Community College District, where the amount of the contract or subcontract exceeds \$10,000. Under subsection (a)(4), a contract is "any agreement to which the City and County is a party, other than a grant funded in whole or in part by the City and County or an agreement for employment with the City and County in exchange for salary and benefits."</i></p> <p><i>By prohibiting members of boards and commissions of the City and County from contracting with the City and County, the ordinance sought to eliminate both actual and perceived favoritism and preferential treatment in contracting. However, the ordinance also sought to ensure that no unnecessary barriers to public service were created by its enactment. See S.F. C&GC Code § 3.200(d) (formerly § 3.200(a)). Thus, the exception of "grant" in the definition of "contracts" was made after a balancing of the interest of eliminating preferential treatment and the need to get qualified persons to serve on boards and commissions took place.</i></p> <p><i>The Civil Grand Jury has recommended that the Controller's Office and the City Attorney's Office conduct an analysis of grants made from City resources to determine if there is – or ought to be – any legal or functional distinction between contracts and grants. The Grand Jury has also recommended that if there is a meaningful or functional distinction between contracts and grants, the Board of Supervisors should pass legislation to define "grants" and provide for procedures for the application and award process for grants to ensure the most efficient use of public funds. The Ethics Commission supports the Grand Jury's recommendations and will recommend the removal of the exemption of grants from section 3.222 if this change to the law would address actual or perceived favoritism or preferential treatment in the award of grants and at the same time, ensure that qualified persons are available to serve on the City's boards and commissions.</i></p> <p>Pending the receipt of recommendations from the other appropriate departments, the Commission will consider legislation to remove the exemption of grants from section 3.222 if this change to the law will address actual or perceived favoritism or preferential treatment in the award of grants and, at the same time, ensure that qualified persons are available to serve on the City's boards and commissions.</p>

CHAPTER 13

City Contracting and Affirmative Action

BACKGROUND

The 2004-05 Civil Grand Jury sought to determine whether the current contracting policies and procedures of the City and County of San Francisco (City) comply with the constitutional prohibition against preferential treatment in public contracting on the basis of race, sex, color, ethnicity or national origin set forth in Article 1, Section 31 of the California Constitution.¹⁵

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
Board of Supervisors
City Attorney
City Controller
Human Rights Commission

¹⁵ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendation

FINDINGS:

1. Racial and gender preferences in City public contracting have been judicially declared to violate the Constitution of the State of California.
2. Forms being used by the City to establish eligibility for contracting with the City of San Francisco contain race and gender preferences in violation of the law.
3. Chapter 6 of the City's Administrative Code encourages preferences to minorities and women in construction contracts in violation of the law.
4. Continued violation of the law is unwarranted and exposes the City to legal and financial risks.

RECOMMENDATION:

The City should immediately eliminate explicit or implicit preference based on race, sex, color, ethnicity or national origin from City contracting rules, publications, policies and practices.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 26, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Human Rights Commission's response to the report. The Committee filed this item.
City Attorney	--	<p>To the knowledge of the City Attorney's Office, the City has taken the following steps to implement this recommendation:</p> <p>The City enacted a temporary Disadvantaged Business Ordinance, Administrative Code Section 14A, which creates opportunities in contacting with the City for small local businesses. The Board of Supervisors recently enacted a similar permanent ordinance, which will be located in Administrative Code Section 14B. Based on the July 26, 2004 ruling in the case of Coral Construction, Inc. v. City and County of San Francisco, San Francisco Sup. Ct. No. 421249, the City no longer enforces the WBE/MBE ordinance located in Administrative Code Section 12DA. The City, however, has filed an appeal from the ruling and the appeal is pending.</p> <p>The Human Rights Commission has revised the forms given to City contractors to include requirements that City contractors make good-faith efforts to hire economically disadvantaged individuals. Those forms are in the process of being implemented. Those forms do not include any preferential treatment based on race, sex, color, ethnicity or national origin.</p>
City Controller	Will Not Be Implemented: Not Warranted or Not Reasonable	This recommendation does not apply to the Controller's Office and should be addressed by HRC.
Human Rights Commission	Recommendation Implemented	<p>The HRC has taken the following steps to implement this recommendation:</p> <ol style="list-style-type: none"> 1. Based on the July 26, 2004 ruling in Coral Construction, Inc. v. City and County of San Francisco, San Francisco Sup. Ct. No. 421249, the Human Rights Commission no longer enforces the MBE/WBE/LBE Ordinance set forth in Administrative Code Section 12D.A for contracts issued after July 26, 2004. The HRC currently is implementing the City's Disadvantaged Business Enterprise Ordinance, set forth in Administrative Code Section 14A, and would be responsible for implementing the Local Business Enterprise and Non-Discrimination in Contracting Ordinance, to be codified in Administrative Code

Department	Response	Explanation
		<p>Section 14B, if and when it is finally enacted to replace the Disadvantage Business Enterprise Ordinance. Neither the Disadvantage Business Enterprise Ordinance nor the proposed the Local Business Enterprise and Non-Discrimination in Contracting Ordinance provide explicit or implicit preferences based on race, sex, color, ethnicity or national origin.</p> <p>2. The Human Rights Commission has revised its forms to include requirements that City contractors make good faith efforts to hire economically disadvantaged individuals. Those forms are in the process of being implemented and will not include any preferential treatment based on race, sex, color, ethnicity or national origin. The HRC will be further revising its rules, policies, publications and practices if and when the Local Business Enterprise and Non-Discrimination in Contracting Ordinance becomes law. Like the Ordinance they implement, these revisions will not include any preferential treatment based on race, sex, color, ethnicity or national origin.</p>
Mayor	Recommendation Implemented	Recommendation Implemented July 25, 2005. The Mayor's Office continues to work closely with the Human Rights Commission, City Attorney, Controller, and the Board of Supervisors to ensure that City contracting procedures comply with state law. This includes development of a permanent Disadvantaged Business Enterprise ordinance, as well as review of other contracting procedures.

TERMS

DBE – Disadvantaged Business Enterprise – Chapter 14A Administrative Code

HRC - Human Rights Commission

LBE - Local Business Enterprise – Chapter 12B Administrative Code

MBE - Minority-Owned Business Enterprise

PROPOSITION 209 - Voters of California amended the State Constitution (Article 1, Section 31) to prohibit preferential treatment on the basis of race, sex, color, ethnicity or national origin in public employment, public education, and public contracting.

WBE - Woman-Owned Business

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CHAPTER 14

EMPLOYEE OR INDEPENDENT CONTRACTOR?

BACKGROUND

The 2004-05 Civil Grand Jury investigated whether the City and County of San Francisco (City) contracts with individuals to perform services when federal and state law might require that these individuals be hired and treated as employees of the City.¹⁶

RESULTS

The Civil Grand Jury required responses from the following:

Mayor
City Attorney
Civil Service Commission
Controller
Department of Human Resources
Office of Contract Administration

¹⁶ The terms and abbreviations used by the Civil Grand Jury appear at the end of the chapter.

Findings and Status of the Implementation of the Recommendations

FINDINGS:

1. The City lacks systemic documentation to support its decisions to classify individual sole proprietor service vendors as independent contractors and to support its treatment of the individual as an independent contractor.
2. Misclassification may subject the City to significant monetary liability.
3. The City Attorney's Office is currently the most knowledgeable agent in the City for making a determination as to whether a vendor should be an employee or an independent contractor.
4. The Civil Service Commission has the authority to permit professional service vendors to be hired as employees outside the civil service system.
5. Simple forms or checklists currently exist and have been used in other jurisdictions to document independent contractor status.

RECOMMENDATIONS:

1. The City should identify and adapt legal standards into a form that can then serve as documentation for the City Attorney's approval or disapproval of independent contractor status of the vendor. Completed forms such as any appended hereto as Appendix C Forms 1-5

Department	Response	Explanation
City Attorney	--	This recommendation is directed at the City Attorney's Office only in part. As set forth in the City's August 19, 2005 response to the Civil Grand Jury, for a number of reasons, the City Attorney's Office does not agree that the City Attorney's Office should "approve or disapprove" the independent contractor status of a vendor. Independent contractor status is primarily a fact-based determination, with no "bright line" rules, and thus a matter of judgment for the department, which is best informed on the facts. But the City Attorney's Office continues to work with departments on developing ways to capture the information needed to determine independent contractor status. And the City Attorney's Office will continue to withhold approval as to form where, based on the facts presented, and applicable law, a particular contract would create an employment not an independent contractor relationship.
Controller's Office	Will Not Be Implemented: Not Warranted or Not Reasonable	The Controller's Office agrees that the appropriate parties including the City Attorney, Department of Human Resources, Civil Service Commission, and Office of Contract Administration should work together to develop a "common-law test" checklist for departments based on existing forms from other jurisdictions. It is recommended that this checklist be completed and submitted by City departments to the City Attorney (or other approving entity) as early in the contract process as possible, provided that the Civil Service Commission is able to create new exempt positions as a viable alternative. Ideally, the checklist would be submitted at the same time departments are submitting a Personal Services Summary to the Civil Service Commission per the City's established contract review process prior to contractor selection.
Mayor	--	The Mayor's Office supports the response contained in the Office of the Controller and Office of Contract Administration status reports.
Office of Contract Administration	Will Be Implemented in the Future	OCA anticipates that this recommendation will be implemented in the future. OCA will follow the City Attorney's lead

2. The language in Article 14 of the City grant agreement form G100 (see Appendix B) should be incorporated into City contract agreement form P 500 and P501.

Department	Response	Explanation
City Attorney	--	As set forth in the City's response to the Civil Grand Jury, City contract agreement P500 already contains the same language as in Article 12 of the City grant agreement form G100. Whether to also incorporate the language into form P501 is a decision to be made by City policymakers.

3. The City Attorney's Office should either approve or reject each contract for services of individual vendors based on the submitted documentation described in the first recommendation.

Department	Response	Explanation
City Attorney	--	As indicated above, the City Attorney's response stated that it did not believe this recommendation should be implemented, but that the City Attorney's Office will continue to withhold approval as to form where, based on the facts presented, and applicable law, a particular contract would create an employment, not an independent contractor relationship.

4. The City should designate a department with expertise to formulate a method of monitoring the classification treatment of the sole proprietor vendor to insure that the contracting department has not, in practice, altered the terms and conditions under which contract services are being rendered. Possible tools for ongoing monitoring are continuing use by periodic re-submission of the initial form referenced in recommendation number 1, above, or a prospective written certification by departmental contract administrators that the monitoring department or the City Attorney will be notified if any of the responses given to the initial checklist change.

Department	Response	Explanation
City Attorney	--	This recommendation is not directed to the City Attorney's Office. But the City Attorney's response indicated that such monitoring would be prudent and the City Attorney is willing to work with departments to that end.
Controller's Office	Will Not Be Implemented: Not Warranted or Not Reasonable	The Controller's Office believes monitoring could occur effectively through a prospective written certification or notification from departmental contract administrators of status changes for contracts less than 2 years in duration or through re-submission of the checklist form every 2 years to allow departments to periodically re-assess and determine their needs. We recommend that the City Attorney and Department of Human Resources jointly formulate the monitoring method, and analyze and report on the results every 2 years to the Civil Service Commission.
Mayor	--	The Mayor's Office supports the response contained in the Office of the Controller and Office of Contract Administration status reports.
Office of Contract Administration	Will Not Be Implemented: Not Warranted or Not Reasonable	OCA will not be the monitoring department. OCA agrees with the Controller's August 8, 2005 response to the Civil Grand Jury. As recommended by the Controller's Office, the City Attorney and the Department of Human Resources should jointly formulate the monitoring method, and analyze and report on the results every two years to the Civil Service Commission.

5. All documentation to support an independent contractor determination should be permanently appended to each contract with a sole proprietor vendor and maintained by the Office of Contract Administration for the length of the longest statute of limitations.

Department	Response	Explanation
City Attorney	--	This recommendation is not directed to the City Attorney's Office. But the City Attorney's response indicated that maintenance of documentation would be prudent and the City Attorney is willing to work with departments to that end.
Mayor	--	The Mayor's Office supports the response contained in the Office of the Controller and Office of Contract Administration status reports.

Department	Response	Explanation
Office of Contract Administration	Will Not Be Implemented: Not Warranted or Not Reasonable	OCA will not be able to implement the recommendation no. 5 because OCA does not approve all contracts. Although OCA could easily maintain a database and files of the sole proprietor contracts that OCA approves, OCA does not approve all independent contractors who provide services to the City. All public works related professional services are procured by departments authorized under Chapter 6 of the Administrative Code. Some departments are authorized to purchase services without the approval of the Purchaser such as, the City Attorney, the Risk Manager, and those departments that administer financial and benefits programs. Nevertheless, OCA will work with the City Attorney and Controller in training departmental contract administrators in reviewing the common law tests for an independent contracts, establishing procedures and protocols, and assist in monitoring through a post audit process.

6. If there is currently no civil service exempt classification in which a vendor whose classification is questionable can be hired as an employee, the Civil Service Commission should create such a classification. Appointment to such a classification should be approved by the Department of Human Resources.

Department	Response	Explanation
Civil Service Commission	Will Not Be Implemented: Not Warranted or Not Reasonable	The Department Head not the Department of Human Resources may appoint to a position (Administrative Code 2A.30). The Human Resources Director is responsible for establishing classifications, subject to appeal to the Civil Service Commission whose decision is final (Charter Section 10.103). Charter Section 10.104 defines specific categories that qualify positions exempt from civil service. The Civil Service Commission does not have the authority to extend exempt positions beyond those categories identified in the Charter.
Department of Human Resources	--	The department elected not to respond.

TERMS

Contract: an agreement between the City and a vendor to provide services (or goods) in exchange for money

Fringe Benefits: typical public sector benefits of monetary value to its employees include paid sick leave, paid vacation leave, partially or wholly employer funded medical and dental insurance, partially or wholly employer funded pension, group life, long- and short-term disability insurance

Independent Contractor: a legal status applicable under certain circumstances to workers who perform services for another person

Sole proprietor: sole proprietor (an individual as opposed to a partnership or corporation) who has performed services for the City and was paid for service under his or her own name rather than under a fictitious business name

Vendor: the designation the City gives to an independent contractor who provides services to the City

CHAPTER 15

Continuity Report

BACKGROUND

The 2004-05 Civil Grand Jury indicated that it wanted to assure that the efforts of each CGJ are maximized, and presents a case for institutionalizing the on-going monitoring of local government's progress in implementing all agreed-upon recommendations of each year's CGJ and keeping a spotlight on the results. Other than a one-year status report by the Controller, the entirety of that information is no longer tracked annually. As a result, the public may have little awareness of departments whose efforts have been successful. Likewise, the public is unable to identify the management of departments whose efforts at implementation have stalled, failed, or ceased.

RESULTS

The Civil Grand Jury required responses from the following:

Mayor's Office
Board of Supervisors
Department of Building Inspection
Office of the Controller
Planning Department

Findings and Status of the Implementation of the Recommendations

FINDING:

A significant number of responses to CGJ reports are not in compliance with the legal requirements of Penal Code Section 933.05.

RECOMMENDATIONS

1. The Mayor's Office should develop a standardized protocol that comports with PC 933.05 for responding to CGJ reports.

Department	Response	Explanation
Mayor's Office	Recommendation Implemented	Recommendation Implemented September 12, 2005. The Mayor's Office is maintaining tracking of all CGJ recommendations for departmental implementation.

2. The Mayor's Office should require all City departments, offices, and agencies to use such a standardized protocol in their responses.

Department	Response	Explanation
Mayor's Office	Recommendation Implemented	Recommendation Implemented September 12, 2005. The Mayor's Office has requested that all departments follow a standardized format in responding to CJI reports. However, due to the complexity of various request, departments are permitted to deviate from the established format if necessary to accommodate an appropriate response.

FINDINGS:

1. There are a number of previously agreed-to-be-implemented CGJ recommendations that City agencies have not yet implemented.
2. After the first year's Controller's Report, there is no systemic follow-up that enables the public or City management to have a clear picture of the status of whether previously agreed-to-be-implemented CGJ recommendations have, in fact, been implemented.

RECOMMENDATIONS:

1. The Controller should provide to the Mayor and the Board of Supervisors an on-going annual status report of the agreed-to-be-implemented COT recommendations. Each agree-to-be implemented recommendation should be reported on, until the respondent indicates it is fully implemented or abandoned because it is no longer reasonable or warranted. Such a report should include suggestions of ways to (a) accelerate the implementation of the open items or (b) revise the implementation of the recommendation, if need be, based on changed circumstances. The Controller's annual status report should be submitted to the Mayor and the Board in sufficient time to allow for budgetary consideration for each upcoming fiscal year.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.
Mayor's Office	Recommendation Implemented	Recommendation Implemented March 20, 2006 per Office of the Controller 2006 Recommendations of the Civil Grand Jury Status Report.
Office of the Controller	Recommendation Implemented	Recommendation implemented. Beginning in 2006, the Office of the Controller (Controller) will be reporting on agreed-to-be-implemented civil grand jury recommendations until the respondent indicates a recommendation is fully implemented or abandoned because the recommendation is no longer reasonable or warranted. The tracking of the recommendations will begin with recommendations of the fiscal year 2003-04 Civil Grand Jury. As part of the follow-up procedures, respondents will be asked to suggest ways to accelerate implementation of open items or to identify the need to revise the implementation of recommendations due to changed circumstances. The Controller expects to issue its status reports in May of each year to give the Mayor and Board of Supervisors sufficient time to allow for budgetary consideration for each upcoming fiscal year.

2. The Board of Supervisors should hold an annual hearing on all outstanding recommendations, where implementation is pending.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.

FINDINGS:

1. The ordinance, amending San Francisco Planning Code Section 610, has had unintended consequences. According to the present interpretation of Section 610, the violator is allowed to remedy an adjudicated violation without penalty. Consequently, no finds have been generated, through fees or penalties, to pay for billboard code enforcement.
2. Presently, thousands of reported code violations have accumulated. From June 2004 to February 2005 the number increased by 438. Two new sign violations were reported for every billboard enforcement case that was closed, during the period.
3. Code enforcement requires the integration of databases at least between Department of Building Inspection and the Planning Department. In addition, there must be a coordinated use of personnel resources between the two departments. This necessitates seamless software capability and a broad exchange of information. Billboard code enforcement will continue to be limited and violations will fall further behind, unless there is a marked improvement in the required information flow and technology integration.
4. DBI, working with Planning Department management, is spearheading an analysis of how all the contributing departments can coordinate their computer systems and information exchange to maximize their effectiveness. The analysis is an essential first step in elimination of a barrier impeding the involved departments' performances.
5. In the past three years, implementation of four of the seven agreed-upon recommendations, identified in the billboard sign report of the 200 1/02 Grand Jury, have yet to be started.
6. Lack of for the staff to carry out the work is an oft-repeated excuse for lack of action. Until budget constraints are loosened or the Planning Department identifies and procures a dedicated funding source to enable billboard code enforcement to pay for itself, increased staffing to reduce a buildup in sign code enforcement backlogs will remain minimal.
7. The budget request for 2005/06, submitted by the Planning Department management, is inadequate for billboard enforcement or other code enforcement actions to reduce the current backlog for the coming year. At best, with only one additional FTE, the department might reduce the rate of growth of the list of still-to-be-acted-upon code complaints of all types.

RECOMMENDATIONS:

1. The Planning Department should prepare a Work Plan that identifies steps the Planning Department will take to complete the implementation of the agreed-upon recommendations of the 2001/02 Civil Grand Jury report on Billboard Code Enforcement. Such a response should include the number of additional temporary and/or regular staff members required to carry out its implementation, the needed additional software capability to increase productivity in enforcing the plan, timelines for completing each plan element, and potential sources for funding the plan.

Department	Response	Explanation
Department of Building Inspection	--	The department elected not to respond.

Department	Response	Explanation
Planning Department	Will Be Implemented in the Future	The Department prepared a work plan on completion of a General Advertising Sign inventory in 2005, including determinations of legality and follow-up enforcement work. This became the basis for the Department and Planning Commission fee recommendations included in legislation (Board Files 051844 and 052021) introduced by Supervisor Peskin. The Department's proposed budget for FY 06-07 adopted by the Planning Commission in February 2006 includes staffing and other costs associated with implementation and cost recovery from fees for sign inventory analysis and verification as mandated in proposed amendments to Planning Code Section 604. In addition, proposed amendments to Planning Code 610 would provide fees to cover costs of hearings on legality of signs when enforcement actions are undertaken and penalties for signs found through an administration hearing process to be illegal. Action on the pending legislation is anticipated to be completed prior to budget enactment.

2. In order to ensure that the Planning Department can commence implementation of the Work Plan, including elimination of the billboard code enforcement backlogs, the Department should request and receive "start up" monies for adequate temporary additional staffing to complete the assignment.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.
Mayor's Office	Requires Further Analysis	Requires Further Analysis. Per request from the Planning Department, the Mayor's Office will consider this issue during the budget planning process
Planning Department	Will Be Implemented in the Future	The concept of "start up" monies is encompassed in the augmented code enforcement staffing plan which is proposed to cover three years and includes Planner IIIs, Planner Is and interns. Staffing would then be reduced to an equivalent of ½ FTE Code Enforcement Planner III for monitoring and maintenance. Staffing would begin after approval of the FY 06-07 budget.

3. In order to limit the amount of "start up" funding needed before the billboard code enforcement program can become self-sustaining, we suggest the following: The Board of Supervisors research major urban communities in California and elsewhere to identify "best practice" legislation to be used for collecting fees and penalties in matters of enforcement of illegal billboard signs. That information should be the basis for replacing or amending Planning Code Section 610 to enable the Planning Department to collect disincentive penalties from violators of the Billboard Ordinance. The legislation should have a fourfold purpose: to create an economic disincentive for future violations, to provide revenue for helping make billboard enforcement self-sustaining, to enhance other city revenues indirectly⁴⁸, and to eliminate non-permitted billboards.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.

4. The Board of Supervisors should review the progress, including projected timelines, of the Department of Building Inspection's Information Technology Exchange Project. Without such simultaneous tracking and coordinated action, it will be very difficult for the CPD enforcement staff to proceed as expeditiously as planned. The interface of information technology is essential for identifying targeted properties and billboards needing attention.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.
Department of Building Inspection	--	The department elected not to respond.
Planning Department	--	The department did not comment on this recommendation.

5. The Mayor, using SFStat and the Board President, using the Government Audit and Oversight Committee, should review the Planning Director's Report semi-annually for progress in meeting the program milestones and timelines, identified in the approved Work Plan.

Department	Response	Explanation
Board of Supervisors	--	The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on Monday, October 17, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the Mayor's Office and Planning Department's responses to the report. The Committee considered the actions requested by the Civil Grand Jury. The Committee filed this item.
Mayor's Office	Recommendation Implemented	Recommendation Implemented September 12, 2005. Planning Department reporting during appropriate SFStat meetings.

APPENDIX

MEMBERS OF THE SAN FRANCISCO CIVIL GRAND JURY

2003-2004

John S. Calder
Robyn Chan
Michael Creedon
Dustin L. Daza
Clement D. DeAmicis
Debra J. Hitti
Carolyn Koster
Walter Krumm
Samuel Macy
Jack L. McNulty, Foreperson
Susan B. Miller
Melinda Mills
Mary Mullen
Harriet Ross
Eugene S. Salazar
Cornelia B. Sapiro, Secretary
Nancy K. Winchell
Peg Winston

2004-2005

Vicky Berol
Dennis Bianchi
Clarence Bryant
Donald Colbrun
Robert Cunningham
Dustin Daza
Clement D. DeAmicis
Marlene Hunn
Denise Kent
Robert Klausner
Jerry Langer
Judy Lee
John Lehnert
Mary McAllister, Foreperson
Diana Owyang
Wendy Rouder
Sue Ruwart
Lesley Swain

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cc: Mayor
Board of Supervisors
Civil Grand Jury
Budget Analyst
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