

# WESTSIDE OBSERVER

## James Madison Freedom of Information Award

Doing so would promote compliance and reduce the need for enforcement measures.

### Staffing

Ethics "has never been fully staffed." Since 2016, it has struggled with a "high vacancy rate" - 19% or about 4.5 vacancies annually. Meanwhile, there have been 15 changes to the Campaign & Governmental Conduct Code that required additional administration and programming. Understaffing is largely due to slow hiring; it takes 6 months to hire a new Ethics employee. Ethics relies on the City's Department of Human Resources to conduct its hiring - at a cost of \$90/hour. Because Ethics lacks the full complement of staff, shortages persist and impede every program.



Budget Analyst Harvey Rose

### Audits

Audits of election campaign committees have taken almost 2 years to complete, thereby red hindering enforcement within the statute of limitations. Investigators lack audit training and date. Also, Ethics has yet to conduct mandated lobbyist audits.

### Investigations

Investigations of ethics violations take "more than two years on average" - actually 29 months. Complaints take 6 months. Then, just 1/3 of complaints receive formal investigations. Because Ethics opens more cases than it resolves, there's a mounting backlog. Long-lingering investigations have a deterrent effect of enforcement.

### Whistleblower Protection

The Enforcement Division is responsible for investigating whistleblower retaliation claims. On average, it takes 32 months to resolve. Such delays impair the gathering of evidence and witness testimony at the time of investigations. Further, Enforcement Division staff lack training in whistleblower retaliation in employment law rather than ethics law.

Ethics veils the outcomes of retaliation investigations. When the BLA reviewed 34 retaliation investigations from 2017 through 2019, it found that 20 were dismissed due to "insufficient evidence", 2 were withdrawn, and 12 were substantiated. Importantly, the BLA recommended that staff "...report on whistleblowing to the Ethics Commission on an annual basis, including reasons for dismissals and case closure of investigations."

### Unmentionables

The audit fails to mention that no retaliation claims have ever been sustained by the Ethics Commission.

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Society of Professional Journalists, NorCal Chapter  
September and October of 2013. Sadly, Ethics remains a dead-end for mistreated whistleblowers. Ethics Commissioner Joe Lynn's 5/7/09 Fog City Journal revelation that Ethics investigations complaints "uncover willful violations only if the respondent decides to confess." That also explains why DOA. This failure to enforce the City's Whistleblower Protection Ordinance renders it meaningless, a trap for naive complainants. Non-enforcement gives retaliators a green light to pursue whistleblowers and consequences. Ultimately, taxpayers foot the bill when ineffective Ethics investigations force

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**That also explains why retaliation claims are DOA. This failure to enforce Whistleblower Protection Ordinance renders it meaningless. It also makes it deceptive to complainants. Non-enforcement gives retaliators a green light to pursue whistleblowers and consequences."**

After the BLA's call for reporting whistleblower retaliation case outcomes, LeeAnn Pelham prepared the draft Annual Report. It lists some outcomes – but not how many cases were substantiated. It shows a zero substantiation rate. Ethics hasn't explained this shady track record, apart from implying that complaints are unfounded. More likely, Ethics investigations are superficial and deficient. Too, investigations are slow and over-worked Ethics staff seek counsel or coaching from City Attorneys who are sent copies of all complaints.

Whistleblower claims are often denied after consulting with City Attorneys. This practice allows City Attorneys to minimize the City's exposure to civil liability – no matter how damning the evidence against officials and employees accused of retaliation. They justify their work as protecting taxpayers. Invariably, protecting City officials and the public purse takes priority over protecting whistleblowers. Relying on advice from City Attorneys favors respondents over complainants - and abets retaliation.

Also absent from the audit is how Ethics must annually bow and scrape before the Mayor's Office to fund its budget. Ethics is thus beholden to, if not controlled by, the very folks it supposedly monitors. Instead of being independent, Ethics is captured. One solution is to fund Ethics the same way the Auditor is financed – by a set portion of the City budget. For example, Ethics' operating budget is reduced by an automatic 0.04% cut of the City's \$13.7 billion budget, thereby reducing its fiscal dependence on the Mayor's Office.

**September 2020**

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## A Subpoena for SFPUC Skulldu

by Dr. Derek Kerr

On June 15th, 2020, US Attorney David Anderson delivered a Grand Jury subpoena to the City of San Francisco (SFPUC). A copy was examined by the *Westside Observer*. The SFPUC's 2,500 employees manage water and power systems with a \$1.4 billion budget. The federal subpoena demanded the resumes, performance evaluations for "any PUC employee who earned at least \$100,000" since 2011, Statements of Economic Interests, proof of completing Ethics and Sunshine Ordinance training reports and requests for reimbursement. Evidently, the feds are probing cronyism as well as

Specifically named were General Manager and Assistant General Manager. They had to provide all records including expense reports and contracts. Their personnel files were searched for documents showing they received approval for certain contracts. Some of these contractors involved in corruption, alongside former Mayor's wife. A notable in the "City Family" was Administrator Naomi Kelly.



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US Attorney, David Anderson

where she also serves as Acting Executive Director of State and City conflicts of interest. Kelly stood by her. She plus \$5,000 by Ethics earned at Green for A SFPUC was canceled the City's ethics training her violation was "not" "oblivious" to her conflict 25% of the maximum

## Neighborhood

Neighborhood watch Since July 2015, the Lawrence has warned contracting practices purely on price but 35 promises to help "un social programs." Since

guidance from the SFPUC, Lawrence sees a form of "tribute" that invites favoritism and cost pay for these extracted social benefits as well as fat salaries, perks and unchecked bond charges have soared beyond the rate of inflation.

In a July 2020 Marina Times article, Susan Dyer Reynolds critiqued Juliet Ellis and the Commission pioneered at SFPUC. Designed to help underserved communities, the Community Benefits contractors to disburse a percentage of their income to non-profits serving local communities. beneficence is that the SFPUC informs contractors about non-profits that deserve their dollars. creeps in. The problem, as Reynolds details, is that; *"There's no oversight, no voting, no public input. Ellis and her team run a shadowy show that makes it impossible for outsiders to find out exactly what's going on."* Similarly, in a 2/14/19 Resolution, the SF Labor Council criticized the opacity of SFPUC stating *"requested payments from Union signatory contractors to preferred non-profit agencies" and "unilateral hiring."* Oddly, SFPUC's 5 Commissioners and its 17-member Citizens' Advisory Council any of the shadowy practices now under federal scrutiny.

## SFPUC Whistleblowers



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**Cronyism splits workforces into insiders and outsiders, leading to mistrust in management. Worse, cronyism begets more cronies who protect each other by excusing poor performance and ethical lapses ... Workers who strive to obtain the required qualifications get demoralized. Those who are arbitrarily granted plum jobs, along with substantial salary and pension boosts, are beholden to their benefactors and unlikely to challenge managerial misconduct."**



SFPUC General Manager

Sources within the SFPUC (not named to avoid reprisals) tell us that cronyism and favoritism have pushed hiring and promotion decisions into predetermined outcomes. There's more. Among the allegations were; promoting unqualified workers, employment discrimination, filing false inspection reports, overlooking dumping violations, and helping politically connected restaurants to dodge penalties for clogging sewers with illegally discharged grease. Such claims have reached the Whistleblower Commission, the City Attorney, the DA, the Environmental Protection Agency, Federal Court rumblings, and articles in neighborhood newspapers, probably caught the eye of US Attorney's analogous focus of his subpoena.

Indignation arises when the SFPUC's own job requirements are not followed. For example, 4 Supervising Inspectors who ensure that wastewater treatment protects public health and qualification for this job is a Grade 2 Environmental Compliance Inspector Certificate (aka Certificate, Grade II) from the California Water Environment Association (CWEA). But the City's 4 Supervisors lack that required credential; Audie Ilejay has a Grade 1 or "Entry Level" credential appears for Mark Middleton. Apparently, their former and current bosses let these lapses go to explain the missing credentials - "no responsive documents." According to Transparent California, Middleton earned \$191,608 with benefits in 2019 and Ilejay earned \$197,339.

Part of the problem, sources say, is that some SFPUC higher-ups are themselves thinly qualified and "loyal" rather than competent subordinates. Accordingly, compliant employees may get promoted without required credentials. Some long-time employees are troubled by what they see as a decline in

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yielding a \$103,794 pension in California.



Assistant General Manager for External Affairs, Juliet Ellis

Another way to slip under-qualified employees into positions, sources say, is to bypass the Civil Service vetting required for most jobs. There's no open application process or expert panel. "Acting" appointments are made that provides the qualifications required. Meanwhile, already-qualified employees seek opportunities. Amazingly, the Enterprise Organizational Chart shows that 40% of managers are "Acting."

## Cronyism and the

Cronyism splits workforces into two groups, leading to mistrust in management. It begets more cronies who protect their positions.

poor performance and ethical lapses. For the SFPUC, there are costs beyond the public anger of promoting under-qualified employees. The professional time and effort expended to develop and train employees when minimum qualifications are disregarded. Workers who strive to obtain the required qualifications. Those who are arbitrarily granted plum jobs, along with substantial salary and pension benefits, become benefactors and unlikely to challenge managerial misconduct.

As the *Westside Observer* previously reported, employee outrage over favoritism also erupted at the San Francisco Public Utilities Agency as well as the Department of Public Health. This disquiet may be traced to the New Civil Service Reform, whereby managers were empowered to use their "expertise" and "best judgment" to hire the "most appropriate" candidates rather than relying on "rigid" test scores, minimum qualifications, and "flexible staffing" can undermine merit-based employment and trigger costly accusations of discrimination.

A ray of hope emerged from SFPUC's Wastewater Enterprise Business Plan that vowed to implement "training" and "certification standards." Similarly, a 7/14/20 "Workforce Equity Analysis" pledged that managers use judgment, as in hiring, performance evaluations and discipline. These promises are yet to materialize now that federal prosecutors are targeting SFPUC's management.

**Acknowledgment:** Thanks to the former and current SFPUC employees who provided tips and information for this report.

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**Court Judgment for Hoeper**

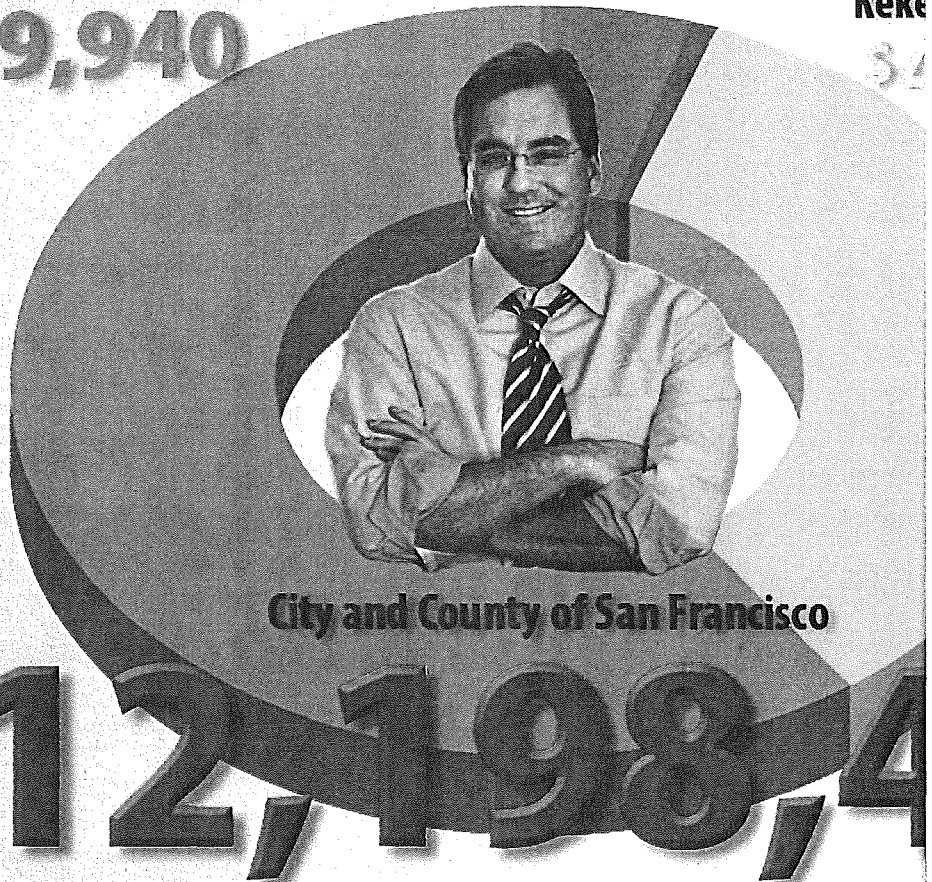
(2,124.75 hours)

\$100,829

Keke

**\$7,309,940**

\$2



City and County of San Francisco

**-\$12,198,473**

City Attorney Dennis Herrera Source: City Attorney's Office

**by Dr. Derek Kerr**

**T**he City Attorney's calamitous war against Joanne Hoeper's Whistleblower Retaliation cost taxpayers \$12,198,473. This whopping expense passed unnoticed due to many factors we'll describe a bit later. Here's the breakdown;

## Sewer-Gate: The Backstory

The *Westside Observer* (WSO) has covered this saga since September 2014. Briefly, Joanne Hoeper was the City Attorney's Chief Trial Deputy since 2000. In December 2011, the FBI notified her about sewer repair claims submitted to the Claims Unit within the City Attorney's Office (CAO). Her claims to replace sewers, allegedly damaged by City-owned tree roots had soared from \$1



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Whistleblower  
Joanne Hoeper

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badgered them to sign claims. Many claims were signed by plumbing & property owners, making them invalid. Sewers were usually replaced rarely. And, sewer replacements charges were inflated by \$3,000 above standard allowed private plumbing companies to fix sewer lines that were the result of the required bidding process. Accordingly, taxpayers were funding private plumbing company bonanzas.

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**...the lawsuit and jury verdict serve a significant benefit on the general government officials from engaging in unlawful retaliation against a whistleblower of various statutes. — Court documents"**

**Hoeper's warning about corrupt sewer claims caused a furor.** Policies were revised. But in wrap up her investigation. She turned in a report recommending further investigation of police. Essentially, she faulted oversight within the Claims Unit - and the City Attorney's Office. On a choice; unemployment or reassignment to the District Attorney's Office. Once Hoeper trauma evaporated. In January 2014, Herrera fired her.

## Six Years of Costly Legal Wrangling

**Hoeper filed a whistleblower retaliation claim on July 1st, 2014.** Two months later, Herrera issued an indignant rebuttal. Mediation failed as Hoeper asked for \$1,895,000 while Herrera countered with \$355,000. Casting CAO lawyers aside, Herrera hired the powerhouse law firm of Kecker & Van Nest at a dazzling \$850/hour. Sometimes, hiring big-guns cowers plaintiffs to capitulate. The opposite happened after a stunning blunder; CAO spokesperson Matt Dorsey was allowed to email Herrera's rebuttal to the *Westside Observer* stating: *"I read with interest your column on former Deputy City attorney Joanne Hoeper's claim against city taxpayers for monetary damages, and thought you might be interested in the city's formal response..."*

This disclosure undermined Herrera's central argument; that Hoeper could not reveal similar information to prove her case because it was attorney-client privileged.

Once Hoeper filed suit in January 2015, the City immediately sought dismissal arguing that she relied on protected attorney-client communications. On June 1st 2016 that claim was rejected in Superior Court – because the City had already leaked its version of events to the *Westside Observer* and the *SF Chronicle*. Further, the Court objected because the City's *would bar most retaliation claims by attorney employees."*

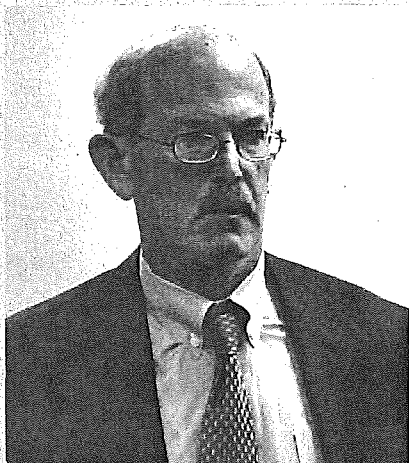
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34.6 hour cut, thus saving a measly \$15,950. Meanwhile, legal fees mounted. Since Hoyer pursued public interest cases when clients can't pay up front. Hoyer requested a multiplier opposed any enhancement. The judge awarded a 1.35 multiplier because; *"...the lawsuit an benefit on the general public: to deter government officials from engaging in unlawful retaliation of various statutes."*

On August 3rd, 2017, the Court awarded Hoyer's attorneys \$ 2,408,468 in trial fees. To this \$226,046 in post-trial fees, \$56,512 in interest to the original jury award, \$68,141 in interest costs, for a total Judgment of **\$5,471,138**. The City's one-sided campaign to cut costs had Herrera charged headlong down a blind alley.

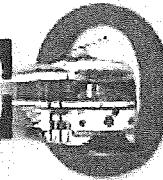
**On September 25th, 2017, the City appealed the judgment.** Then came an intriguing switch; the appeal was handled by City attorneys rather than the pricey losers at Kecker & Van Nest. In an exhaustive 97-page brief, the City argued that the trial court wrongly let Hoyer introduce evidence that was attorney-client privileged, that the jury erred in its finding of whistleblower retaliation, that Hoyer failed to mitigate her damages, and that her award for emotional distress was excessive. After poring through 4,000 pages of court records, Hoyer's attorneys responded with a compelling 85-page rebuttal. The City then filed a 59-page reply brief. On February 13th, 2020 the Court of Appeal unanimously rejected the City's pleadings, stating; *"None of these arguments is meritorious."*



Karl Olson Photo:  
Mountain Democrat

**Beyond the legal trouncing, the 29 months of appeal-wrangling would be costly.** Looming was the 7% interest on Hoyer's unpaid \$5,471,138 award - amounting to **\$1,049** per day. Another 1.35 multiplier hovered over her current attorney's fees. Surely, the City would negotiate a settlement. Instead, after spending a month pondering a last-ditch appeal to the California Supreme Court, the City folded. On April 2nd, 2020, Deputy City Attorney Jonathan Rolnick informed Hoyer's attorneys that he had been "asked to handle the resolution of the judgment." Still, no s DCA Rolnick reviewed – but did not contest - Hoyer's May reimbursement of appeal expenses. Records show no City and services detailed in laborious Declarations from her at to an Amended Judgment that the Superior Court approve breakdown;

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Attorney Fees on Appeal
Total

Source: City Attorney's Office

Dodging Public Scrutiny

Records show that the CAO asked the Controller to pay \$7.3 million to Canatta, O'Toole, Fink, and other lawyers. The money came from the City's General Fund. In a 5/28/20 email, DCA Rolnick wrote: *the way to get the \$ out the door and given the other issues the Controller is dealing with did not seem to be also the quietest, least embarrassing way.*

Saving face may explain the sudden ardor for the "quickest way" after dragging the case on for months. If post-trial settlements weren't proposed. Settlements require a hearing and approval by the Controller. By accepting defeat without a settlement, the payout eluded public inquiries and media coverage. It was skirted by shelling out amid the COVID-19 tumult.

Records show that Herrera spent openhandedly to defend himself. The *Westside Observer* reported that the CAO attempted to reduce the fees charged by Kecker & Van Nest. No such records were found. If City attorneys to pursue the appeal, legal fees fell to one-third of Kecker & Van Nest rates. Had the City hired attorneys from the outset, about \$2.8 million could have been saved. Another \$2.2 million could have been saved without the appeal. We asked the CAO why it didn't attempt a post-trial settlement; no response.

The City Attorney's retaliatory sewer-gate debacle, alongside the FBI's recent arrest of DPV and others for public corruption, jab at the City's anti-graft capabilities. As Hoeper wrote in "Buried" in the February 2020 *Westside Observer*, her case casts doubt that the CAO can "conduct a thorough investigation into the allegations that led to the arrest of Mr. Nuru."

In a June, 2003 Press Release, Dennis Herrera had praised Joanne Hoeper as "a public worker who has been Back then, her efforts to "stamp out public corruption through aggressive legal action" were lauded. But when he found fraud-enabling practices within his office, Herrera apparently contrived a pretext for his own penchant for "knowing more than anyone else," resorting to a "scorched-earth approach" and frequent efforts to settle." In pot-versus-kettle irony, Herrera failed to follow his own counsel. He ignored jury and judges, tempered his lawfare, and settled earlier, taxpayers and whistleblowers were the losers.

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July 18, 2020



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Captain Nick Rainsford Photo: Ingleside Light

by Dr. Derek Kerr

**O**n June 17, the *SF Examiner* reported that Taraval Station's Captain Nicholas Rainsford was "relieved of his command and placed under administrative investigation." Reporter Chief William Scott had "abruptly transferred" Rainsford to SFPD's Homeland Security. Although an SFPD spokesperson declined to provide details, Examiner sources indicated that removals were typically driven by "significant misconduct" or when an officer's ongoing presence was "a threat" to officers or the community.

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**Morale was sagging. Capt. Rainsford addressed the officers and appeared to say the police had handled previous protests. His exact statement is not known. One officer thought it was wrong, felt offended and filed a complaint. Internal Affairs**

The *Westside Observer* (WSO) sought comments from Captain Rainsford but received none. Rainsford, who was appointed Acting Captain on June 12th, told the WSO that he would manage day-to-day operations until "they assign a permanent captain", and had "not identified any changes to station operations".

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after the police shooting of Mario Woods, someone had posted a Wall Street Journal Op-Ed “Black Lives Matter” on a bulletin board displaying officer assignments. Authored by conservative Op-Ed cited data that challenged the “misrepresentation of police shootings.” An affronted posting and sent it to the Examiner. In its report on the “Anti-Black Lives Matter article,” the about using City property for “political activity.” MacDonald fired back in an Opinion piece, “lose their First Amendments rights when they work for the government.” She proposed that questioned the legality of posting an Op-Ed arguing that policing suffers from systemic racism determined that the Op-Ed was “not political in nature” and did not violate City rules against campaigns.

The incident with Capt. Rainsford seems more serious than the 2016 Op-Ed controversy. Unprecedented social reactions to violent police interventions are driving extraordinary police COVID-19 intensifies frustrations, conflicts and the growing tendency to silence opposing reactivity, the value and plight of police whistleblowers must be balanced with the record a

Captain Rainsford's re-assignment may be temporary. As of 7/1/20 the SFPD still identified commanding officer. No other Captain has been assigned to Taraval Station. There has been his reassignment by the SFPD or the Police Commission. Neither Supervisor Norman Yee whose districts are partly covered by the Taraval Police Station, was notified. As Supervisor sudden and *sub rosa* reassignments “undermine trust and relationships with the community

A native son, Nick Rainsford was born and raised in the Parkside neighborhood of the Sun. Gabriel's Grammar School and Sacred Heart High School, he joined the USMC Reserves and joined the SFPD in 1994, working at the Bayview, Central, Tenderloin, Richmond, Ingleside and promotions along the way. After serving as Captain of the Staff Services Division that oversaw staffing, he became Taraval Station's Captain in December 2018. In that capacity, he focuses on ins and home burglaries as well as traffic safety. He wrote an informative column for the R and monthly editorials for Taraval Station's outstanding website. According to openpayrol \$222,786 in 2019.

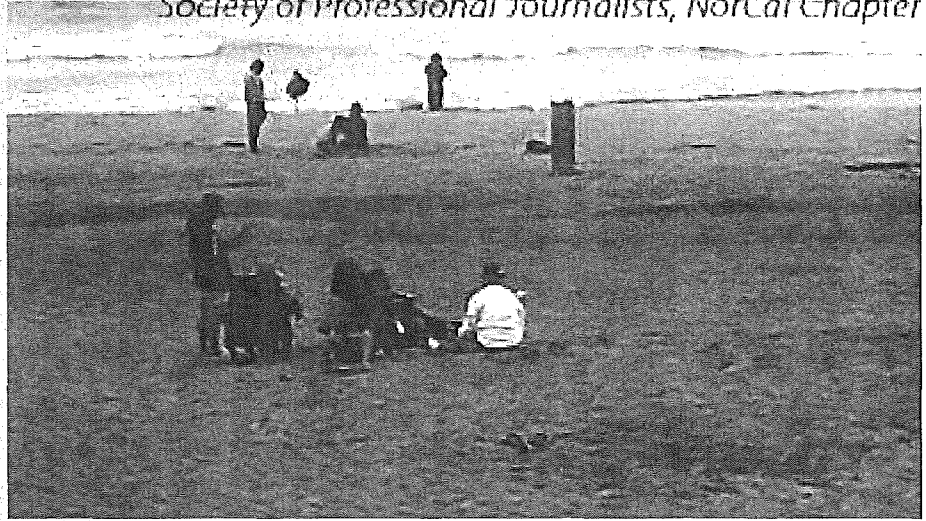
The Taraval Police District is the City's largest and most populous. It is bordered by Golden Beach to the west, Daly City to the south, and 7th Avenue down to Interstate 280 to the east.

*Dr. Derek Kerr is a San Francisco investigative reporter Contact: [watchdogs@westsideobserver.com](mailto:watchdogs@westsideobserver.com)*

**July 3, 2020**

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## Deadly Rip Currents at Ocean Beach

**O**cean Beach is notable for powerful swells that attract surfers, nature lovers and local residents. Less visible are treacherous rip currents that can drag swimmers out into cold and frigid waters and quickly cause drowning. Prominent signs warning of the danger are easily overlooked amidst the captivating scenery. On a recent visit, signs were T-shirts relevantly stating "I Can't Breathe".

After a record 7 people drowned in 1998, the National Park Service implemented a beach program that responds to emergencies. Since then, annual drowning deaths at Ocean Beach haven't exceeded two. Because Ocean Beach is not a designated swimming area and because its 3.5 mile stretch would be prohibitive for lifeguards, lifeguards are not routinely assigned there. Also, the presence of lifeguards could mislead visitors into thinking that swimming was endorsed.

As reported by **Hoodline** on June 11, 5 East Bay teens were caught in a rip current at the Alameda Street. Fortunately, the boys' frantic struggles were noticed. Workers from the Park Service collaborated on the rescue. Ambulances rushed the boys to the hospital. All suffered from injuries and went to the ICU in critical condition. Three teens were hospitalized in serious or stable condition and one was discharged home.

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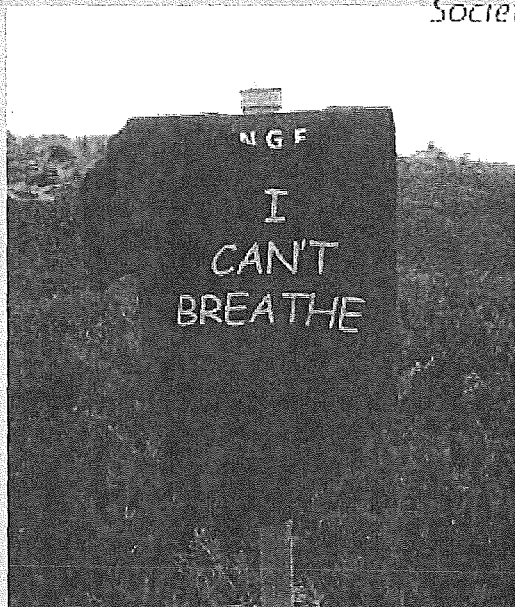
...annual drowning deaths at Ocean Beach haven't exceeded two. Because Ocean Beach is not a designated swimming area ... lifeguards are not routinely assigned there. Also, the presence of lifeguards could mislead visitors into thinking that swimming was endorsed.



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Five students from Vallejo High School decided to lock arms and wade waist-deep into the surf. An unexpected wave knocked them apart. Two 16 year olds, Grisham Duran and Wayne AUSA, were swept out to sea and lost. Then-Supervisor Eric Mar sponsored a 5/12/16 hearing before the Public Safety and Neighborhood Services Committee where every agency involved in safety monitoring, as well as rescue and recovery efforts described their services. The SF Fire Department deemed Ocean Beach the most dangerous beach in the nation. In 2015 alone, the Park Service conducted rescues of which 19 required hospital attention.

Despite enhanced signage and rescue patrols, casualties among unwary swimmers have occurred. Deaths in 1998. Between 1998 and 2006, 7 deaths were reported. In January 2006, the bodysurfer and novice surfer Sean Fahey washed up near Sloat Blvd. Then in May 2006, Marlin Coats, a bodysurfer, drowned while trying to save 2 boys who were struggling in the surf. The boys were hospitalized and recovered. In April 2014, Abel Cornejo, his 14 year old son Marcos and a cousin were swept out to sea. The father ended up in a coma in the ICU at UCSF and young Marcos was lost at sea. A bodysurfer who drowned in August 2016. A swimmer was lost in the surf near the Cliff House in December 2018, Jay Seideman, a 43 year old tech executive from Oakland, succumbed to drowning. A stricken surfer required CPR after being rescued then was hospitalized in critical condition. Most drownings did not receive media attention.

### Navigating the Rips at Ocean Beach

Rip currents or "rips" make Ocean Beach a perilous recreational area. Nationwide, rip currents are responsible for more beach rescues. Three foot waves can strike with surprising force, tossing waders off their feet. Even strong swimmers can be pulled out to sea. A UC Berkeley oceanographer explains that incoming waves are deflected by the beach into an underwater channel that funnels the water back out to sea. These streams are deceptive. By flowing out through the surf zone, rips create a calm spot that is actually hazardous. Rips move at a rate of up to 8 feet per second, making it impossible to fight them. Those who panic and fight the current are soon exhausted. They are further incapacitated because the water is so cold. Ocean Beach stays at a bone-chilling 56 degrees even in the hottest months. Drowning can occur in a few minutes.

A handy YouTube video shows how to identify a rip and escape it. Comprehensive information is available on the California Coastal Commission website.

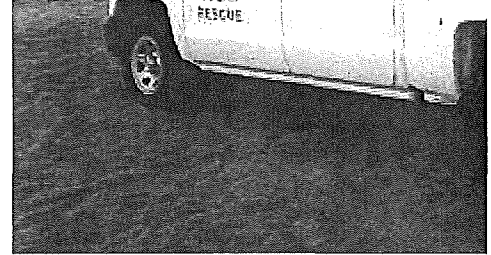
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around 100 feet from shore, one Society of Professional Journalists, NorCal Chapter water until the current dissipates, then swim back to shore away from the rip zone.

Ocean Beach experts advise that even wading at ankle depth is risky. Safer yet, stay out of the water.

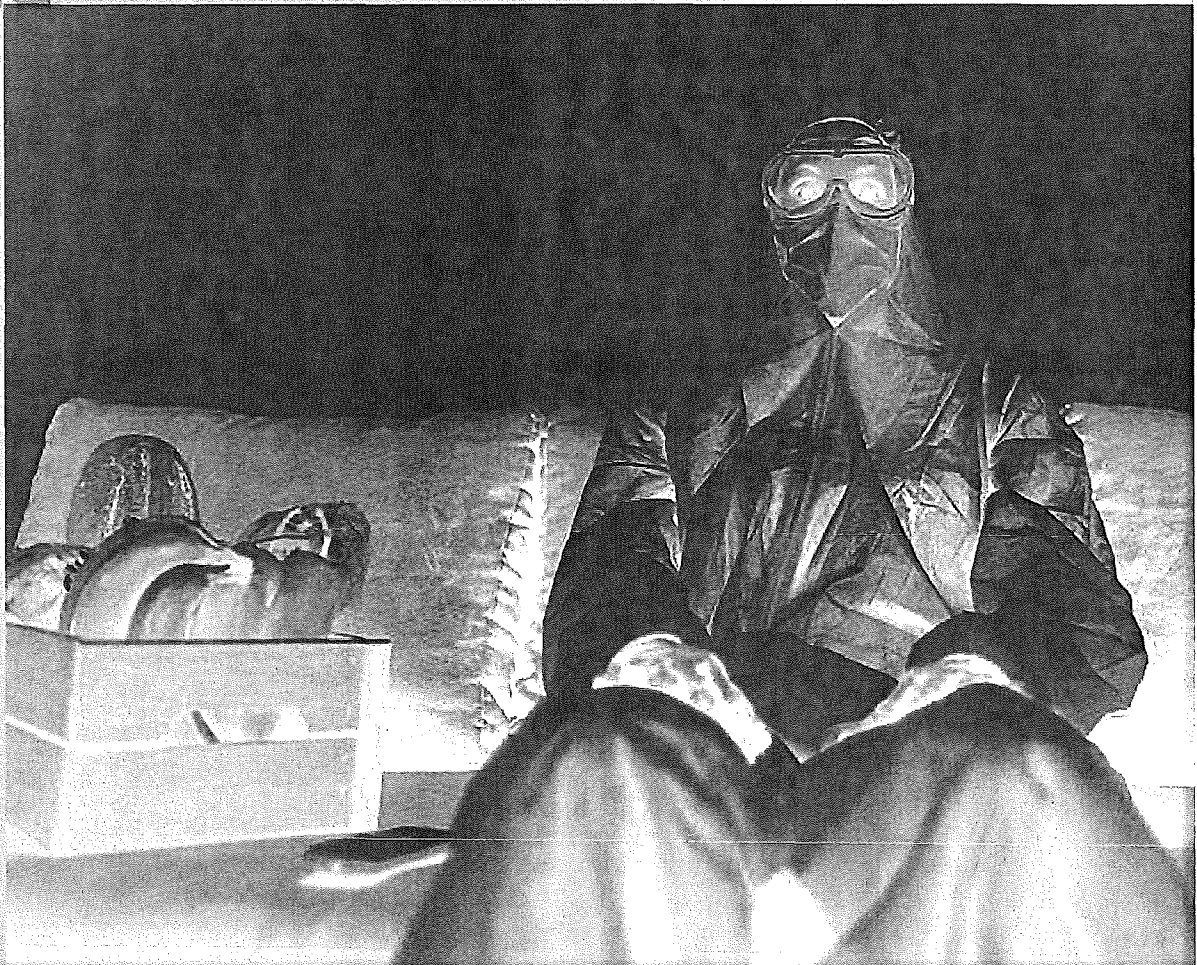
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June 15, 2020

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## The Enigma of COVID-19 Imm





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to them without halting replication. Neutralizing antibodies are key protectors against infection, but they emerge after infection or vaccination.

## Antibodies Do Not Ensure Immunity

A recent study from Shanghai showed that among 175 patients who recovered from COVID-19, 33% had undetectable neutralizing antibody levels. Similarly, researchers at Rockefeller University found that among convalescent patients, 33% had no detectable neutralizing antibodies while 46% had low levels. For those who recovered, presumably the cellular component of the immune system fought off the virus. However, it could also fail to generate protective antibodies in a sizeable sub-population.

Even if neutralizing antibodies do develop, it's not yet known how long they last or the amount needed to protect against CoV-2. Some viral infections like the common cold – often caused by different coronavirus strains – have transient antibody levels that do not bestow lasting immunity. As for the antibodies to the MERS and SARS, they declined after several months. Likewise for antibodies arising after infection with HIV. In the case of AIDS, there's an abundance of antibodies to HIV but they are non-neutralizing and we still have no vaccine against AIDS or any coronavirus.

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**Contra these gloomy laboratory studies, clinical findings from South Korea suggest the specter of re-infection. Among 263 patients who fully recovered from COVID-19 and tested positive for SARS-CoV-2 weeks later, none harbored viable virus and were no longer infectious."**

Another reason why viral infections evade the immune system is that viruses mutate so that they can escape detection. Preliminary data from China indicates that SARS-CoV-2 mutates frequently and some strains are more virulent than others. The deadlier mutations recovered from Chinese patients were also noted in patients in New York State. The milder strains resembled those in Washington State. Thus, mutations may explain the variable mortality rates seen in different regions. A non-peer reviewed article by Korber et al. reported a SARS-CoV-2 mutation dubbed "D614G" that is replacing the original Wuhan virus across the globe in New York. Though challenged by other scientists, such mutations, like those of the flu virus, may help develop an effective vaccine or to prevent re-infection.

Antibodies, whether acquired by natural infection or vaccination, may not be protective. In fact, the World Health Organization rejected antibody tests to grant "immunity passports" – certificates that would allow people to circulate freely without fear of re-infection. WHO declared; *"There is currently no evidence that people who have recovered from COVID-19 and have antibodies are protected from a second infection"*. Also, many anti-viral Scientists warn that segregating society on the basis of dubious biologic data can threaten public health.



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SARS-CoV-2 binds to ACE-2 receptors that are found throughout the body, notably the airway lining of blood vessels, the heart and kidneys. This explains the widespread organ involvement. Some patients succumb to an unruly inflammatory cascade called a "cytokine storm" when cells attack organs infected by the virus. A related immune over-reaction called "multi-systemic disease" has affected some children weeks after being exposed to SARS-CoV-2.

Conversely, SARS-CoV-2 weakens the immune system by binding to CD-147 receptors on the virus. Thus, anti-viral immune cells get infected by the virus they are supposed to destroy. Some show markedly depressed lymphocyte counts, but those who are severely ill show "functional lymphocytes". So SARS-CoV-2 acts like HIV by neutralizing a key component of the immune system. Montagnier, winner of the 2008 Nobel Prize in Medicine for discovering the Human Immunodeficiency Virus (HIV), asserted that SARS-CoV-2 is a lab-created virus containing HIV genetic sequences. He said it was created at the Wuhan Institute of Virology after modifying a coronavirus to develop an AIDS vaccine.

When normal cells are infected, they change in ways that are recognized by the body's immune system. SARS-CoV-2 camouflages the cells it infects, resulting in "immune evasion". By hiding its tracks, it avoids recognition and elimination of virus-infected cells. This mechanism could allow SARS-CoV-2 infection like Hepatitis-C or AIDS and may explain why some patients experience prolonged shedding.

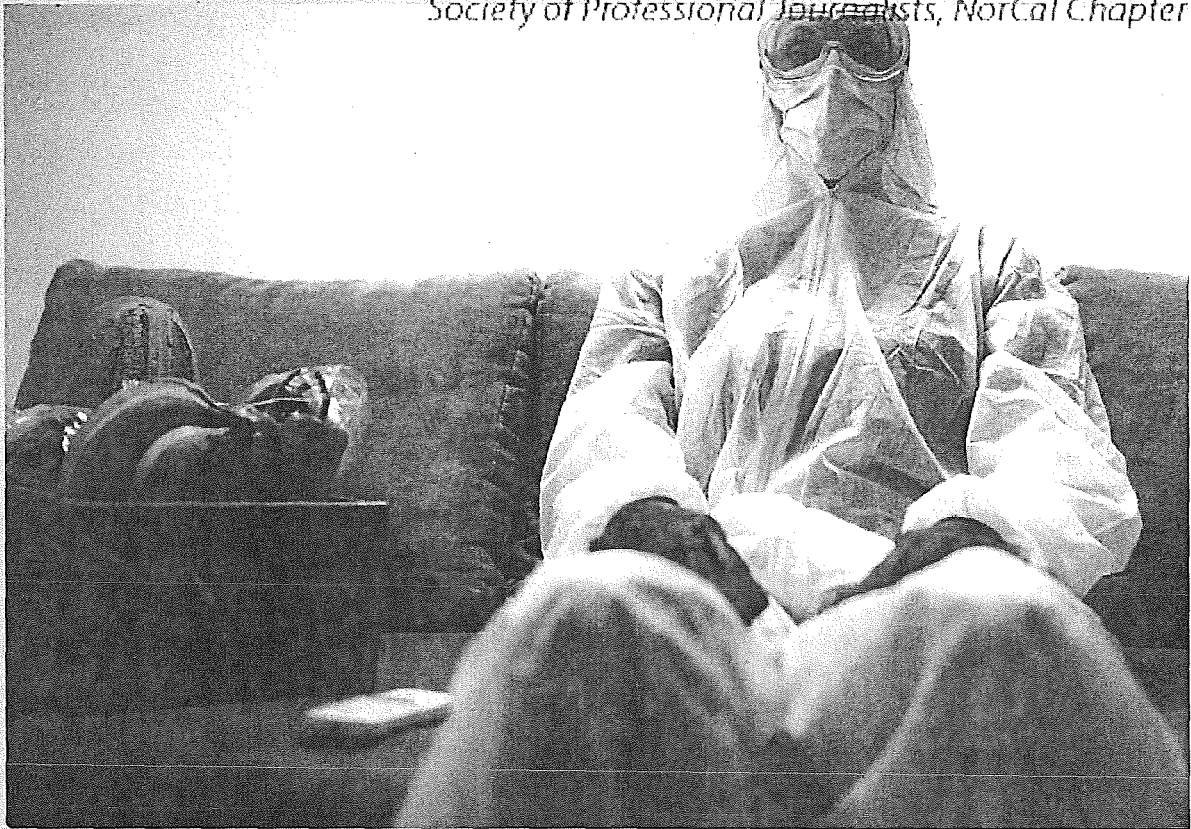
Contra these gloomy laboratory studies, clinical findings from South Korea bring optimism. Among 263 patients who fully recovered from COVID-19, then tested positive for SARS-CoV-2, no viable viruses were found. They were no longer infectious. The diagnostic test merely detected RNA fragments that can take several months to clear from convalescent patients. Unlike HIV, SARS-CoV-2 did not integrate into host cells, making it doubtful to result in chronic infection or recurrence. Although antibodies are protective, solid evidence of immunity from re-infection is lacking, coming from non-peer-reviewed studies on monkeys. Given COVID-19's uncertainties, safety means avoiding exposure and supporting adequate exercise, rest, nutrition plus vitamins D and C.

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**June 2020**

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## Mystique of COVID-19 Transmi

by Dr. Derek Kerr



To date, we have been told that SARS-CoV-2 (severe acute respiratory the new coronavirus that causes the disease called COVID-19, is s infected persons cough or sneeze. These virus-laden droplets can mouth. Droplets also land on nearby surfaces. If we touch contaminated s noses, eyes and perhaps genitals, the virus can invade our bodies. That's b receptors on mucosal cells but cannot penetrate intact skin. Accordingly, keeping 6 feet away from others, washing hands frequently, and avoiding touching our face Upon recognizing that infected people were transmitting the virus without or before feeling A survey of 3,000 people in Italy found that; "the great majority of people infected with COV asymptomatic but represented a formidable source of contagion". By definition, asymptoma sneezing so they probably spread the virus by other means.

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airborne transmission of COVID-19 is likely, particularly in crowded

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members contracted COVID-19 after a 3-hour practice and why prisons, nursing homes, and incubators.

## Features of Aerosols

There is data indicating that the virus can spread by aerosol – not just droplets. In general, while aerosols consist of micro-droplets measuring less than 5 microns. The SF fog is one is the invisible mist we produce with every breath. It becomes visible by exhaling against a vapor condenses into water. Unlike larger droplets that quickly fall to the ground, aerosols hours – like clouds. Several studies show that aerosols, and some droplets, can travel well

Micro-droplets in aerosols also pose a danger because their small size allows them to reach droplets deposit in the upper airway where they are typically trapped by mucus that is pushed hair-like structures called cilia. Aerosols are largely blocked by face masks, especially N95 particles above 0.3 microns.

## Aerosols Carry Viral Particles

Aerodynamic research on air samples in COVID-19 hospitals in Wuhan, China found viral RNA in toilets where flushing urine and feces can aerosolize the virus. Indeed, other researchers report feces of most COVID-19 patients. Viral RNA was also found where workers removed their masks, scattering viral particles into the air. However, well-ventilated patient care areas and open spaces of aerosolized viruses. Once contaminated areas were sanitized, the air within became virus-free at the University of Nebraska Medical Center found viral RNA in air samples from rooms of patients. et al detected viral RNA in the air exhaust fan of Singapore hospital rooms, indicating airborne

Since these studies only isolated viral RNA, they did not prove that the air contained viable SARS-CoV-2 (SARS-CoV-2 has a RNA core and a spiked protein coat). Further, viral concentrations in the air don't know how many viruses are needed to cause infection. However, because SARS-CoV-2 is highly contagious because aerosols have spread tuberculosis, influenza, measles and the 2003 SARS coronavirus COVID-19 is likely, particularly in crowded, enclosed spaces with poor ventilation or re-circulation of air. transmission is rare. Out of 1,245 COVID-19 cases documented in China, only 2 were confirmed to circulates freely.

## Aerosols Transmit Infection

A study by Van Doremalen et al showed that when SARS-CoV-2 was introduced into aerosols, it was capable of infecting cells - for at least 3 hours. A non-peer reviewed report by Sears et al found

SARS-CoV-2 persisted in experimental aerosols for 16 hours



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Better yet, wipe down contaminated surfaces daily especially in bathrooms, with a disinfectant solution. Chin et al used micro-droplets of virus solutions to test viral viability against various surfaces. Most household disinfectants neutralized SARS-CoV-19 – but acids like vinegar do not, so dryers set at high, about 130 degrees F, would eliminate SARS-CoV-2 from clothing.

Alarming, they found that the virus remained viable for 14 days at 39 degrees F, so refrigerators should be sanitized. Reassuringly, the virus lasted less than 3 hours on printing or tissue paper at room temperature. Contaminated banknotes harbored viable virus for 2 days and cleared on day 4. Cloth and paper cleared within 4 days while glass surfaces cleared within 4 days. Plastic and stainless steel held viable virus for 7 days. Hence, the need to wash hands often; at least 10 times daily has proven ideal.

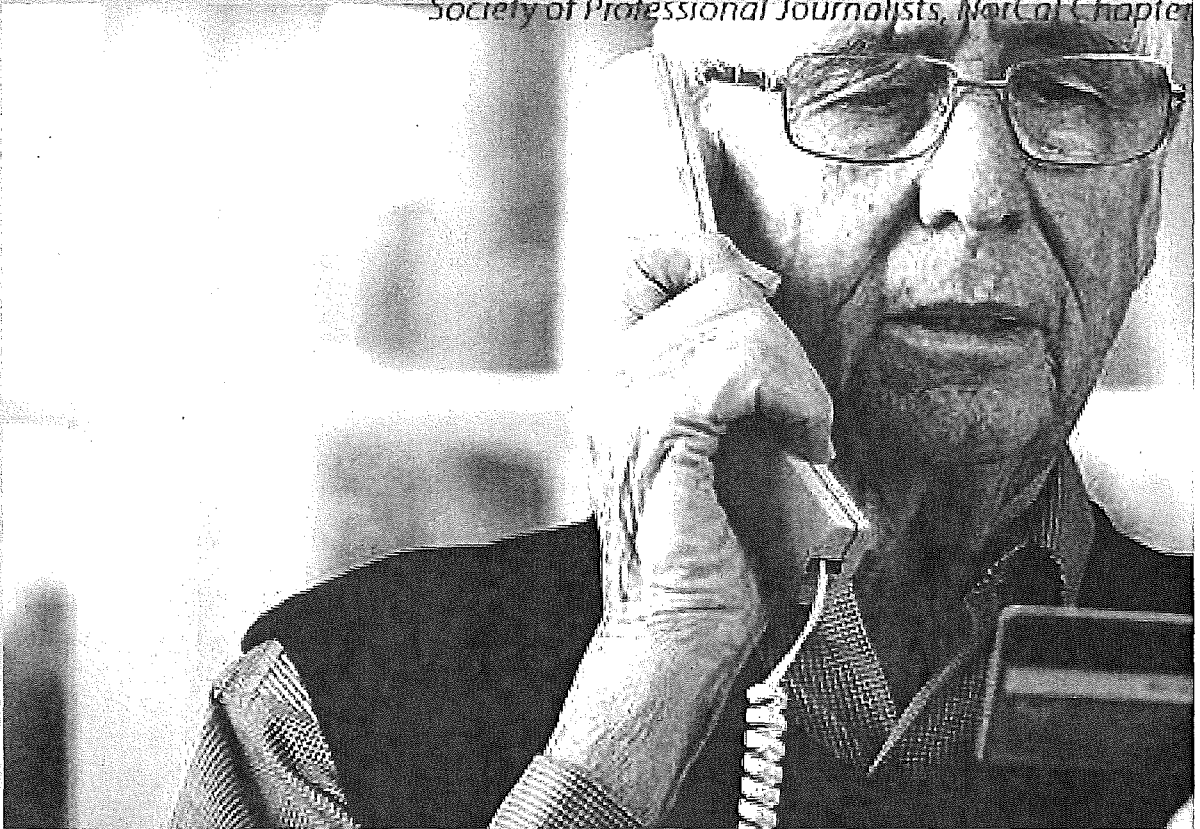
The likelihood of airborne infection depends on the dose of virus transmitted and the duration of exposure. Unmasked face-to-face chat could pass the virus. Accordingly, if unmasked, avoid crowded places. As for conversations, keep them short, masked and distanced.

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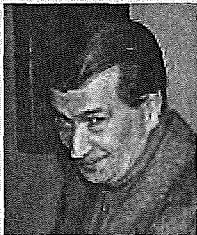
May 2020

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## Door-to-Door Imposters, Robocalls: Beware of Co



**T**imes of crisis bring out the best in us – and the sleaze in scam. March newsletter alerted the public to a creepy COVID-19 scare. The Department of Public Health (DPH) or Centers for Disease Control (CDC) is going door-to-door, asking to enter homes to conduct inspections. The CDC sends personnel door-to-door to inspect private residences.

**Health Inspectors** Although City Disaster Services workers do play a role in various neighborhoods, they do not ask to enter homes or establishments. DPH Environmental Health checks sanitation in SRO hotels, but they notify building managers in advance and present specific food safety inspections in restaurants and related facilities. Again, they show DPH

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The IRS reports a wave of calls and emails from fraudsters seeking fees to speed up delivery of the \$1,200 “Stimulus Check.”

The SFPD advises that if canvassers claiming to represent the DPH or CDC call at your home,

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The FTC advises to hang up on robocalls. Do not press any numbers or answer any questions to avoid more robocalls. Whether commercial solicitations come by phone, email or text message, wire money. Beware also of fake COVID-19 charitable solicitations. Check to see if the charity calls for donations. Report solicitation scams to the FTC at 1-877-382-4357.

**Snake Oil** The World Health Organization (WHO) has alerted the global community about those that claim to prevent, detect, treat or cure COVID-19." Notably, deceptive websites generally lack a landline phone number. Consumers are advised to seek guidance from a medical professional. Scammers are flooding the US market with fake or untested sanitizers and disinfectants, claiming to cure coronavirus. The Environmental Protection Agency (EPA) lists approved sanitizers and there are retailers who sell unregistered COVID-19 related products.

**Social Security Scams** The Social Security Administration (SSA) is warning the public about the threatening suspension of Social Security benefits due to COVID-19 -related office closures. Recipients are advised to call a number operated by scammers. They demand personal information or wire transfer to preserve your benefits during the COVID-19 shut-down. The SSA emphasizes that Social Security payments or benefits during the pandemic - or demand fees. Report these crooks.

The IRS reports a wave of calls and emails from fraudsters seeking personal information about the \$1,200 "Stimulus Check." The official term is "Economic Impact Payment" and the IRS asks you to verify your bank account. The IRS does not call or email taxpayers to verify personal or banking information. Identity theft cons. Do not open "IRS Emails" or click on any links or attachments within them. The scam involves sending taxpayers a bogus IRS check with directions to call a number to verify the check. Report such scams at; <https://www.irs.gov/privacy-disclosure/report-phishing>.

Information and caution are protective against cheats. Get definitive guidance and subscribe to the Center for Disease Control and Prevention at <https://www.cdc.gov/coronavirus/2019-ncov/what-to-know>. The U.S. Department of Health and Human Services provides information and updates on COVID-19 at; <https://www.hhs.gov/coronavirus>. San Francisco's overall responses can be tracked at; <https://sf.gov/topics/coronavirus-covid-19>.

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**April-May 2020**



## Fentanyl & Meth Push Overdose Deaths to

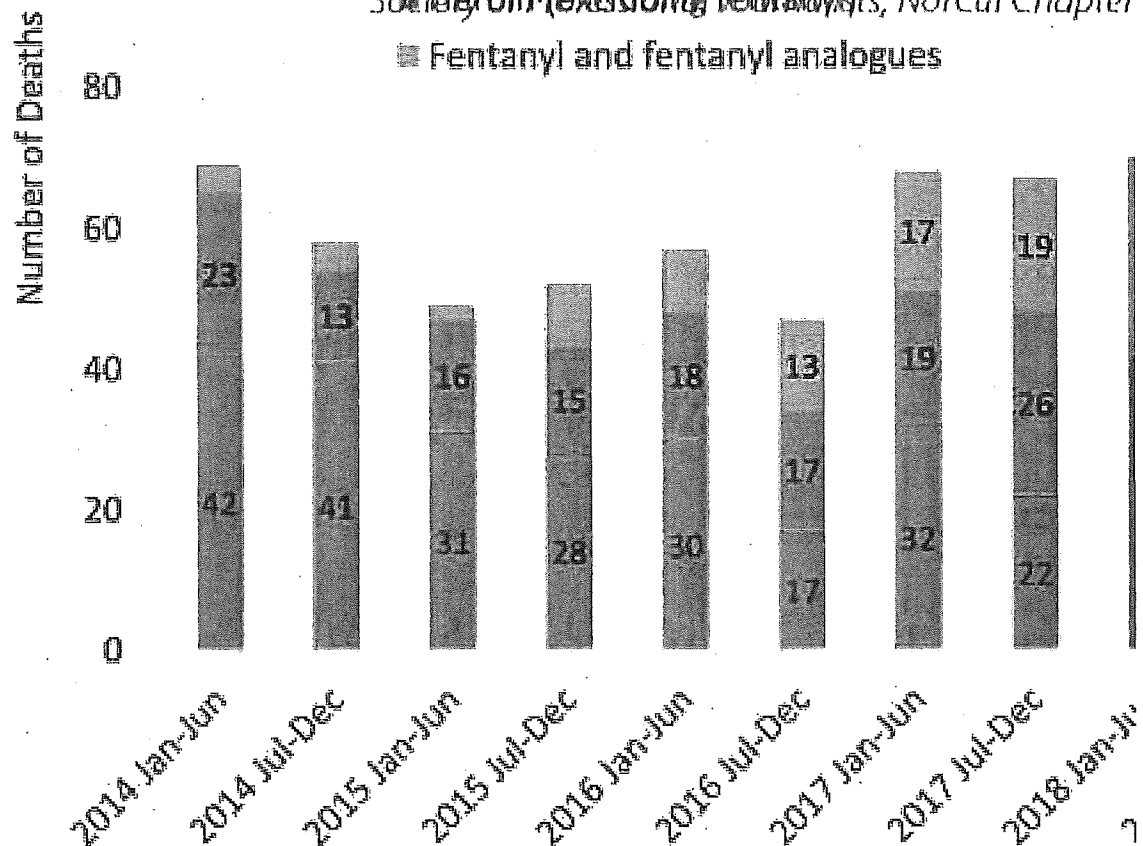


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■ Fentanyl and fentanyl analogues



by Dr. Derek Kerr

**T**here's another deadly epidemic in the City. Until now, San Francisco's robust reduction programs had forestalled the opioid overdose epidemic sweeping the nation. Press Release and Health Commission presentation detailed how fatal drug overdoses are now primarily driven by fentanyl. Most casualties are men, 40 to 59, disproportionately African-American.

## Fentanyl

A potent and fast-acting opioid, fentanyl is about 100 times more potent than morphine or heroin. Formulated in 1959 to control pain from cancer or surgery, fentanyl was later abused because it's cheaper to produce and easier to smuggle than heroin. As detailed in Journal of the American Medical Association, it mostly comes from China where chemical companies synthesize recreational drugs for export. These labs produce fentanyl variants or precursors that haven't yet been detected by US customs. Ironically, criminalizing heroin has spawned a

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additive mixed into various street drugs to give them more "kick". Despite its potential as the street opioid of choice because it's cheaper and delivers a better rush, per Dr. Phillip Substance Use Research. Because the purity of street fentanyl varies, users don't know overdoses. Data Dr. Coffin shared with the *Westside Observer* shows that fentanyl-related deaths annually since 2015, reaching 162 in 2019. But that's a partial count due to the 6-month lag in death and toxicology results. DPH projections for 2019 foresee around 200 fentanyl-linked overdoses, far exceed heroin plus prescription opioid deaths.

To counter the overdose epidemic, the DPH employs a Harm-Reduction model. This includes needle exchanges and clinics, freely distributing naloxone (Narcan) a drug that reverses opioid overdoses, supervised consumption strips so users can check their stash, and planning drug sobering centers. Needle access to smoke rather than inject fentanyl and offer aluminum foil to facilitate this safer option. Single-room occupancy hotels where 30% of overdose deaths occur, advising drug users to stay there. Treatment strategies include easing access to methadone and buprenorphine (Suboxone). Once implemented, Mental Health SF will expand these services.

## Methamphetamine

Methamphetamine is largely produced by Mexican cartels that import the chemical precursors to cocaine, it's a stimulant but longer-lasting and cheaper. Meth-related overdose deaths have risen over the decade. However, the numbers exploded in 2019. As the Medical Examiner told the *WSO*, there were 252 deaths as of March, with a projected total of 252. That's double the 126 meth deaths from 2018. Overdoses, the DPH found that 47% of Psychiatric Emergency visits in 2017-18 were meth-related.

Although no medications can reverse methamphetamine overdoses or block cravings, Contingency Management, whereby users receive cash rewards for staying clean. Senator Scott Wiener, would provide Medi-Cal coverage for this intervention. Based on Force recommendations, a 12-bed Meth Sobering Center with access to counseling and medical monitoring is planned for Tenderloin this year.

## Overdose Deaths and Prevention

Overdose deaths refer solely to acute drug poisonings. They exclude drug-related deaths from injuries, and infections. Also excluded are alcohol related deaths that are categorized as accidents. When overdoses involve multiple drugs, it's difficult to determine which one was lethal. For example, methamphetamine overdoses involve other drugs - mostly fentanyl. So fentanyl contribution is often attributed to meth, cocaine and heroin. When one death is caused by 2 drugs, it generally counts as two in reports. That's why the sum of individual drug-related fatalities exceeds the number of

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2006 to 2016, injection drug users increased from fewer than 10,000 to almost 25,000. stayed flat. And it isn't due to the national prescription opioid epidemic. Local prescript steadily dropped since their peak 2010. The breakdown in the City's containment effort availability and desire for fentanyl - and meth.

To curb the availability of dangerous drugs, the US Attorney for San Francisco launched dealers and suppliers last August. This "Federal Initiative for the Tenderloin" started by drug traffickers who commuted from the East Bay. This intervention gave residents a w intimidating open-air drug market. Yet, prior drug raids by the SFPD faced criticism for t needed, such enforcement measures bring transitory relief.

Our overdose epidemic gives reason to establish Supervised or Safe Injection Sites like As reported in the September 2017 WSO, Safe Injection Sites (SIS) can prevent overdos facilitate addiction treatment, but may relieve a fraction of the problem without improvi drug users is low due to registration requirements and the stronger allure of the street s that more City users wanted "food and showers" than drug treatment from an SIS. Injec traumas and despair that drive addiction.

San Francisco's 3-year quest for SISs has been thwarted by federal prohibitions and op enforcement groups. Hopes that the State would protect SIS operators were dashed w Assembly Bill-186 in 2018. Brown called the bill "all carrot and no stick" for "enabling ill without requiring treatment for addiction. With Governor Newsom in office, an identical Senator Scott Wiener and re-branded as an "Overdose Prevention Program" was introdu This February, Supervisor Matt Haney called on the Governor to issue an Executive Ord Site" in San Francisco.

Hopes soared this February when Philadelphia got Federal Court approval for an SIS by decrease rather than enable drug use, thereby not violating federal law. However, a pub the local US Attorney torpedoed the plan. Although Mayor London Breed introduced leg SIS, US Attorney David Anderson who orchestrated the Tenderloin drug raids vows to st impact of the COVID-19 pandemic on efforts to contain the opioid epidemic.

All told, the DPH funds 65 programs to provide drug and alcohol treatment services – a mental health budget. Contractors served 5,975 substance abuse clients last year. Yet show the Health Commission that its many - and costly - interventions are still effective deaths, drug-related Emergency Room visits and hospitalizations indicate that City pro officials and non-profit contractors call for more services. There's a "carrot" versus "stic approach and Federal interventions. More integration would be better than more of eac

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Some sewer claims were fraudulent but routinely approved by the Claims bureau, at tax as detailed in the Westside Observer in September and November 2014, and February 2015. Hoeper's probing threatened managers close to Herrera, her investigation was shut down and her position in July 2012. She was transferred to the DA's Office and later terminated. The "Sewergate." In 2018, the NorCal Society of Professional Journalists recognized Hoeper's Freedom of Information Award in the Whistleblower category.

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**Taxpayer costs will exceed \$5 million since the City has been paying the Keker & Van Nest law firm \$850/hour to defend Herrera. Keker & Van Nest already billed the City \$2,267,75, back in September 2016, records show."**

The Court of Appeals sustained Hoeper's awards of \$1,338,578 for lost wages, \$1,291,000 for attorney's fees. The City argued that these awards were unwarranted and characterized the City's appeals as "without merit". Taxpayer costs will exceed \$5 million paying the Keker & Van Nest law firm \$850/hour to defend Herrera. Keker & Van Nest already billed the City \$2,267,75, back in September 2016, records show. Karl Olson, one of Hoeper's attorneys, told the California Supreme Court to review the case, but only 5% of such Petitions for Review are granted.  
Op-Ed — A special to the Westside Observer)

.....  
**February 2020**  
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## **Auto Burglars Assail Westside, Eastside Migrate to LA**

**by Dr. Derek Kerr**

**A**lthough citywide auto burglaries seemingly dropped 2% in 2019, they soared by 24% on the Westside. The table below is derived from the Taraval Police Station's excellent website. Note the surge in auto burglaries since August.

As explained in the July 2018 Westside Observer, these numbers are static. They are not updated to include late crime reports. Such updates are logged into SFPD's separate CompStat database. Therefore, the crime figures reported on Taraval Station's website are lower than those shown on

CompStat for the Taraval Police District. For example, CompStat's updates boosted Taraval's auto burglaries from 10 to 14 in August 2019.

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CompStat shows that in 2019, home and shop burglaries numbered 334 versus 507 reported in 2018. That may reassure Sunset residents. As the July 2019 WSO reported, home invasions are on the rise in that predominantly Asian neighborhood.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
2019	157	123	112	91	107	101	131	167	189	
2018	134	100	122	100	121	104	128	135	95	
2017	121	140	157	154	176	149	148	106	115	

According to citywide CompStat figures, there were 25,677 car break-ins in 2019 versus 28,000 in 2018. The reduction is dubious. By the time all the delayed reports for 2019 are tabulated, the updated total will show a significant reduction. On top of this, published numbers are understatements. Folks without compstat don't bother to report break-ins when arrest rates linger around 2%. However, compared to the numbers for vehicles in 2017, the crime wave has subsided.

The stabilization in citywide car break-ins masks a shift in crime targets. Auto-boosters are moving from residential areas – like the Westside, and even Safeway parking lots per the 1/31/20 report – to monitor tourist sites, criminals seek opportunities for easier pickings elsewhere.

San Francisco isn't suffering alone with this epidemic. East Bay auto break-ins soared in 2019. There were increases of 25% in Oakland, 32% in Berkeley and 48% in San Leandro. As reported in the Chronicle, East Bay police agencies have formed a "roving task force" to crack down on the crime. It gets worse.

This January, the Los Angeles Times described a new crime trend plaguing LA since 2018. Criminal members have been traveling to LA in rental cars to steal belongings from autos parked in tourist areas. Criminal tourists now prey upon regular tourists. After scouring parking lots for out-of-state cars, they brazenly break windows in broad daylight - even in view of surveillance cameras.

Because Bay Area smash-and-grab crews are known to local cops, they hit the road to preserve their anonymity. So, LA detectives are sharing data with their Bay Area counterparts to track the crime. The data includes social media where thugs like to brag about their exploits. Last April, an Oakland report on auto burglaries in Hollywood, using electric scooters to hustle the goods away. The story mentioned 10 cars, 10 burglaries, 10 stolen items, 10 arrests in Oakland and 5 people were arrested.

What's happening closer to home? The WSO asked Taraval Station's Captain Nicholas F. F. about Westside car break-ins. He indicated that he was reviewing the crime data with his staff and making a comment.

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**C**annabis in San Francisco, the 12/01/19 controller's report on the legalized marijuana industry, shows how efforts to curb the illegal market while helping on Drugs can backfire.

In 2016, 74% of San Francisco voters passed California Proposition 64, allowing cannabis for adults over 21 without a prescription. Since January 2018, these recreational cannabis businesses have been tracked from "seed to sale" to ensure consumer safety and prevent illegal diversion.

“

**This quagmire burdens taxpayers . . . In 2018-19 it collected \$360,000 in operating budget. Those fees came from existing businesses. But it has zero application fees due to the logjam. Yet, its operating budget was**



Doors are open at 2161 Irving St.

With this mandate, the Board of Supervisors passed Ordinance 2, requiring cannabis businesses 600 feet away from schools and along commercial corridors. Then Ordinance 2 went through the process. It included an Equity Program that prioritized the War on Drugs, and an amnesty program so some businesses could enter the legal market by complying with regulations. The Board then approved the process. The Controller's Office then permitted cannabis operations.

The land-use Ordinance worked, as shown by the Ordinance. At this time, the only Westside storefront dispensary and medicinal cannabis is Barbary Coast Sunset at 2161 Irving St. Two on Ocean Avenue are closed for renovations. But

created a self-defeating solution.

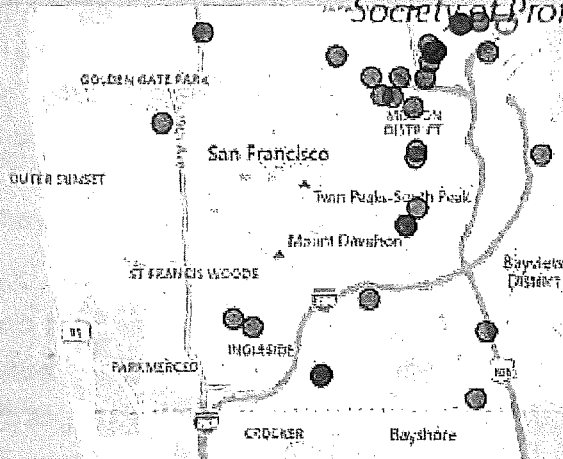
**REGULATORY LOGJAM:** Although 212 cannabis businesses are authorized to operate, only 118 are operating. That's way less than the 387 operating in Oakland. Of these 118 operating businesses, 118 are pre-existing or pre-approved Medical Cannabis Dispensaries. Like only retailers, growers, manufacturers, and distributors were already in place. New businesses are not allowed. That's because Equity Program applicants hold top priority. By City law, no other applicants can get equity entrants get 50% of all permits issued. Only three equity entrants have been approved in a backlog.

**EQUITY REVERSAL:** Equity Program applicants must meet strict criteria involving low income, homelessness, and school attendance, loss of housing, or arrests for cannabis-related crimes. Then, they need approvals from SFPD, Cannabis, Planning, Public Health, Building Inspections and Fire, and the Office of Cannabis. Because of this grueling complexity and because the Office of Cannabis has



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**Cannabis Storefront Retailers in San Francisco** Storefronts are heavily clustered in the

Market Street corridor. Note: Delivery-only retail operators not store-front dispensaries. Another 144 await approvals for delivery-only outfits or cultivation distribution operations. The backlog is so bad that new equity applicants face an additional wait being considered. As for non-equity applicants, they're shut out entirely.

Meanwhile, equity applicants are crushed by expenses since they must maintain a site. Rent alone can amount to hundreds of thousands of dollars while waiting for a permit. equity applicants are forced into debt. Or, they sell ownership shares to well-heeled investment companies. Either way, the aims of the Equity Program are thwarted.

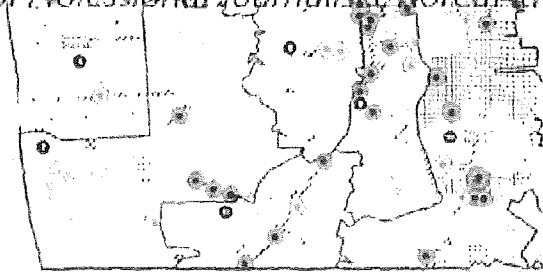
Although a Community Reinvestment Fund was set up to offset costs for equity applicants, the City fears liability for aiding sales of a federally-outlawed drug. Further, there are so many applicants that the market will be saturated before they're all approved, per the Controller's analysis.

As for the black-market entrepreneurs who opted to go legit, they're stuck in the permit process, competing with the thriving illicit market that dwarfs the legal upstart by a factor of 3 to 1. As the Report concluded, the program undermined its own equity goals and intent to eliminate the illicit market."

**ECONOMIC BURDENS:** This quagmire burdens taxpayers. The Office of Cannabis permit application and renewal fees. In 2018-19 it collected \$360,000, about half of its budget came from existing businesses. But in 2019-20 it will collect zero application fees due to a budget cut. The budget will top \$1 million. Deficits will persist until the Office of Cannabis clears the backlog. For all 12 City departments supervising the cannabis industry, the cost to taxpayers exceeds cannabis sales taxes covered these losses. That may not last. After 3 years of steady increase, cannabis sales declined by 16% then leveled out in 2019. Statewide cannabis sales saw a similar decline. Meanwhile, black-market competition are cramping tax revenues. Meanwhile, legal cannabis prices

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Retail Storefront Locations of Proposed Equity Business (currently in queue). Out of 133 applicants, 133 are applying for storefront retail. The proposed locations are heavily concentrated in Union Square, the Mission and SOMA.

**PUBLIC SAFETY PRESERVED:** In 2006, the City assigned marijuana offense a low priority. Since then, cannabis arrests have steadily declined, although African-American people are disproportionately affected. SFPD incident reports show a 17% drop in cannabis offenses since adult-use was legalized. However, this number does not include low-level infractions. In 2018, cannabis-related complaints comprised 0.1% of recorded City crimes. As for marijuana-related complaints reported to 311, they comprised 0.003% of 2018 calls. The Westside enjoys the lowest incidence of cannabis-related crime, with 4% of the City's 2018 total.

In accord with other studies, the Controller's Report found that property and violent crime near cannabis dispensaries dropped by 2%, whereas they increased citywide. Larceny theft and burglary near dispensaries – but also throughout the City and at similar rates. Since dispensaries clustered in certain areas, the Controller's Report concluded; "...crime that occurs near cannabis locations is likely driven by other factors in commercial districts, rather than the notion that cannabis operators attract more crime."

California Highway Patrol records showed that cannabis-only stops for San Francisco decreased by 31 in 2018. Those 31 cases were 10 more than in 2017, a post-legalization increase. However, cannabis-related stops increased and comprised 82% of DUIs. The remaining DUIs involved other drugs or mixtures where cannabis was used with other intoxicants.

**PUBLIC HEALTH CONCERNS:** When adult-use cannabis was legalized, there were concerns about increased consumption and limit access for young people. Current data for San Francisco is lacking. Since recreational marijuana was legalized in 2012, there was no change in youth use rates. In fact, cannabis use among youth decreased - even as many states legalized marijuana.

According to SF Unified School District surveys, suspensions for drug possession (largely marijuana) are small. There were 57 suspensions in 2018 compared to 44 in 2017 – among them is the popularity of vaping, given the outbreak of life-threatening pneumonias likely caused by vaping.

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have increased slightly since 2018. Again, the numbers are small, averaging less than 1 encounters. On the other hand, cannabis admissions to DPH Substance Abuse Treatment 2018, just 355 or 4% of admissions were for marijuana. Per the Controller, these numbers reduce cannabis, just further monitoring.

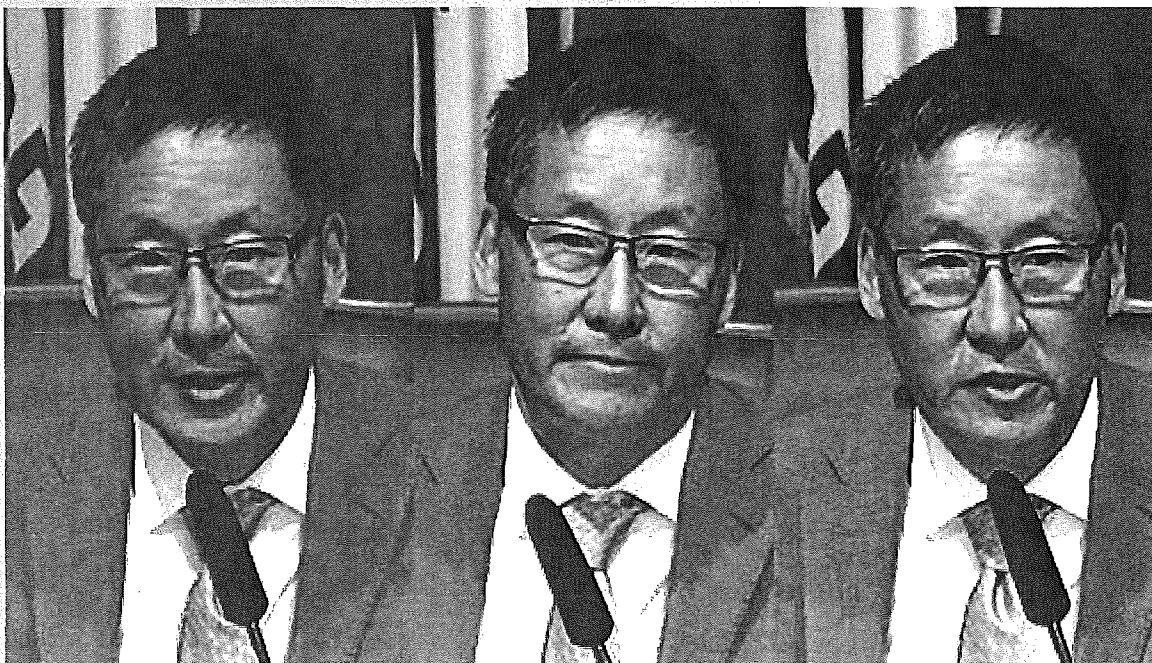
The Office of Cannabis has rallied City departments to streamline the permitting process for applicants, a \$1.3 million grant was secured along with pro bono legal assistance from an 8-member Cannabis Oversight Committee, inaugurated in December 2019, will advise to "facilitate socially responsible growth of the cannabis industry." Hopefully, it will help to recommendations detailed in the Controller's Report.

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**February 2020**

## “Precarious Partnership:

## SFPD and the FBI



Supervisor Gordon Mar opens the hearing investigating the Joint Terrorism

**by Dr. Derek Kerr**



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That arrangement was secretly renewed in 2007, adding tighter FBI controls and secret Commission. When its contract with the FBI expired in February 2017, the SFPD bailed concerns and the turmoil of switching its Police Chiefs.

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 ... Supervisors unanimously passed the ... transparency and acc  
 .. In effect, the law authorized SFPD brass and City officials to ov  
 Joint Terrorism Task Force investigations."

**San Francisco Taxpayers Tapped** Previously, the SFPD had usually ass to the JTTF under the direction of the local FBI Office, and ultimately the US Attorney G paid their salaries. These officers received Top-Secret security clearances and access t identities were secret. They signed non-disclosure agreements that barred information and underwent polygraph exams. As federal deputies, they could operate anywhere in t maneuver beyond local civilian oversight and local privacy and civil rights laws. Nominat by such laws, notably SFPD's Department General Order 8.10: Guideline for First Amend

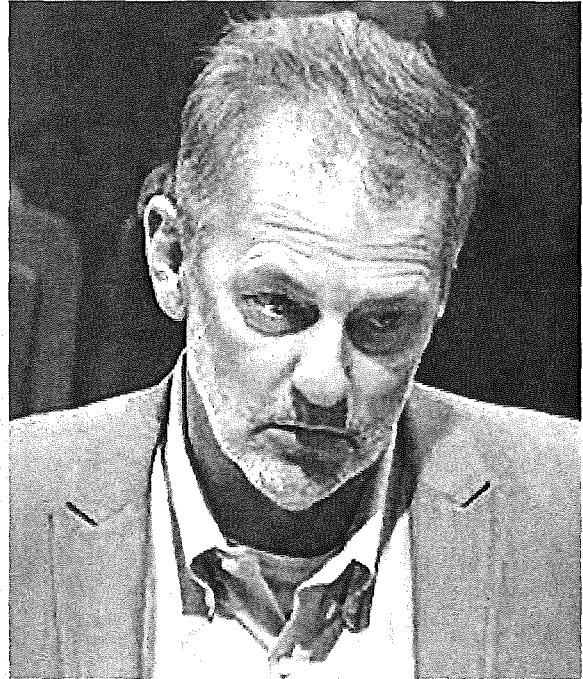
**Supervisors Weigh In** DGO 8.10 was designed in 1990 to prevent police intru protests, and political assemblies. In the post-9/11 era, unwarranted JTTF practices be Alarming reports and warnings were issued by the Human Rights Commission, San Fra and 79 civic groups represented by the Asian Law Caucus, Council on American Islamic Accordingly, in 2012 the Board of Supervisors unanimously passed the Safe San Franci govern SFPD participation in federal counter-terrorism activities. The Ordinance enshrined DGO 8.10's transparency and accountability provisions. It also mandated Police Comm between the SFPD and FBI. In effect, the law authorized SFPD brass and City officials to investigations

That expectation proved unworkable because the FBI included "threat assessments" in activities. FBI "assessments" seek information about persons who may threaten nation laws. Unlike formal investigations, no "reasonable suspicion" of criminality is required. allowed more intrusive practices like pretext interviews, physical surveillance, telephoni deploying informants, all without evidence of wrongdoing. Anyone could be targeted ba or race, thereby landing on a federal "terror watch list". Despite the slippery taxonomy, " investigations that can circumvent criminal justice principles and First Amendment right

**SFPD and FBI Conflicts** As the FBI White Paper admits, such assessments SFPD officers working as JTTF agents. Further, these assessments "usually involve, on First Amendment activities"

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ACLU Lawyer John Crew

Accordingly, none of the 119 assessments/investigations conducted by SFPD's JTTF a received departmental approvals. None were forwarded to the Police Commission or the Accountability, records show. That's because none targeted "solely constitutionally protected activities," as repeatedly told the Police Commission. But, "That's the FBI standard – not the SFPD standard," said attorney and police practices expert John Crew and several Commissioners at the explanation. DGO 8.10 requires approvals and oversight for investigations that "**involve**" First Amendment activities that "**solely**" target such activities. The SFPD had been bending, if not violating, its own investigative and secrecy tenets.

Worse, SFPD's JTTF activities defied the oversight imposed by the Safe SF Civil Rights Act. If JTTF activities are classified, they were withheld from SFPD brass, the Police Commission and the Accountability. Those folks lack security clearances. Indeed, the Police Chief's annual report to the Commission merely assert proper conduct, without evidence. The FBI White Paper added by proposing workarounds including, "sanitizing" JTTF reports, or amending DGO 8.10 to "omit information" from the Police Commission.

**Secrecy in Violation** All this secrecy surrounding JTTF investigations nullified the assurance that it "did not detect any instance of non-compliance with a DGO" by SFPD's oversight, highlighted by former FBI counter-terrorism expert Mike German at the must-see Government Accountability Project (GAP) event.

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adopted in San Francisco and California. And those protections can be slashed, dependent on the Mayor and President. As local politicians including Mark Leno, Scott Weiner, Jeff Sheehy, Tom Rafael Mandelman and Angela Alioto warned in 2017: "if this (Safe SF Civil Rights) Ordinance is enforced...local offices will become entangled in the implementation of Trump's policies and residents have unequivocally rejected." On the other hand, the Police Officer's Association is pushing for a Commission to restore its JTTF partnership, decrying that it was abandoned "in a political move." Currently, JTTF policies are antithetical to transparency and accountability. Upholding the San Francisco Civil Rights Ordinance keeps the SFPD accountable to the community it serves. Involvement in JTTF political surveillance entrains our police to view First Amendment rights as a threat. Worse, more law-abiding San Franciscans view police as potential threats because unrestrained police actions contravene civil rights. There are other ways the SFPD and FBI can collaborate to address the JTTF, as Portland, Oregon has done, strengthens public trust in the SFPD.

**Note:** Source references for this article are provided as links in the electronic version at [westsideobserver.com/news/watchdog.html#oct20](https://westsideobserver.com/news/watchdog.html#oct20).  
**Acknowledgement:** **Mission Local** and **The Intercept** first reported on the FBI White Paper.  
*Dr. Derek Kerr is a SF investigative reporter. Contact: [watchdogs@westsideobserver.com](mailto:watchdogs@westsideobserver.com)*

December 2019



## Hedging the Shake-Up at Laguna Honda

by Dr. Derek Kerr

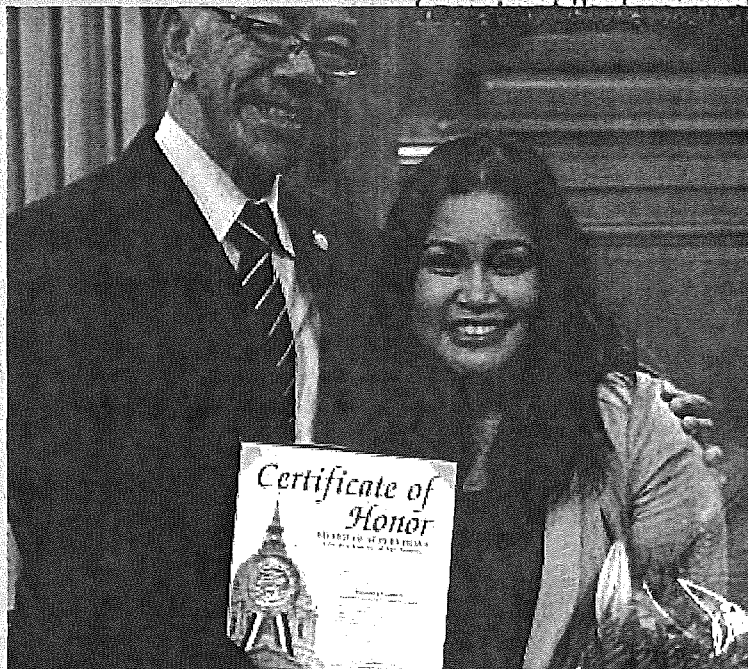
Three months after Laguna Honda Hospital (LHH) CEO Mivic Hirose and Quality Director were ousted, another top executive has fallen. On Sunday, October 7, Acting CEO Maggie Valencia, "Madonna Valencia, our Chief Nursing Officer, has left Laguna Honda Hospital." By framing this as an opportunity for us to welcome meaningful changes to our standards, reputation and restoring LHH's standards, reputation and purpose won't be easy given the long tenure of Mivic Hirose. Hirose served as Associate Director of Nursing since 1999, then as Chief Nursing Officer and CEO from 2009 until the scandal emerged this June. Over those 20 years, Hirose helped build a culture where lackeys were recruited, mentored and boosted into positions of power. As reported in the *Westside Observer*, some nurses openly denounced "favoritism, nepotism and cronyism." Valencia's exit to the patient abuse scandal covered in the September *Westside Observer* will be to manage and transform her predecessor's entourage.

The long-delayed departure of Valencia is intriguing. After all, she was directly responsible for the actions of nurses who abused 23 patients as well as their negligent supervisors. Retaining Valencia as Director looked like scape-goating. The palatable rationale for keeping Valencia was to



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CNO Madonna Valencia with Supervisor Norman Yee

**...inspectors found that 5 patients had been drugged with non-prescribed sedatives. All suffered life-threatening overdoses ... caused by medications smuggled into the hospital. LHH physicians knew something was wrong."**

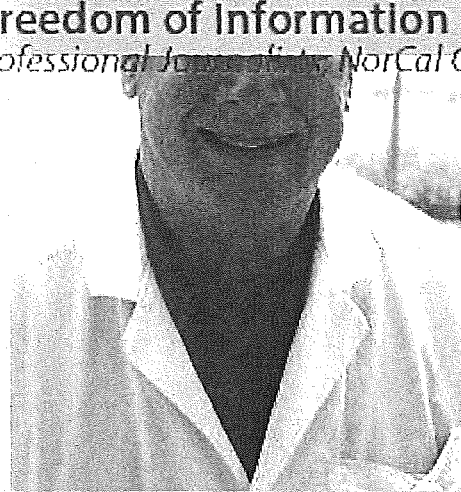
Using the passive term "has left" for Valencia's exit is interesting. In fact, records show Nurse Manager job paying \$202,852/year elsewhere within the DPH. Similarly, the ex-CNO soft-landing into a well-paying job at SFGH. Such reassignments avoid recriminations if skeletons are buried. Given the swirl of investigations by State and City agencies, more are expected.

A cone of silence hovers above LHH's Medical Division. California Department of Public Health found that 5 patients had been drugged with non-prescribed opioids and sedatives. All overdoses requiring emergency transfer to outside hospitals. The overdoses were caused by drugs smuggled into the hospital. LHH physicians knew something was seriously wrong but hospitals conveyed their alarms.

In February 2018, one outside doctor notified LHH Medical Director, Dr. Michael McShane, "an internal investigation was underway," per CDPH records. Another kept a patient hospitalized for 10 days.

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LHH Medical Director, Dr. Michael McShane

months later, by chance, an unrelated investigation of an employee dispute exposed the pilfered meds. What happened with LHH's physician-run Medical Quality Improvement Improvement & Patient Safety Committee? Both are charged with probing adverse med

Meanwhile, LHH has stepped up its reporting of adverse incidents to the State. In May 2019, a scandal erupted, LHH sent 20 reports of alleged abuses and other lapses to CDPH. In June, LHH forwarded 37 reports to CDPH. In August, it was 42. Health Director Dr. G. Ross "as Laguna Honda changes its culture, there may be an increase in the volume of incidents

.....  
**Another kept a patient hospitalized for an extra week, afraid to see death" at LHH. Apparently, LHH's internal medical investigation months later, by chance, an unrelated investigation of an employee the patient druggings with pilfered meds."**

A burst of reporting is expected because staffers have been rattled by the scandal and the culture is another matter. One can be open about symptoms but silent about the underlying issues. On 9/10/19 LHH finally admitted that there had been a 50% increase in AWOL cases compared to the trend has been ignored for 4 years. Recently, almost 1 in 3 patients discharged to the community by going AWOL or signing out against medical advice. Further, theft/loss reports and burglaries quadrupled over the prior year. Notably, there was a 54% increase in "Serious Incidents" although a change in reporting methods may explain some of the rise. But the cause of the problem is shrouded.

LHH officials won't admit that DPH's Flow Project brings disorder that undermines patient care. Increased altercations, threats, thefts, and AWOLs are predictable with the current state of affairs.

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said SFGH Chief Quality Officer, Troy Williams. *Society of Professional Journalists, NorCal Chapter*

Back in December 2016, the CDPH issued an "AA" citation (the most severe), plus a \$100,000 fine. detailed in the February 2017 *Westside Observer*, a nurse had parked an elder's wheelchair set the brakes, resulting in a fall and a fatal head injury. Surprisingly, LHH contested the citation. LHH's Attorney sued the CDPH to drop the citation and fine. In Superior Court case #CGC-17-511, the court ruled that LHH's lapse did not warrant an "AA" citation and that the fine was invalid as it was issued in a civil investigation rather than within 30 days as required. After 2 years of legal wrangling, the court awarded LHH an "A" but wouldn't budge on the \$100,000 fine. However, the cost to taxpayers will far exceed the Attorney fees.

In comparison, the recent abuses of 23 patients were deemed so grave that CDPH inspected LHH in a state of "Immediate Jeopardy" – the top category of patient endangerment. State penalties were already levied. If the City again litigates against them, it could signal that Laguna Honda is being protected.

*Dr. Derek Kerr was a senior physician at Laguna Honda who exposed wrongdoing by the hospital. He can be reached at [watchdogs@westsideobserver.com](mailto:watchdogs@westsideobserver.com)*

**November 2019**



## Attempted Assassination of Westside Journalist Lee

*by Dr. Derek Kerr*

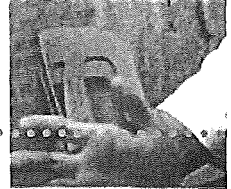
On August 6th, gunmen shot Brandon Lee in the face and back outside his home in Ifugao, Philippines. On the way to the Baguio City Hospital, he repeatedly shouted that the Philippines was responsible for the attack. Internal bleeding required transfusions. Numbness below the waist indicated a need for surgery to remove a bullet lodged in his jaw, he suffered several cardiac arrests. Weeks later, he was still in the hospital with 3 bullets in place.



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...and volunteered with the Society of Professional Journalists, NorCal Chapter where he met now-Supervisor Gordon Mar. However, it was his joining the Filipino Students League that set him on his life's path.



.....  
**...soldiers had repeatedly appeared at IPM offices, asking about Brandon's whereabouts, office hours, and family members. In an e-mail to his brother Aaron, Brandon expressed his worries for the safety of his family and colleagues due to the government surveillance and harassment."**

In 2010, he moved to the Philippines to pursue his passion; helping farmers and indigenous communities. He became a permanent resident, married Bernice and raised their daughter Jessie, now a correspondent for the *Northern Dispatch*, an English-language weekly news outlet. His work focused on government corruption, military depredations under Martial Law, the framing of political activists, and environmental justice. Also, he volunteered as a paralegal for the Ifugao Peasants Movement. The *Dispatch* open letter declared, "The attempt on the life of Brandon is to sow fear and to silence the communities of Ifugao fighting against a corporate-led hydro-electric project and his colleagues' people's mass movement."

His writing was fearless. In a May, 2014 article titled; "Phil. Army Desecrates Ifugao Dead", he reported that soldiers raided homes of local farmers at gunpoint and forced them to open the coffins. These searches were part of the Aquino government's anti-insurgency program that he labeled as "terrorist". He bravely took over some duties of the IPM paralegal officer who had been murdered after being labeled a "communist sympathizer". Per the *Inquirer Northern Luzon*, "In 2015, Lee was among the first members accused by the military of supporting the New People's Army" - the armed wing of the Communist Party. A slew of Facebook threats and vilifications such as "terrorist" and "communist" were directed at Brandon and 9 colleagues were mailed pictures of Ifugao burial blankets - an implicit threat. References to "GTFO" (Get the F—k Out) and "NorCal" - pointing to his "outsider" American background - were made publicly in 2018, after another colleague who campaigned against the hydro-electric plant was killed. When Army investigators asked Brandon to name his coworkers, he disclosed just two - those who were with him at the time of the shooting.

In the days and weeks before being shot, soldiers had repeatedly appeared at IPM offices asking about whereabouts, office hours, and family members. In an e-mail to his brother Aaron, Brandon expressed his safety of his family and colleagues due to the government surveillance and harassment. Commander Maj. Gen. Pablo Lorenzo stated; "As regard the propaganda issue wherein (the Communist Party of the Philippines) is behind the alleged shooting incident, this is devoid of logic and factual basis. The interests of the government and AFP". Instead, Lorenzo proposed that the Communist Party of the Philippines (CPP) is behind the alleged shooting incident. An investigation was conducted by the military to "bring the truth to the people of Ifugao".

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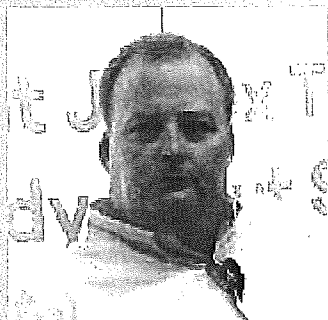
murdered in 2018. This April, our own Board of Supervisors passed Resolution 2019-196, which sanctioned extra-judicial killings that had "taken the lives of 29,000 Filipinos", including Brandon's family and friends have stayed with him, given the ominous intrusions of military. Supervisor Gordon Mar publicly condemned the "unconscionable human rights abuses in the Sunset District fighting for his life." Mar also lobbied the US Embassy to afford Brandon American citizens. Supervisor Matt Haney flew to the Philippines on a fact-finding mission. On 9/10/19 the Board of Supervisors unanimously passed a Resolution calling for "evacuation" for medical care, a Congressional investigation, and suspension of US military. A Go Fund Me campaign has been set up to raise money for Brandon's medical care via airlift to San Francisco.

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October 2019

## Raided Westside Journalist Bryan Carmody

by Dr. Derek Kerr



Bryan Carmody

**B**ryan Carmody, the freelance journalist whose Sunset newsroom was raided by the SFPD on August 13th at a Society of Professional Journalists (SPJ) forum at Northwest Journalism in San Francisco. The panel included National SPJ President, J. Alex Rodriguez, the media lawyer who represents Carmody.

Carmody was catapulted into international controversy after the SFPD broke into his home.

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National SPJ President,  
J. Alex Tarquinio

"Woken up from a deep sleep" by the sledge-hammering of his gate, a shirtless Carmody as gun-toting officers plundered his belongings. Upon asking to make a call, a cop offered ahead and unlock it for us." No way. Similarly, Carmody said nothing to 2 FBI agents who conspiracy" and "obstruction of justice". The cops then raided Carmody's office at 794 where they confiscated computers, cameras plus 30 years of notes and digital photos. equipment, no way to work. A friend set up a GoFundMe campaign to replace \$6,000-w the SFPD returned the devices but security experts advised him not to use them.



Thomas Burke

Attorney Tom Burke explained that the raids were prohibited by the California Shield protects journalists, including freelancers, from being forced to reveal their source information. Importantly, it also protects sources. After the home and office raid March 1st, the SFPD had acquired 3 other search warrants for Carmody's cell phone numbers, text messages and location data. All 5 warrants were subsequently judges who issued them, because the SFPD had failed to tell them that Carmody had SFPD.

.....  
**Burke was confident that the SFPD wouldn't use the seized information. However, the SFPD now knows the phone numbers of police officers Carmody."**



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mayor Lou Lee died. As for the Society of Professional Journalists, NorCal Chapter raised their reliance on stringers – freelance photojournalists who cover breaking news the story, Carmody decided his best defense was to “talk to everybody and anybody.”

Attorney Tom Burke asserted that “receiving and requesting information” is part of “the journalism.” City Hall’s “condemnation and lack of appreciation for what journalists do” search warrants for journalist sources are generally illegal, journalists can be subpoenaed advance notice to seek legal counsel. Even though the Shield Law protects sources from raids would inhibit sources from contacting journalists. Burke was confident that the SFPD information in a legal case. However, the SFPD now knows the phone numbers of police with Carmody. As for the FBI involvement, Burke was mystified. Carmody previously indicted public corruption, a charge that would apply if a police officer sold the stolen report. Carmody happened; “I did not compensate, in any way...the officers who were involved in this – not

In 30 years of practice, Burke said “I’ve never known an American journalist, who hadn’t targeted.” That targeting was fueled by outrage from the Board of Supervisors, the Mayor and Adachi’s family. Once the City Attorney informed Police Chief William Scott that his and barraged by media criticism, Scott apologized.

The Carmody search warrants were pursued by the Internal Affairs Division – part of SFPD Chief Scott. As ex-cop Lou Barberini reported in the July *Westside Observer*, there are “cowboy” Internal Affairs Division. Their botched raids resembled the retaliatory “get-the-cop” investigations. Accordingly, Carmody received sympathy; “Most of the rank and file came up to me and said I was wrong.” Further, the Police Officers Association blasted Chief Scott as “deceitful” for “lack of diligence by department investigators” when the fault arose within his administrative circle.

Given law-enforcement capabilities for unlocking computers, Carmody advised, “Don’t want someone to see.” He admitted that he “would have been sunk” without Burke’s legal help. If you are threatened by police can find legal help through SPJ’s NorCal chapter or the First Amendment Center.

*Dr. Derek Kerr is a San Francisco investigative reporter Contact: [watchdogs@westsideobserver.com](mailto:watchdogs@westsideobserver.com)*

**September 2019**

“

## Laguna Honda’s Silent Abuse Scandal

**By Dr. Derek Kerr**

In July, the California Department of Public Health (CDPH) declared a state of “Immediate Public Health Emergency.” A recent survey found that 2 Licensed Vocational Nurses (LVN) and 2 Certified Nursing Assistants (CNA) were involved in the scandal.

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Acting CEO Margaret Rykowski

**I**treatment. Another sprawled on the floor in a soiled diaper. Some were filmed as sexual  
affronts or asked to borrow money. One was being kicked by a staffer; another man  
photos and videos had emerged incidentally during a staff-to-staff sexual harassment  
families a "Notice of Data Breach" disclosing privacy violations – without mentioning the  
Worse, 5 patients were drugged with non-prescribed morphine, methadone, and tranquilizers,  
threatening complications and emergency hospitalizations. An LVN had pilfered the medication  
He and a CNA exchanged text messages joking about making patients "sleep" and dispensing  
medications. They were on duty when the druggings occurred. One patient was treated  
urine tests showing non-prescribed narcotics between January and August 2018. He did not  
caregivers, the perpetrators received annual Abuse Prevention and Reporting training.

.....  
**Silence arises from a mistrust of leaders and fear of retaliation. Silence is a  
lack of empathy. Health care without empathy leads to abuse and neglect. The  
top 3 causes of patient harms are lapses in supervision, leadership and communication.  
All are aggravated by fears of speaking up."**

In a 2015 lecture, Dr. Ron Wyatt, from the Joint Commission on Accreditation of Hospitals, described  
Silence as detrimental to patient safety. The remedy, a Culture of Safety, requires trust to  
result in action and improvement. Silence arises from a mistrust of leaders and fear of  
a lack of empathy. Health care without empathy leads to abuse and neglect. Nationwide  
harms are lapses in supervision, leadership and communication. All are aggravated by  
Leadership: Organizational climate is set at the top. Unethical or incompetent leaders  
below. When leaders are selected for obedience rather than competence, they are easily  
setbacks. Worse, they are threatened by competent subordinates and often push them  
CEO John Kanaley in 2004, then Mivie Hirose in 2009, loyalists were rewarded and critics  
work, LHH managers pursued recognition and trumpeted awards. A PR Director was hired  
achievements. A puffery website was created. Happy faces crowded LHH's Facebook page.

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The mystery is why Quality Director Regina Gomez, who earned \$273,496 in 2018, was mistakenly reported that she had resigned. In fact, she was placed on paid administrative leave. LHH did not govern clinical nursing and those nurses didn't report to her. Yet, LHH Chief Nurse, who does oversee nurses, wasn't held accountable. Neither were the supervising nurses.

Gomez's job involved reporting alleged patient abuses – once brought to her attention. Reporting requirements, LHH reported more cases: 28 over the past 2 years. LHH was downgraded from 4 stars to 2 stars, 9 for tardy reporting. All were patient-to-patient altercations. That helped sink LHH from a proud 4 stars to a mediocre 2 stars. Ironically, Gomez's amplified reporting set the stage for a separate spate of patient abuses by staff went undiscovered, Gomez was apparently fired without authority.

Paradoxically, Gomez was replaced by Troy Williams, SF General Hospital's (SFGH) Quality Director. State inspectors threatened SFGH with fines and payment cuts for an improper policy and patient abuses allegations since 2016. Plus, SFGH was cited for 2 negligent deaths and 100,000 dollars in services. The rationale for Williams replacing Gomez is elusive.

LHH leaders have been preoccupied with flow, rushing patients in and out to accommodate more care turned to process, churning out data and dashboards. "True North metrics", core nursing metrics, "Kaizen" workshops became proxies for patient well-being. For example, LHH's May 5th celebrated metrics showing; "100% patient satisfaction with their care experience. We celebrated. Meanwhile, managers were apologizing to the families of 23 abused patients. Splendid care.

Supervision: Gone are the days when former Nursing Director Virginia Leishman roamed the wards, checking on patients and checking on staff. In the old building, each 30-bed ward had a Head Nurse and staff. Nowadays, Nurse Managers cover 60 beds, spending much of their time at the desk. When important people disengage from patients, patients become unimportant. To make matters worse, wards were re-named "neighborhoods", then "community meetings" were introduced. Nurses were out of touch with patients and their caregivers. If no one noticed that 6 staffers at the desk, supervision failed.

The mistreated patients resided on North 1 and North 2, the "Integrated Wellness" neighborhood for cognitively impaired. Per LHH's Facebook page, North 1 has; "a dedicated staff of quality nurses and therapists providing compassionate counseling with the goal of improved social functioning." North 2 aims to "provide a safe place of life while meeting their psychosocial and emotional needs." What happened? Why were they assigned to such specialized wards? How did they pass the hiring process? Why were they there while working?



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favoritism, nepotism and cronyism at LHH. A 2007 LHH report warned about the lack of the problems associated with cultural dominance. A majority of LHH nurses are from the tend to be collectivist rather than individualistic. Though dedicated and caring, LHH nurses out - or cannot afford the risk.

Establishing a Culture of Safety requires a root-cause analysis of why these abuses festoon own Compliance Office and Hotline fail to spot the scandal? Does LHH still treat whistleblowers abuses reported and buried? What derailed supervision on the affected wards? Were line indifferent, or blinded by group allegiance? How did hiring and assignment practices intensify helpless patients? Hopefully, these questions will be addressed in LHH's "Turn-Around

For now, LHH has promised State inspectors that all staff will be re-trained in reporting, check their patients weekly instead of monthly, and re-engage with their staff. Hiring will questions about abuse and neglect. Tighter controls will be applied to narcotics and sexual allegations will be audited for timely reporting. As to why this scandal occurred, perhaps proposed hearing will provide insights – if employees can safely testify.

Acknowledgement: Thanks to the current and former LHH employees who provided tips

*Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he was fired for by the Department of Public Health. Contact: [DerekOnVanNess@aol.com](mailto:DerekOnVanNess@aol.com)*

SEPTEMBER 2019

**Breaking the Silence:**

## Laguna Honda's Patient Abuse Scandal



Former CEO Mivic Hirose

**S**tunned and bewildered. That was the reaction when 1,650 Laguna Honda employees received email from DPH Director Dr. Grant Colfax on June 28th. "I regret to inform you that

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impacted patients, family notifications, and retraining of staff in preventing and reporting. An Acting CEO has been appointed; Margaret Rykowski, RN, Director of the DPH Office Affairs. She is a retired US Navy Reserve Rear Admiral with the Nurse Corps who previously was an Officer at SFGH and oversaw Laguna Honda's Health at Home program. Within 60 days of the Laguna Honda "Turn-Around Plan" to the Health Commission and the Mayor's Office.

.....  
**Director Colfax made an accurate diagnosis when he identified a "culture of silence" at Laguna Honda. By allowing abuses to fester, this institutional silence harmed patients but unfairly shamed the many dedicated workers who care with skill and compassion."**



Former Quality Management Director Regina Gomez

So far, all that is known about the scandal is what the DPH has reported. It's telling that to "horrific actions". A more granular analysis will emerge from an investigation pursued by the Department of Public Health. Supervisor Norman Yee is seeking additional public and professional input from the Board's Public Safety and Neighborhood Services Committee. The Westside Observer is following the scandal and welcomes confidential input from Laguna Honda employees.

Perhaps the most disturbing aspect of these violations is that they were discovered by a Human Resources investigation this January. Nobody reported the shocking misconduct. Director Colfax made an accurate diagnosis when he identified a "culture of silence" at Laguna Honda. By allowing abuses to fester, this institutional silence has not only harmed patients but unfairly shamed workers who care for patients with skill and compassion.

*Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he was fired for whistleblowing by the Department of Public Health. Contact: [DerekOnVanNess@aol.com](mailto:DerekOnVanNess@aol.com)*

**JULY 2019**

## Sunset Uprising: Residents Tackle Prop

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Photo courtesy: stopcrimesf.com

**D**istrict 4 Supervisor Gordon Mar heard an earful about property crimes from his residents. Break-ins, residents are alarmed about residential burglaries and package theft, worsening safety in previously low-crime neighborhoods and the targeting of criminals.

On April 25th, Supervisor Mar held a hearing before the Board's Public Safety & Neighborhoods Committee. Dozen residents expressed frustration and outrage. A construction contractor testified to losing \$80,000 in equipment due to job-site and office break-ins, and a stolen truck. Yet, police responses were disappointing. Most of the commenters were older Chinese residents who recounted incidents of theft and even the theft of food delivered to a 90 year old woman. Some feared going out at night, seeing people wandering about and sleeping on private property. Seeing strangers now "cause trouble," one said. Amid demands for more police patrols, arrests and prosecutions, one gentleman asked, "maybe policeman sleeping?"

.....  
**...residential burglary cases had risen from 137 in 2014 to 237 in 2018, a 73% increase. In 2018, the DA filed charges in 86% of burglaries, a 18% drop so far this year.**

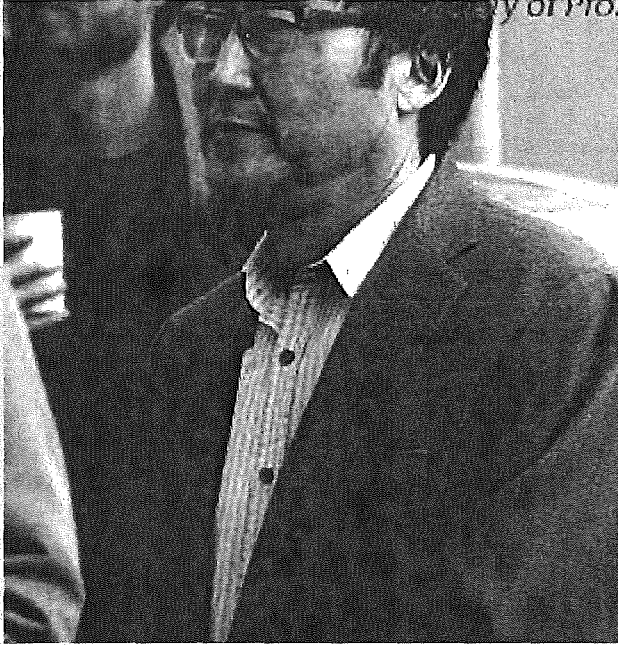
SFPD Captain Tim Falvey provided statistics showing a steady decrease in residential burglaries from 2015 to 2018. The term robbery means that perpetrators confront victims and take property by force. Burglaries occur without victims being present. A "hot prowler" occurs when burglars enter a home without confronting them. Taraval Station logged 57 hot-prowls in 2018 – the lowest since 2011. However, the 379 burglaries, robberies and hot prowls recorded in 2018 were less than the 641 recorded in 2015. An additional 41% decline was noted in 2019.

These declines were attributed to the 2018 re-activation of Citywide Burglary and Robbery Units across all police stations. Previously, police stations handled residential crimes within their respective Neighborhood Crime Units. That system missed criminals who worked across station boundaries. Under the new system, arrests for burglaries and robberies increased from 322 in 2015 to 465 in 2018, a 44% increase. Of reported burglaries in 2018, 86% resulted in arrests, versus 10% in prior years. Yet many Sunset residents continue to feel unsafe.



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Supervisor Gordon Mar-Photo: Sunset Beacon

The SFPD and Sunset residents agree that package thefts are mounting and can escalate. However, the SFPD doesn't track package thefts as a distinct crime. Instead, they are lumped with other thefts and classified as "larceny/theft". Without data on the incidence and demographics, the SFPD couldn't say whether Chinese residents were targeted. Despite the citywide increase, package thefts are still handled as low-level crimes at the station level. SFPD's focus has been public education on Taraval Station's website; [taraval.org](http://taraval.org).

Cristine DeBerry from the District Attorney's Office reported 16,000+ thefts in 2018. She noted that since these were mixed into the larceny/theft category. Prosecutions are based on the value; anything under \$950 is considered petty theft – a misdemeanor. Although residential burglaries dropped from 137 in 2014 to 237 in 2018, she reported an 18% drop so far this year. In 2018, the DA filed 1,000 burglaries and 88% of these yielded convictions.

Kyra Worthy, director of SF SAFE (Safety Awareness for Everyone), explained how her organization partners with the SFPD to conduct free residential security surveys. SF SAFE also sets up Neighborhood Watch groups and Community Police Advisory Boards.

Frank Noto, co-founder of Stop Crime SF, described how his network of anti-crime volunteers has turned rental cars to "our homes." He said crimes targeting Asians had increased and favored Asians. This organization holds law-makers, the police, the DA, and judges accountable for crime.

Wendy Wong, SF Coalition for Good Neighborhoods, said just 4 of 140 SFPD dispatches

## James Madison Freedom of Information Award

*Society of Professional Journalists, NorCal Chapter*

The multitude was separated into 4 groups. Afterwards, group leaders reported results

- Ask SFPD to provide more patrols and track package thefts.
- SFPD should facilitate crime reporting, address language barriers and improve response times.
- Increase police-community contacts to make cops more approachable and help residents feel safer.
- Seek City subsidies for security cameras and alarms.
- Know your neighbors through events like Neighborfest, a City program that strengthens neighborhood ties.
- Work with SF SAFE to organize more Neighborhood Watch groups.
- Community Ambassador Program, a City job-training program providing safety escort and neighborhood watch presence.
- Use Nextdoor, a free social network for neighbors to report suspicious behaviors.

All this led Supervisor Mar to form the D-4 Public Safety Working Group. Good thing because community action, crime fears intensify. Meanwhile, he has to navigate between progressive approaches to crime, as well as conflicting claims of crime abatement and a crime wave. Captain Nicholas Rainsford for a comment but received no response.

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JULY 2019

22

## The Struggle for Sunlight on Dark

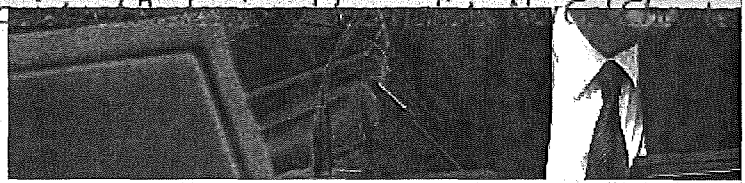
**By Dr. Derek Kerr**

he Sunlight On Dark Money initiative launched this March is a rear-guard action to salvage politics. The back-story features a split within the Ethics Commission, the resignations of Richard P. Berman and Quentin Kopp, and 2 years of excruciating deliberations that pitted the Ethics Commission against the Board of Supervisors. Sponsored by Keane and Supervisors Mar, Haney, Fewer, Ronen and Mandelman, the Sunlight initiative will be on the November ballot.

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candidate campaigns, prohibits developers pursuing land use decisions from funding campaigns for Mayor, Supervisor, or City



Attorney, and requires Independent Expenditure Committees (aka Super PACs) to name

**Then-Chair Keane warned against “putting our faith in a legislative political, jockeying for Mayor, jockeying for power, one group trying to... Keane emphasized that he saw no need for an Ethics Commission to... independently ... Keane announced “I resign” and walked out.”**

One impetus for this Initiative was the 2013-14 Civil Grand Jury report titled Ethics in the Pretense. It revealed that Ethics and the Board had covertly neutered Prop J of 2000, a banned “legal kickbacks” whereby City officials took contributions, gifts or jobs from the contracts, land deals or similar benefits. This “Taxpayer Protection Amendment” received

But in 2003, Prop J was repealed by Prop E, an “Ethics Reform” Charter Amendment sponsored from Ethics. Prop E empowered the Board to amend - or undermine - voter initiatives in the and Government Conduct Code. Sold as a more efficient way to update ethics laws, it achieved a majority of votes; 8 of 11 Supervisors plus 4 of 5 Ethics Commissioners. Prop E drew upon guarding the hen-house” features, but passed with 62% of the votes. Thereafter, conflict finance laws could be altered without a public vote. For example, in 2009 the Board and lobbyists” - those who influence City Hall indirectly by subsidizing the lobbying of astro groups - did not have to disclose expenditures.

On 4/27/15 Ethics Chair Paul Renne asked Commissioner Keane to assess Prop J and possible ballot measures. Ethics can independently introduce ballot measures without Ethics placed Prop C “Expenditure Lobbyists” on the November 2015 ballot. Approved by opposed by the nonprofit sector. Then in November 2016, Ethics introduced Prop T to City officials whom they lobbied. It got 87% of the votes.

In March 2017, Keane started a “Prop J Revision Project” that evolved into a complex Accountability Ordinance (ACAO). The ACAO sought a ban on behest payments where seeking City entitlements to fund their favored nonprofits or political committees - who behest”. Keane wanted Ethics - not the Board - to place the ACAO on the ballot since it officials in terms of raising money.” But it also cramped the fundraising and influence of

The Nonprofit Perspective: According to the June 2018 Budget Book, City expenses for  
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*Society of Professional Journalists, NorCal Chapter*

Since the ACAO applied to nonprofits big and small, the nonprofit representatives emphasized nonprofits that struggle to make ends meet and serve needy clients. For these Mom-and-pop nonprofits, they argued, drowning them under layers of accountability. They could not afford the too complicated, they argued, drowning them under layers of accountability. They could not afford the violations, then sued out of existence by corporate adversaries.

Nonprofits resented being stigmatized as self-serving. If they don't lobby in the land use arena, they risk opening or renovating their facilities – even displacement. By necessity, nonprofit developers try to influence land use decisions. Further, nonprofit board members often serve on City Council. That would prohibit them from fundraising for their nonprofits, or supporting candidates who would violate contracts and benefits. Such limits would deter nonprofit leaders from sharing their expertise. Or, they might quit their nonprofit boards to avoid conflicts of interest.

Nonprofits wanted City officials to steer donations to them. They viewed behest payments as extortion or quid pro quos. So, Ethics agreed to switch from banning to simply disclosing donations. Nonprofits objected; having to report donations could discourage potential donors. Ethics tried to accommodate their concerns. Yet after every amendment, they sounded the same refrain: "We're threatened."

The Split within Ethics: On one side were Commissioners Renne, Keane and Kopp who supported the ban on corruption via a ballot measure. They were generally allied with Friends of Ethics (FOE), a group of former Ethics Commissioner and Civil Grand Jurors. FOE collaborated with MapLight and other groups in politics, to provide data supporting bans on certain campaign contributions and behest payments. In 2015-16, City Commissioners appointed by the Mayor had reportedly funneled \$1.1 million into their own mayoral agendas. Further, of \$23 million in behest payments logged from 2012-2017, the majority served low-income San Franciscans. FOE also pushed to limit the huge monetary impact of the ACAO and the resulting displacement of local residents by luxury housing.

On the other side were nonprofits and big businesses. The nonprofit cause was bolstered by Ed Lee appointed Commissioner Yvonne Lee who has long-standing ties with nonprofit organizations. "It is my duty to support the most vulnerable and community service organizations." She rebuffed critics as arising from "anecdotes" rather than facts and because negative perceptions of "Asian sisters" had incited their persecution. Commissioner Daina Chiu, a corporate attorney at the time, initially wanted to move "expeditiously" given the "harm done." Then she drifted, citing concerns, to join Lee against placing the ACAO on the ballot. After a 9/27/17 Chronicle article failing to tackle money in politics, Chiu deplored "the high-jacking of our electoral process."

The Sausage-Making Finale: At the 2/16/18 2018 Ethics meeting, the staff recommended the ACAO on the June ballot. However, Supervisor Peskin's aide, Lee Hepner, implored Ethics to legislate instead. Peskin also wanted to insert a Major Donor Disclosure requirement.

*before the June 2018 elections when a flood of dark money was expected*

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Thus stymied, Ethics acquiesced to a joint meeting with the Board. But at that April 2018 Major Donor Disclosure proposal. The Board voted 6 to 5 against banning campaign co million from developers pursuing land use permits, citing the "highly diffuse and techn making." Commissioner Kopp's motion to ban behest payments failed. Worse, most of Ordinance 129-18, took effect after the 2018 elections – thus failing to stem the torrent London Breed's mayoral bid gained \$1,248,098 in funds from Independent Expenditure ( money to all other mayoral candidates.

Commissioner Renne's term ended in February 2019. Isolated, Kopp resigned in March. mentioned Ethics' failure "to illuminate so called 'dark' money" given the "refusal by sor the face of political pressure from nonprofit corporations and businesses." Keane, Kopp Sunlight on Dark Money initiative to restore some provisions that succumbed to divisio

*Dr. Derek Kerr is a San Francisco investigative reporter Contact: [watchdogs@westsideob](mailto:watchdogs@westsideob)*

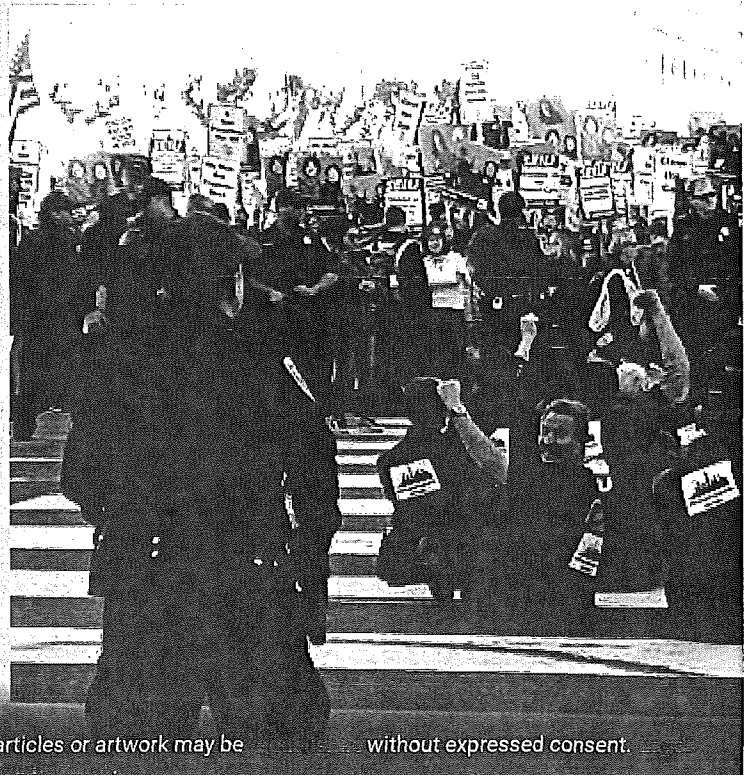
**JUNE 2019**

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## Tough Contract Negotiations: Unions V Disobedience to Disrupt Inequa

**By Dr. Derek Kerr**

**O**n April 11th afternoon, some 400 Service Employees International Union (SEIU)-1021 and International Federation of Professional and Technical Engineers (IFPTE) Local 21 members staged a novel civil disobedience protest at City Hall. Some 2 dozen workers were arrested for blocking traffic by sitting on the Polk Street crosswalk. Demonstrations during arduous contract



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stand to ensure that San Francisco is a city that works for everyone. — not just the 1%.  
 money from beleaguered taxpayers, the idea is to hold big corporations and their CEOs  
 services and infrastructure that allow them to thrive. Recent data from the Institute on  
 shows that some of the largest and most profitable corporations pay no taxes. In 2018,  
 by 31% according to US Treasury records. Most corporations use tax shelters and subs  
 enormous revenues from taxation. So workers and small businesses have to make up t  
 service cuts.

.....  
**...multi-billion dollar corporations like Uber and Lyft get to play by t  
 have to pay their fair share towards the public services that City w**

Targeted by this demonstration were “unicorns” – privately-held start-up companies val  
 handful of San Francisco-based unicorns are scheduled to go public through IPOs or In  
 mint hundreds of new millionaires. This influx of wealth could further widen income ine  
 increase homelessness and drive further displacement of long-time San Franciscans. C  
 can't afford to live in the City and endure protracted, congested commutes.

Demonstrators displayed colorful placards of unicorn figures with messages like; “Fair  
 “Safe and Healthy Communities,” “Affordable Housing for All,” “Dignity and Respect for  
 don't get no contract, you don't get no peace” resounded throughout Civic Center as w  
 Street waving signs and banners. That fervor was balanced by a demure minister from  
 concluded with an appeal; “Let justice roll down like a river and let inequity wash away.”

Hundreds then charged to Uber headquarters on Market Street to shame the ride-shar  
 workers and shielding its revenues from taxation. Union members see similarities betw  
 15% of City employees who are retained as temporary rather than permanent employee  
 protections of regular workers.

Upon returning to City Hall 24 City workers staged a sit-in across Polk Street facing City  
 traffic. Monitoring the demonstrators were some 50 police officers plus 12 Sheriff's dep  
 entrance to City Hall. The police respectfully warned that arrests were forthcoming. No  
 budged. So the cops gently guided the demonstrators one at a time to stand up to be z  
 waiting paddy wagons.

Apparently, rising corporate wealth and predations, coupled with shortfalls in public ser  
 portend more discontent, protests - and strikes.

*Dr. Derek Kerr is a San Francisco investigative reporter Contact: [watchdogs@westsideob](mailto:watchdogs@westsideob)*

1. <https://itop.org/notadime/>

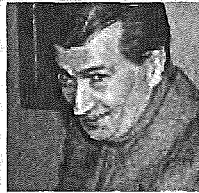
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**W** SFMTA over the installation of transit-only lanes. Such lanes, separated from regular traffic, aim to improve MUNI reliability and reduce pedestrian injuries. But they eliminate the parking that sustains businesses along commercial thoroughfares. A colorful protest against purged parking was covered in the June 2018 *Westside Observer's* "Taraval Merchants See Red Over Parking Ban."



In a March 10 letter to the SFMTA, Albert Chow, President of People of Parkside Sunset (POPS) demanded that an evaluation of planned transit-only lanes on Taraval Street be conducted as promised. POPS is a coalition of merchants and residents who promote local businesses as well as neighborhood activities and quality of life. Back in July 2018, SFMTA Rapid Team Leader Michael Rhodes had assured Chow that he would compile "residents and merchants" and "reconvene the small working group to share the results finalizing any staff recommendations." But the L-Taraval Project will resume this year and part is missing. POPS members worry that SFMTA is "walking back understandings and supported by then-Supervisor Katy Tang.



.....  
**Simultaneously, the Controller's Office released a study of SFMTA's It was conducted because, "Members of the public report that notification is inadequate and that SFMTA can appear to make decisions regardless of the public input received."**

We asked Rhodes to comment, but he is out on leave. Instead, SFMTA's Philip Pierce will continue until 2021, with ongoing community surveys and engagement with POPS. A community survey of about 1000 people showed that 49% supported transit only lanes.

Simultaneously, the Controller's Office released a study of SFMTA's community outreach. "Members of the public report that notification can be inadequate and that SFMTA can appear to make decisions regardless of the public input received." In early 2018, SFMTA staff upgraded its public processes. Improvements included public notices with maps and project manager contact emails to interested persons, and conducting satisfaction surveys. Satisfaction ratings for SFMTA's public hearing notices and from 66% to 89% on the clarity of its approval process.

Statistics aside, POPS expects SFMTA to survey merchants and residents and hold court until the impact of the transit-only lanes on merchants and residents is fully explored." In addition, SFMTA is considering the impact of transit-only lanes to the eastern part of Taraval.

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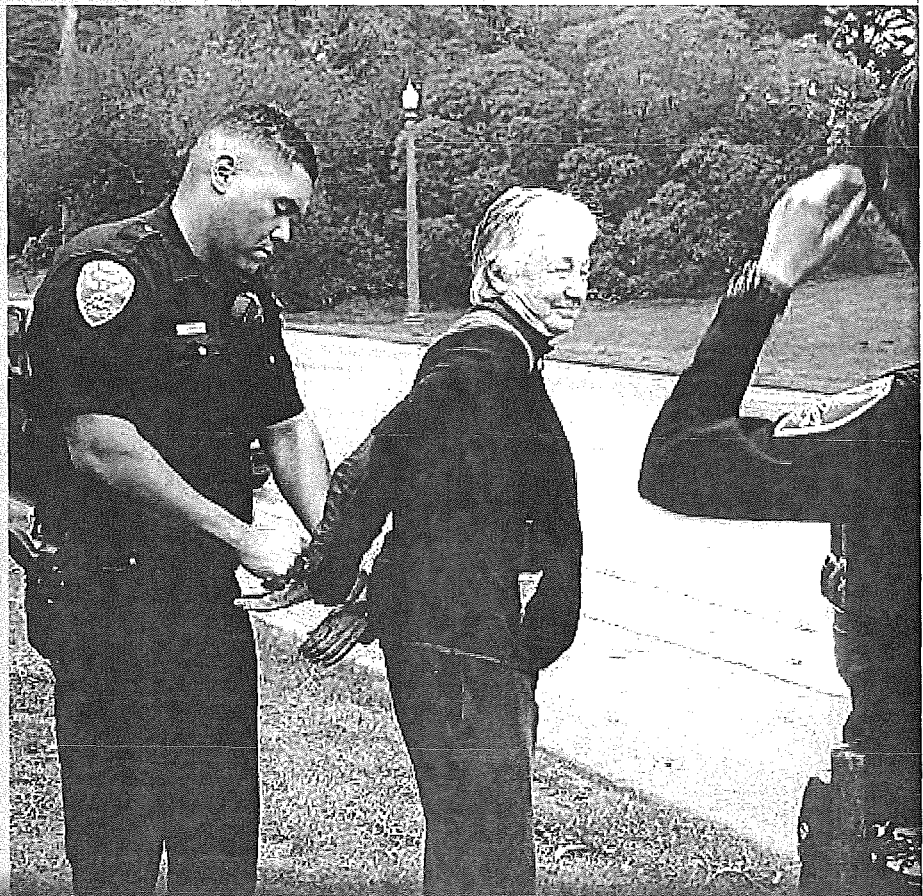
by Dr. Derek Kerr

**N**ine days before the untimely death of Public Defender Jeff Adachi on 2/22/19, I received an email from his office. It detailed allegations of prisoner abuse by S and offered an interview with Adachi. WSO reporters were busy preparing article, so it would be time, we thought, to confer with Adachi, a former WSO contributor and St. Fra

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**...16 female inmates alleging that some were strip searched in view. Once naked, the women were ordered to lift their breasts then squat and cough for vaginal and anal exams. They felt humiliated and de**

Adachi's message included a 1/16/19 formal complaint to Sheriff Vicki Hennessy about the San Francisco jails and ongoing and repeated misconduct by SFSD deputies." Adachi and I were "fearful of retaliation for coming forward with their complaints" but were willing to





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Attached were reports by 16 female inmates alleging that some were strip searched in lieu of individual private strip searches; these were conducted en masse. Once naked, the women then squat, spread their genitalia and cough for vaginal and anal exams. They feared. Another 15 male inmates at the San Bruno Jail reported "abuse or physical assault" by officers. There were injuries from fists and kicks as well as being dragged by handcuffs. In all, six officers were implicated.

Sheriff Vicki Hennessy rejected Adachi's designation of "deplorable conditions" but lauded Adachi wanted an outside investigation – with good reason. Back in 2015, he had exposed scenarios at the Hall of Justice jail on Bryant Street. Sheriff's deputies had manipulated



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Alarmed that his current complaint would be similarly torpedoed, Adachi and Supervisor called for an independent investigation and oversight of the Sheriff's Department. After Hennessy referred the investigation to the Department of Police Accountability – without investigative fiasco.

Mistreating prisoners is an occupational hazard for guards. That was made clear in the Experiment. Psychologist Philip Zimbardo recruited students to act as guards and prisoners after 6 days because the subjects who played guards became sadistic toward the inmates that situational forces overtook the subjects' sense of morality and agency. A similar trait Mother Jones reporter Shane Bauer who spent four months undercover as a prison guard: "to treat everyone as human takes too much energy...I focus on proving I won't back down. I lack of self-control, my growing thirst for punishment and vengeance."

One reason that jail conditions matter is that almost anyone can be arrested. Take Suna Kathleen McCowin, a proponent of natural grass and limited lighting in playing fields. In 2014, she was arrested for peacefully protesting the rushed bulldozing of Golden Gate Park to install lights. Her December 2014 WSO article, The Shame of Rec and Park, provides the background.

During her one-day stay at County Jail #2, McCowin says her pregnant cellmate "Amanda" Amanda's cramps and leaking were dismissed. Once bleeding occurred, she was taken to a hospital and chained to a bed as she miscarried. Upon returning to jail, McCowin offered to switch beds with Amanda the lower bed. Reportedly, the guard wouldn't allow it and no menstrual pads were provided.

The Sheriff's Department was anxious for McCowin to sign herself out as she was considered settled in after a reassuring but expensive phone conversation with her teen daughter. She also called her daughter who was supposedly crying for her release. The deputy neglected the daughter's needs, hoping to get her to leave. That call was "fabricated" McCowin insists to this day. Upon recounting her jail experiences to her Public Defender, she recalls that "it was a different world."

The jail environment depersonalizes all involved, so the latest allegations of illegal beatings are not surprising. The prisoner-guard dynamic creates power struggles that compound the trauma. In March, the Health Commission passed Resolution 19-5 declaring; "Incarceration is a Public Health Issue" "each experience of being incarcerated is physically and psychologically traumatic with lasting impacts on their families, communities." But it's also traumatic and corrosive for guards who are expected to be neutral but would normally disavow. Too often, "rogue" actors are blamed instead of the pathologies of the system, cultures, role expectations, and unchecked power.

At a March 7 hearing before the Government Audits and Oversight Committee, Supervisor Adachi asked to oversee the Sheriff's handling of jail complaints. He insisted that the Sheriff's Office cannot be trusted to investigate its own officers' conduct.

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where discipline is determined solely by the Sheriff? Sheriff Hennessy defended her ser to a chronic lack of staff and funds. However, Hennessy acknowledged that in 2018 the citizen complaint investigations, double the number of previous years. She affirmed her of 21 misconduct claims to the Department of Police Accountability (DPA). While the D testify, Hennessy agreed to require their cooperation. Since the DPA cannot pursue crim Henderson vowed to promptly refer such cases to the DA. And the DA's Chief of Staff, C willing to assist and pushed for immediate referrals. It seemed that Jeff Adachi's death collaborate - and resolve his last complaint.

*Dr. Derek Kerr is an SF award winning investigational Journalist. Contact: DerekOnVanNe*

APRIL 2019

## City's Lapses in Rape Reporting and Han Reforms



By Dr. Derek Kerr

**A**cross the country, police departments convey that they solve rape close them according to an investigation of 60 police agencies conducted by Newsy, Reveal and ProPublica.

The public views arrests as the way to clear rape cases. But police agen even when suspects go free and victims don't get justice. Nearly half of studied cleared more rape cases by "exceptional clearance" than by arresting a suspec Oakland PD reported that 60% of rape cases were cleared in 2016. When journalists ob out that only 13% of rapes were solved by arrests while 47% were solved by "exceptiona

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**Exceptional clearance is the term used when police have enough evidence to make an arrest, and know who and where the suspect is, but can't make the arrest due to circumstances outside their control. These include when the suspect is dead or incarcerated, when the District Attorney declines to prosecute, or when the victim withdraws the case.**

Exceptional clearance is the term used when police have enough evidence to make an arrest where the suspect is, but can't make the arrest due to circumstances outside their control. When the suspect is dead or incarcerated, when the District Attorney declines to prosecute, or when the victim withdraws the case. However, some police agencies stretch this definition.

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rape cases – 87 more than what was reported to the FBI. Perhaps those 87 cases were sexual assaults short of rape, but we can't tell. The table below shows these discrepancies.

## SFPD Rape Case Reports

Year	CompStat Data	Reported to FBI	Reported/Cleared
2014	378	355	109 (31%)
2015	391	344	129 (38%)
2016	429	342	334 (98%)
2017	437	367	63 (17%)
2018	417	n/a	n/a
Avg:	410/yr	352/yr	159/yr (45%)

When journalists request SFPD's rape data for exceptional clearances, arrest rates or clearance rates, they often get stone-walled. As Mark Fahey, one of the Reveal collaborators told us; "I talked to the SFPD's Public Safety & Neighborhood Services department and the Media Relations office – more than a dozen times between January and March 2018. They consistently indicated that they did intend to respond to our request, but missed their own deadlines and were unresponsive..." The *Westside Observer's* own records request on 12/27/18 was ignored. The request was acknowledged...but no response to date.

By 2021, the actual outcome of rape cases now dubiously reported as "cleared" will be reported. This is because when the FBI will implement its National Incident-Based Reporting System nationwide. This system will report exceptionally cleared cases from arrests - unlike the Uniform Crime Reporting Program. This new system is also flawed as it doesn't count the many cases deemed "unfounded." Omitting unfounded cases can mask the prevalence of sexual violence and impede social justice. Labeling rape cases as unfounded can make police agencies appear more effective. It can also report crime rates while boosting clearance rates. Because of the Newsy/Reveal/ProPublica's plans to add the "unfounded" category to its new reporting system. The SFPD should be held accountable.

The need for reforms emerged when the Board of Supervisors' Public Safety & Neighborhood Services Committee heard from sexual assault survivors and experts on 4/25/18. In emotional testimony, they called for more empathy, respect and investigative zeal from the SFPD's Special Victims Unit. The City's Board of Supervisors also faced criticism. That entity includes the SFPD Special Victims Unit, the DA's Office, the District Attorney's Services Division, SFGH's Rape Treatment Center, the Medical Examiner's Toxicology Laboratory, and the SFPD's Public Safety & Neighborhood Services Department.



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improvements, navigating the City's sexual assault services remains a lonely, grueling process. Sexual assault isn't treated as a public safety threat. Similar deficiencies were identified in a 2017 report on Sexual Violence commissioned by the Department on the Status of Women and a 2018 report on Police Accountability.

The lack of transparency in the handling of rape was exemplified when SFPD Commanders were asked to give the clearance rate for rapes at the Hearing. And the DA's Chief of Victim Services, I was asked how many of the 436 sexual assault cases served by her Division in 2017 were charged. The reports only show the percent of cases charged that result in convictions – without disclosure of how many remains in the low single digits. Prosecuting sexual crimes is difficult. Nationwide, 20% of arrests result in convictions and just 2% to convictions.

So we asked the DA's Office for the number of rape/sexual assault cases it charged and the law enforcement presented an average of 141 arrests/year to DA prosecutors. (The DA's Office is 3 times more because it also helps victims of unreported and uncharged crimes.) On average, only 52% of cases result in convictions. But we couldn't get the actual numbers charged with or convicted of sexual crimes. "The DA's Office does not presently have responsive and reliable information".

After the Hearing, Supervisor Ronen crafted Ordinance 215-18 creating the Office of Sexual Assault Response and Prevention (SHARP). It was enacted in September 2018. Working under SHARP will have a Director and 2 full-time employees at a cost of around \$400,000. Key goals include: to receive complaints about City services for sexual assault, help victims navigate the system, to meet with complainants, report service failures to involved departments and City Hall, to combat and prevent sexual crimes.

Importantly, SHARP will gain access to and publish sexual assault data that is now under

*Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he repeatedly exposed sexual assault in the Department of Public Health. Contact: DerekOnVanNess@aol.com*

**March 2019**



## Rape, Stolen Valor Charges Jolt Human Services

**by Dr. Derek Kerr**

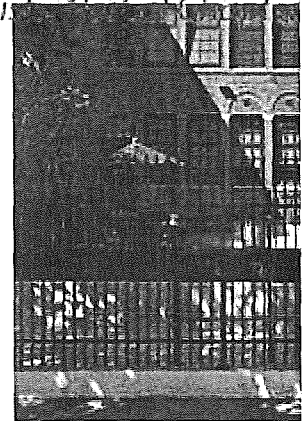
Immense anger over hiring practices at the Human Services Agency (HSA) turned to disbelief when a man arrested for rape and another accused of stolen valor.

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an admirable career in the industry of professional journalism. The "Stolen Valor" award is given to the local community". Jones earned a salary of \$92,927 (\$125,631 with benefits) in 2017.

Five months later, he was accused of stolen valor by the veteran-operated "Military Phonies" website. Reportedly, Jones had been representing himself as a former Navy SEAL with combat duties and injuries in various war theaters. However, military records disclosed by Military Phonies show that he actively served the Navy from 1998-2000 – with no overseas deployments, SEAL training or service. His 2002 discharge from the Naval Reserve Personnel Center was "for the convenience of the government" these records show. On 1/22/19, Jones apparently "false allegations". Military Phonies responded by asking for his BUD/S class number. A 6-month Basic Underwater Demolition/SEAL class but Jones' records showed none. And classified.



.....  
**Given HSA's 2,000 employees, occasional scandals are expected by HSA has been a hotbed of protests about "cronyism, nepotism and hiring and promotion of unqualified personnel..."**

The 2013 Stolen Valor Act imposes penalties for fraudulently claiming to have received so secures money, property or other tangible benefits. HSA's Human Resources Department whether Jones embellished his military service and whether tangible employment bene

However, HR Director Luenna Kim had to surmount a bigger challenge – in her own office old attorney and Labor Relations Analyst was arrested for rape in Dublin in November 2018 he is being held without bail at Santa Rita Jail according to the Alameda County Inmate will be in March.

Prior to working at HSA, Harris was an Investigative Analyst with the DA's Office. Although were excellent, sources say his arrival at HSA entailed some controversy. A University of graduate, he was admitted to the California Bar in 2014 and remains in good standing. salary of \$82,108 (\$112,687 with benefits) in 2017. HSA disclosed that he's no longer e

There's more. In June 2018, long-time HSA engineer Albert K. Broohm, age 59, was arrested warrant for aggravated sexual assault of a child under 10. A stunned HSA colleague de person". A resident of Hayward, Broohm remains incarcerated at Santa Rita Jail with a hearing is due in February. He too is no longer employed.

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James Madison Freedom of Information Award  
 of Public Health.: [DerekOnVanNess@aol.com](mailto:DerekOnVanNess@aol.com) Society of Professional Journalists, NorCal Chapter

March 2019

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## The Way We Were

**by Dr. Derek Kerr**

etween 1938 and 1940, the New Deal's Works Progress Administration (WPA) hired some detailed wooden model of San Francisco for the Planning Commission. The idea came from Timothy Pflueger. The 3-D scale model served as a planning tool for the many WPA projects to Golden Gate Bridge and the Bay Bridge itself, as well as the development of Treasure Island working during the Great Depression. Built at a scale of 1 inch to 100 feet, the 6,000 pieces covered 1000 square feet. The cost, \$100,000. The model was displayed at the City Hall in 1939, then at City Hall in 1940. It was packed away in 1942 to make room for administrative offices. In the late '60s, it was shipped to UC Berkeley for urban design studies.

Last year, the SF Museum of Modern Art, in partnership with the SF Public Library and the City of San Francisco, restored the model of San Francisco circa 1938. The goal was to make the model public in a memorable way and promote civic engagement. The result is an exhibition at the City Branch of the Public Library will display sections of the scale model corresponding to its location. It will reveal something about the way we were and the City's evolution. Events and programs will accompany the display from January 25 through March 25. For more information check out the website or see [Take Part](#)

*Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he repeatedly expanded the Department of Public Health. Contact: [DerekOnVanNess@aol.com](mailto:DerekOnVanNess@aol.com)*

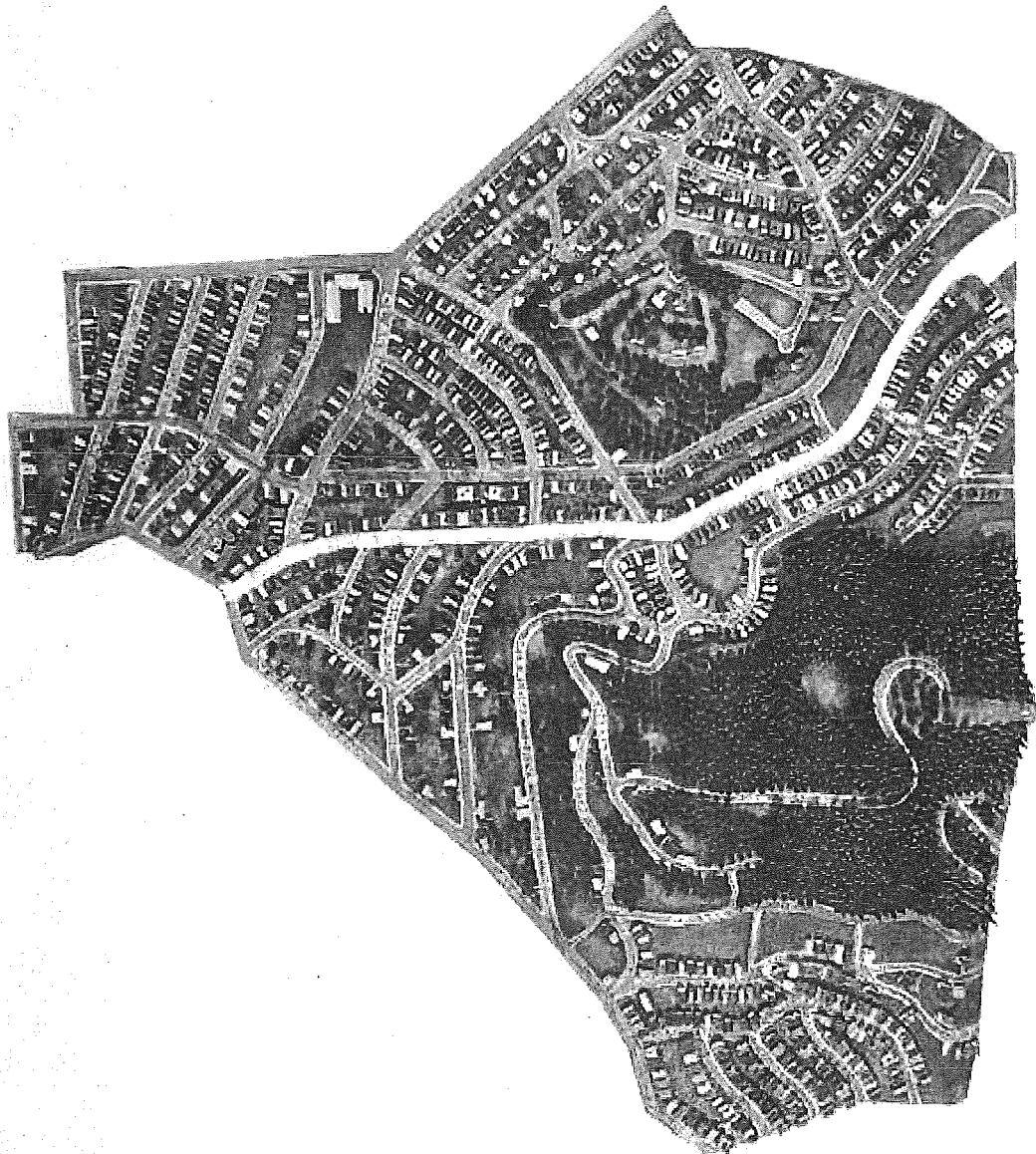
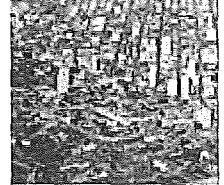
LIBRARY BRANCH EVENTS

2. [publicknowledge.sfmoma.org/events](https://publicknowledge.sfmoma.org/events)



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## Toward a San Francisco Public Bank

By Dr. Derek Kerr

**A** ceremony for the WPA Scale Model of San Francisco, April 1940, image of the model is in the public domain. It was created by indigenous tribes protesting the Dakota Access Pipeline. Standing Rock Sioux water rights, local supporters lobbied for the pipelines. In March 2017, the Board of Supervisors directed City of San Francisco to do so. But those banks also financed private prisons, hedge funds, weapons, fuels, tobacco interests, and luxury real estate. Plus their predatory practices tanked the financial system. When it came to loans for City housing, infrastructure, transit, interest charges were steep. Since the *Westside Observer's* May 2017 [article](#) "A Public Bank" appeared, much has happened.

### During the early 1900s,

North Dakota's economy was based on agriculture, specifically wheat. Frequent drought and harsh winters didn't make it easy to earn a living. The



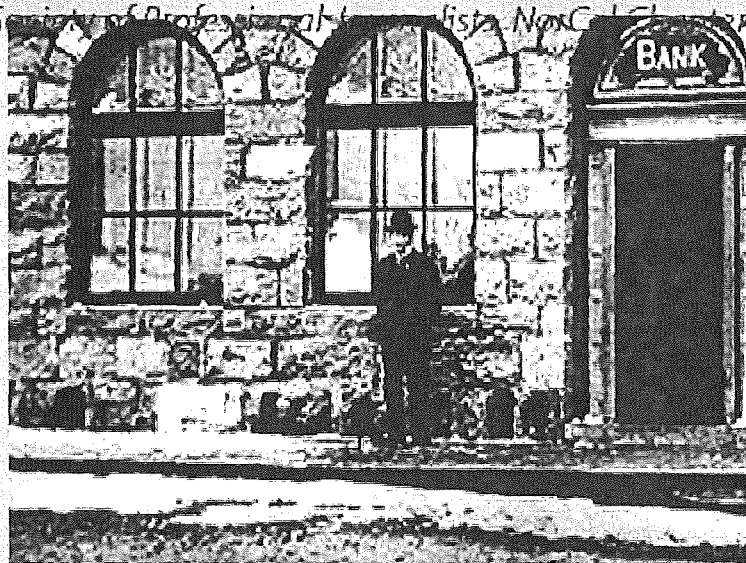


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Chicago which raised the interest rates on farm loans, sometimes up to 12%. North Dakotans were frustrated and attempts to legislate fairer business practices failed.

A.C. Townley, a politician who was fired from the Socialist Party, organized the Non-Partisan League with the intent of creating a farm organization that protected the social and economic position of the farmer.



The Non-Partisan League gained control of the Governor's office, majority control of the one third of the seats in the Senate in 1918. Their platform included state ownership and credit agencies. In 1919, the state legislature established Bank of North Dakota (BND) and Elevator Association. BND opened July 28, 1919 with \$2 million of capital.

Per the Controller's SF OpenBook website, the City paid private banks a whopping \$581 million in bonds and loans in 2017-18. Of that amount, taxpayers owed up to \$121 million, according to the Annual Financial Report. The rest was owed by ratepayers using water, transit, airport and other services. Either way, bank executives, shareholders and bond holders reaped the proceeds. The city reported \$864,000 in bank fees last year. In response to public pressure to save money and protect our values are, City officials, like those in Oakland and Los Angeles, began exploring Public Banking for the public good.

### Public input also favored divesting from Bank of America and Wells Fargo Treasurer's Office finds it daunting to 'create a Public Bank from scratch'

Pursuant to the Board of Supervisors' Resolution 152-17, sponsored by Malia Cohen, Supervisor and Hillary Ronen, Treasurer Cisneros organized a 16-member Municipal Bank Feasibility Study. In response to Supervisor Fewer's request, the Budget & Legislative Analyst's Office issued a November 2017 report and other community supportive banking options.

After 9 months of deliberations and consultations with experts and other municipalities



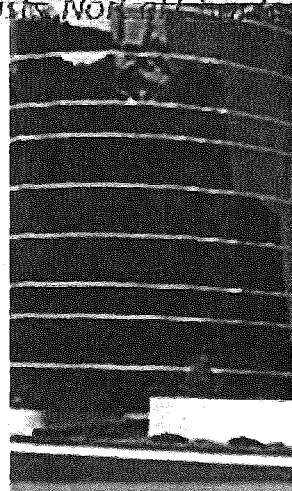
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businesses, and students who ~~Society of Professional Journalists, NorCal Chapter~~ and "will never be profitable."

The most viable model, a Commercial Municipal Bank, would use the City's General Fund for lending. By not taking deposits, it would eliminate the complexity and costs of a getting a charter. It would make money by year 2, and a \$17 million profit by year 10. But it wouldn't break from Wall Street or provide consumer loans.

On 12/13/18, the Board's Budget & Finance Committee heard updates from the Treasurer's Office regarding the Municipal Banking Task Force. Its service priorities are affordable housing, small businesses, infrastructure, unbanked residents, then cannabis. Turns out the 4 models proposed in September took flak for being "too small – not thinking big" according to Amanda Kahn Fried. Public in Bank of America and Wells Fargo. However, the Treasurer's Office finds it daunting to "c scratch," declines to recommend a Public Bank, and hasn't provided a roadmap to establish costs of a Public Bank, the social costs of depositing public dollars in private banks are and Fewer urged the Treasurer's Office to "think big," move beyond its comfort zone, and State legislators. The goal would be "local control, financial empowerment, and transparent bank balance. Accordingly, the Task Force will present 3 new models: Divestment, Re-In at its last meeting at 3 PM on January 31, Room 305, City Hall.



The counting room at the Bank of North Dakota

Meanwhile, on 1/10/19 over 200 people packed the Women's Building to launch the San Francisco Public Bank Coalition (SFPublicBank.org). Among the speakers were former Supervisor John Avalos, who pioneered hearings on Public Banking in 2011, recalled how private banks were b

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concept. SF Public Bank Coalition organizers Kurtis Wu and Jackie Fielder announced Bank Charter Amendment before voters in November. Supporters can check SFPublicB sessions and work groups.

Regulatory and political hurdles abound. Last November, Los Angeles placed a Charter allow the creation of a Public Bank. A robust 44% of voters approved - but it failed. Oak commissioned a study concluding that a multi-Jurisdictional Public Bank was feasible. Office rejected it citing "no clear roadmap, structure or supporting data." As for cannabi California Treasurer's Office found that "No State-backed financial institution designed industry is feasible. All alternatives fail on both risk and financial grounds." Banks handl asset seizures and employee prosecutions for enabling a federal crime.

Yet the quest to transform banking is gaining momentum. In 2016, the second US Publ American Samoa, opened with Federal Reserve approval. Hundreds of Public Banks thr nascent Green New Deal movement dovetails with Public Banking. Recall the Great Dep Roosevelt tapped the publicly-owned Reconstruction Finance Corporation to finance Ne Congressional appropriations. While campaigning, now-Governor Newsom declared, "V chokehold on state finances and develop our own state bank."

Meanwhile, City Treasurer Cisneros actively pursues socially responsible investments. Local" program allocated \$80 million from the County's Pooled Investment Fund to ban community lending. Other City agencies facilitate loans. For example, the Mayor's Offic Development backs \$86 million in home loans for lower-income residents. Such service Public Bank grows.



## Laguna Honda Crapples with Fleeing

Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he repeatedly Dr. Derek Kerr & Dr. Maria Rivero Contact: DerekOnVanNess@aol.com

**Rivero**

**February 2019**

three years ago, in Exodus from Laguna Honda Hospital, The Westside Observer reported number of LHH patients who fled the premises. Now, LHH managers are publicly ackno testing ways to reduce "unplanned discharges." Unplanned discharges refer to patients Against Medical Advice (AMA), or who simply walk out, Absent Without Official Leave ( patients eventually return to LHH.

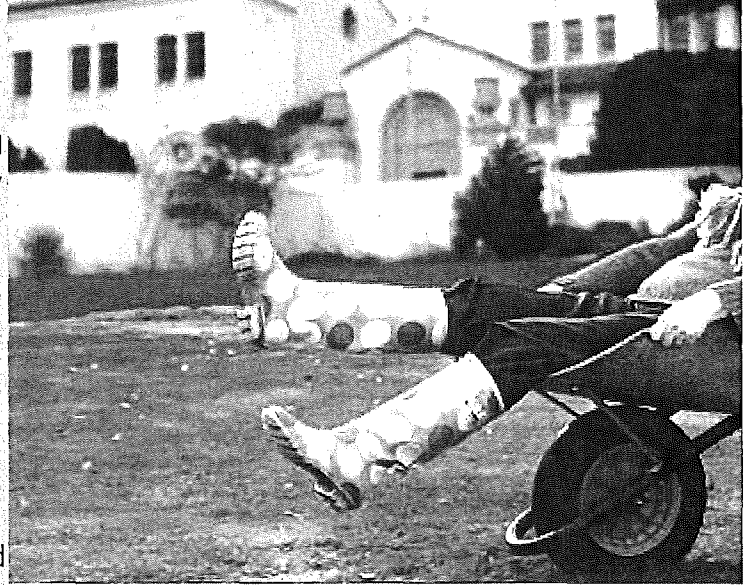
At LHH's 11/13/18 Joint Conference Committee, a public meeting of LHH managers and Social Services Director Janet Gillen presented an analysis of unplanned discharges. S saw a significant spike, with 23.6% of all community discharges leaving AMA or AWOL. of unplanned discharges hovered between 18% and 24%. And in the year ending in Sep rate hit 26%, a new high. That's double the historical rate around 13%, even in the old LH fewer amenities



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THE NEW LHH private and semi-private rooms were supposed to contain such jarring behaviors. Instead, the proportion of patients showing bothersome behaviors steadily increased from 23% in 2013 to 31% in 2017, almost twice the State nursing home average of 17%. Recently, largely by changing reporting standards, LHH claims that patients with disruptive behaviors fell to 23%. Hardly a healing environment. Nothing was said



Janet Gillen Social Services Director

about bothersome patients provoking others to bail from LHH.

**Concurrently, LHH is coping with a rise in unruly patients with "behaviors like wandering, screaming, aggression, and rejecting care."**

LHH is working hard to reduce the turmoil while keeping its roots hidden. Without addressing its admissions process, or the population it serves, LHH set a goal of reducing the number of disruptive behaviors.



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**There are costs. This year LHH faces a \$2.5 million budget shortfall, increased need for coaches in an effort to facilitate patient flow with Coaches are staffers assigned to watch unruly or unsafe patients. Increased costs for security services, including staffing, patrols, security technology, and environmental controls. For example, every AWOL event triggers a wide search by the Sheriff's Department and busy LHH staff. Meaning the hospital is more guarded and restrictive."**

Why do LHH patients flee? Here, we are baffled by contradictions. Between 2010 and 2018, reasons for AMA and AWOL discharges included 33% who "Did not want to be here" and 18% substance abuse. Now, according to Gillen's November presentation, 70% of unplanned discharges were due to substance abuse. Only 18% didn't want to be at LHH. However, in a September presentation, Chief Gillen insisted that merely 18% of unplanned discharges were tied to substance abuse between 2010 and 2018. If that 18% is correct, treating substance abusers won't do much to curb runaway discharges. The conflicting numbers presented by Gillen and Dr. Qian are unlikely to guide effective interventions. We asked Ms. Gillen and Dr. Qian to clarify their response yet.

Currently, records show that 25% of LHH admissions are designated as homeless. Surprisingly, LHH is struggling to care for these sometimes challenging patients. Although LHH documents are almost always accurate, they did say that most AMA discharges were homeless. But their presence within the larger hospital system is not disclosed. Gillen mentioned in passing that 44% of unplanned discharges fled from the HIV/AIDS ward. Such information should help to target specialized services.

LHH deploys a host of interventions to cut unplanned discharges. These include early identification of patients troubled by drug cravings, as well as more support groups, motivational counseling, and medication. Surprisingly, a 16-month trial of Medication Assisted Treatment, offering buprenorphine to patients with opioid use disorder, was a flop. Turns out only 1% of unplanned discharges were opioid users. So, treating patients with opioid use disorder for AMA and AWOL discharges. Another 17% of runaways craved non-opioids like cocaine, methamphetamine. These drug habits cannot be treated with methadone or buprenorphine. Support groups, and anti-depressants can help. Even so, LHH Psychiatry surveys show that these interventions have a major impact on patient flight. Wisely, LHH recently abandoned its draconian policy of punishing smokers. After 3 years of harassing smokers who defied no smoking rules, and causing some to leave the hospital, LHH restored a patient smoking area.

Intriguingly, LHH hasn't explained why it admits patients who "do not want to be here," or why it doesn't ensure these patients are appropriately evaluated and screened prior to admission.

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There are costs. This year LHH faces a \$2.5 million budget shortfall, "mainly due to the an effort to facilitate patient flow within the network." Coaches are staffers assigned to patients. And there are escalating costs for security services, including staffing, patrols environmental controls. For example, every AWOL event triggers a burdensome campus Department and busy LHH staff. Meanwhile, LHH becomes more guarded and restricti

Finally, San Francisco lacks nursing home beds, shelters and housing. The Health Depa Medical Respite beds on Mission Street for homeless persons discharged from SFGH. LHH even if they don't want to be there. Because LHH always has a waiting list, folks w displaced by those who don't.

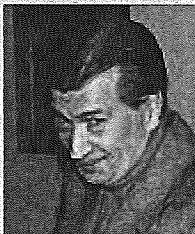
*Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: [watchdogs@westsideobserver](mailto:watchdogs@westsideobserver.com)*

## Proposition B

December 2018

## • Mayor London Breed's Aversion to Sunshine

by Dr. Derek Kerr



**L**ondon Breed's ascent into Room 200 portends a loss in City Hall the City's "Privacy First Policy" - passes in November, it would allc Sunshine Ordinance without voter approval. And thus, our sunshii amendment to reinforce it.

As District 5 Supervisor, Breed repeatedly defied the Sunshine Ordinance requests. When thwarted requesters filed complaints with the Sunshine Ordinance Tasl adjudicates alleged violations of the Ordinance, Breed ignored SOTF summons to atten intransigence came to a head in August 2017 when public advocate/gadfly Michael Pei President Breed for a list of addresses she had blocked from her Twitter account. No re reminder emails. Still nothing. Unlike Breed, other Supervisors responded to the same r



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**The SOTF determined that Breed had violated the Sunshine Ordinal public records and failing to attend its hearings. This April, frustrat voted 7-0 to refer Breed's delinquencies to the District Attorney to**

"Blocked" means that those individuals cannot view what Breed is tweeting, or convers some of those tweets entail City business. The case was timely because a March 2017 (San Jose v Superior Court) established that public business conducted on personal el subject to disclosure. (In May 2018, a US District Court ruled that President Trump viola blocking his critics from his Twitter account.)

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In a May 1st letter to DA George Gascon, SOTF Chair Bruce Wolfe explained that Breed "compliance with the Sunshine Ordinance and has failed to respond to public records re SOTF hearings." Wolfe noted Breed's non-compliance in 5 prior cases: #15029-2, #15038, #15060, #17018, and #17047. The rebuke stirred the *Mission Local* to describe Breed as one who "continually" "has no patience for public records requests or the task force that oversees them." On May 1st, the letter was sent to the Ethics Commission where it awaits resolution.

Breed's aversion to public scrutiny of her public service isn't new. As *The Westside Observer* has reported, Breed had refused to disclose her work calendars. When the Board of Supervisors voted to disclose the names of participants in its official meetings, Breed voiced the sole no vote. On September 1st, that September she deployed her unique aversion to calendar disclosures as a litmus-test.

Thanks to a tip from Patrick Monette-Shaw, here are Breed's sunshine violations per the SOTF.

In complaint #15029-2 Michael Petrelis showed that his request for Breed's outgoing email addresses was ignored. When the SOTF met in June 2015, it found his request was unduly broad and a representative from Breed's office did not appear. Although her aides Connor Johnson and Iris Wong attended the committee hearing, Breed was cited for dodging the full SOTF hearing and failing to respond to the request.

In complaint #15038 from March 2015, Ray Hartz requested Breed's records about appointments at the Public Library. No response. The SOTF unanimously cited Breed for failure to provide the requested records, appear or send a representative to its hearing. The matter was referred to the SOTF's Compliance & Amendments Committee. There, Breed's aides Connor Johnson and Iris Wong did show up. Offended by Hartz's request, they had no responsive records, and had replied - to the Clerk of the Board of Supervisors - that they received the requested records from other Supervisors. Nevertheless, Breed's aides were required to respond directly to Hartz - after 7 months.

In complaint #15060 from December 2015, Michael Petrelis requested Breed's work calendar for 2015. Astoundingly, he was told that Breed didn't keep calendars. In October 2016, he presented his request to the SOTF's Compliance & Amendments Committee. Connor Johnson and Iris Wong did show up, but Breed's aides refused to provide the calendars. They had to. By then, the Board of Supervisors had voted to disclose the names of participants in its official meetings. Breed's opposition. The SOTF cited Breed for failing to timely respond to a public records request.

In complaint #17018 from March 2017, journalist Josh Wolf requested a list of persons blocked from her Twitter and Facebook accounts. No response. Wolf's follow-up request 10 days later was also ignored. The SOTF cited Breed for blocking spammers and trolls, but had to disclose who she blocked. Further, Breed had violated the Sunshine Ordinance by withholding public records and not sending any representative to 2 hearings.

In complaint #17047 from May 2017, political blogger Angela Gerben requested a list of persons blocked from her Twitter and Facebook accounts. No response. In contrast, other Supervisors have responded to similar requests.