

File No. 19062

Item No. 7

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: December 2, 2020

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Completed by: C. Leger Date 11/18/20

* An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file on a disk

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 JUN -1 PM 2:35

May 29, 2019

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689

BY AK

Re Complaint regarding Green Benefit District (GBD)

Dear Sirs and Mesdames:

I am filing this complaint because I have not received documents requested in my attached PRA request dated February 11, 2019. I renewed this request today in another PRA request to the same parties which I have also attached.

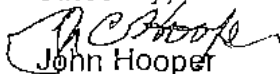
The City is required to release all documents and information prepared using public funding, whether these materials are the work of City employees directly or the work product of City grantees or other groups benefitting from public funding. As described in my letter of February 11, 2019, the City - through OEWD - has provided extensive funding to San Francisco Parks Alliance (and its predecessor organizations Place Lab and Build Public) to promote the formation of Green Benefit Districts in several San Francisco neighborhoods. Public funding has also flowed to the benefit of the Mission Dolores Green Benefit District formation committee in the form of, among other things, paying for neighborhood mailings, Mission Dolores GBD website development, organizing and holding public meetings and promoting petition drives related to the formation of GBDs.

The core mission of the Sunshine Ordinance Task Force will be subverted if City agencies are allowed to avoid public scrutiny by working through grantees and proxies such as the San Francisco Parks Alliance and the Mission Dolores Green Benefit District Formation Committee, both of which entities have benefitted from significant public funding.

This matter was discussed at the May 21 SOTF Committee meeting and referred to the full Task Force for its consideration.

Thank you for your attention to this complaint.

Sincerely,


John Hooper

201 Buena Vista Ave East
SF, CA 94117-4103
415-626-8880

May 29, 2019

by email and certified mail

Director, Office of Economic and Workforce Development
Director, San Francisco Public Works
Board of Directors and CEO, San Francisco Parks Alliance
Formation Committee, Mission Dolores GBD

Re Renewed Public Records Act request for additional documents
pertaining to formation of a Greater Buena Vista Green Benefit District
and a Mission Dolores Green Benefit District.

Dear Sirs and Mesdames:

The purpose of this letter is to request that you provide additional documents and materials originally listed in nine numbered paragraphs as set forth in my earlier PRA request dated February 11, 2019. Many of the documents requested at that time have not been provided.

The City and County of San Francisco must provide documents and information funded by the City as described in my earlier PRA request dated February 11, 2019.

Rather than restate the contents of that earlier letter, I am highlighting those materials which have not been provided as they were set forth in my earlier letter.

Thank you for your prompt attention to this matter.

Sincerely,

John Hooper
201 Buena Vista Ave east
San Francisco, CA 94117-4103
415-626-8880

February 11, 2019

Sent by email and certified Mail

Director, Office of Economic and Workforce Development (OEWD)
Director, San Francisco Department of Public Works
General Mgr., San Francisco Recreation and Park Department
Board of Directors and CEO, San Francisco Parks Alliance, including:
Organizing Committee, Greater Buena Vista Green Benefit District (GBVGBD)
Formation Committee, Mission Dolores GBD

RE: Public Records Act request for documents pertaining to formation of a Greater Buena Vista Green Benefit District (GBVGBD) and a Mission Dolores Green Benefit District (MDGBD)

Dear Sirs and Mesdames:

Public funding through DPW and OEWD has been provided to San Francisco Parks Alliance ("Parks Alliance") for efforts to form Green Benefit Districts for the Greater Buena Vista neighborhood (GBVGBD) and the neighborhood around Mission Dolores Park (MDGBD). This public funding has paid for, inter alia, several direct mailings, the conduct and analysis of surveys, design and maintenance of websites, and the conduct of several public meetings.

In July 2018, Parks Alliance merged with Place Lab, a dba of Build Public Inc. (Place Lab website, "Who We Are" <http://placelabsf.org/about/>; and Parks Alliance 2018 Impact Report, p.1, https://www.sfparksalliance.org/sites/default/files/2018_SFPA_Impact_report.pdf).

Pursuant to Articles 6.5, 6.6, 6.8, and 6.9 of a July 1, 2018 Grant Agreement between City & County of SF and the Alliance (Contract # 1000012901, captioned "To determine the level of support for the formation of a two new Green Benefit Districts") (GBV and Mission Dolores), all of the books and records of SF Parks Alliance (including Place Lab and Build Public Inc.), connected with or relating to the project – including, but not limited to reports, notes, meeting minutes, documents, videotapes, audiotapes, correspondence, and attendance records – are property of the City & County of SF and the contracting Agency (OECD).

Under the law of the State of California, such public records are "under the ownership and control" of the public agency, and are therefore subject to Public Records Act requests. *Some or all of the following documents have been denied to the public through other means.* The requested public records must be made available to the requesting public, wherever the records may be physically located – whether in City offices or computers or files, or in the offices, files, and/or computers of the city's contractors, subcontractors, agents, or their respective individual employees and/or agents.

Accordingly, and pursuant to the California Public Records Act, California Government Code Section 6250ff, and the San Francisco Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code, this is to request that the San Francisco Office of Economic and Workforce Development (OEWD), Department of Public Works, Recreation and Park Department, San Francisco Parks Alliance, Place Lab, Build Public, Inc, Organizing Committee for the Greater

Buena Vista Green Benefit District (GBVGBD) and Formation Committee for the Mission Dolores GBD, and all of their respective employees, agents, contractors, and/or subcontractors (collectively, "YOU") and each of YOU produce, on or before close of business February 28, 2019 the following specific records, documents, and things wherever they may be located:

1. Grant applications to OEWD, OEWD contracts, verbatim transcripts, photographs, videos, tape recordings, sign-in sheets, attendance records, notes, memoranda, reports, and any other records in any form of public meetings to discuss, organize, and/or promote a GBV GBD held on May 7, 2018, June 11, 2018, and/or January 8, 2019.
2. All emails, text messages, and other correspondence, including minutes of all GBD organization committee meetings and correspondence, between YOU and any other person or entity, relating to the planning, execution, and/or follow-up related to public meetings to discuss, organize, and/or promote a GBV GBD held on May 7, 2018, June 11, 2018, and/or January 8, 2019.
3. All raw survey data collected in connection with GBVGBD surveys.
4. All public records, as defined in Gov. Code Section 6252 (c) and (e), including correspondence (including but not limited to letters, e-mails, and text messages), contracts, agreements, mailing lists, surveys and online surveys, responses to surveys and online surveys, budgets, expenditures, and memoranda (including all methods of transcription) memorializing, describing, or otherwise relating to the planning for, public interest and/or opinion surveying for, expenditure of public funds for, organization, and/or formation of a possible GBVGBD.
5. Verbatim transcripts, photographs, videos, tape recordings, sign-in sheets, attendance records, notes, memoranda, reports, and any other records in any form of public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018.
6. All emails, text messages, and other correspondence, including minutes of all MDGBD formation committee meetings, relating to the planning, execution, and/or follow-up related to public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018.
7. All raw survey data collected in connection with Mission Dolores GBD surveys.
8. All documents, records, and/or correspondence relating to the funding and initiation of a management plan/engineer's report in connection with a Mission Dolores GBD.
9. All public records, as defined in Gov. Code Section 6252 (c) and (e), including correspondence (including but not limited to letters, e-mails, and text messages), contracts, agreements, mailing lists, surveys and online surveys, responses to surveys and online surveys, budgets, expenditures, and memoranda (including all methods of transcription) memorializing, describing, or otherwise relating to the planning for, public interest and/or opinion surveying for, expenditure of public funds for, organization, and/or formation of a possible Mission Dolores GBD.

The California Public Records Act declares that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state” (Section 6250), and for that reason is to be construed liberally in favor of disclosure of public records. Cal. Const., art. I, § 3, subd. (b)(2). The California Supreme Court has recently held that this liberal construction of the Public Records Act reaches records in a public agency’s constructive possession or control, including documents in an employee’s personal computer City of San Jose vs. Superior Court of Santa Clara County (2017) 2 Cal.5th 608, 389 P.3d 848, 214 Cal.Rptr.3d 274 , and those held by a public agency’s contractor or consultant. Community Youth Athletic Center v. City of National City (4th Dist., 2013) 220 Cal.App.4th 1385, 1426, 1428–1429.

In this case, the San Francisco Departments of Public Works, Recreation and Park, OEWD, et al. have obligations to produce documents fitting the foregoing descriptions – even if they might have a different caption, and even if the documents are being held by Build Public/Place Lab, San Francisco Parks Alliance, the Greater Buena Vista Green Benefit District (GBVGBD, Mission Dolores GBD, Urban Resource Systems, or another of the Departments’ contractors, consultants, or agents. As the Court of Appeal found in the Community Youth Athletic Center case, the public agencies – in this case, the San Francisco Public Works, Recreation and Park Departments, OEWD et al. – have an obligation to obtain the requested documents from their contractors and/or consultants, and make the documents available to the requesting party.

On this point, the Public Records Act provides that “A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this chapter.” (Govt.C. 6253.3).

Accordingly, this is to request that the above-described documents – wherever they may physically be located, whether in a city office or computer or in the hands of employees of Place Lab, San Francisco Parks Alliance, GBVGBD, Mission Dolores GBD or another of the City’s consultants, agents or contractors -- be made available by close of business on February 28, 2019

Sincerely,

John C. Hooper
201 Buena Vista Ave East
San Francisco, CA 94117-4103
415-626-8880

cc: standard distribution

Address list:

San Francisco Public Works
attn: Mohammed Nuru, director
1 Dr Carlton B Goodlett Place #348
SF, CA 94102
mohammed.nuru@sfdpw.org
jonathan.goldberg@sfdpw.org

Office of Economic and Workforce Development (OEWD)
attn: Chris Corgas, Senior Program Manager, Community Benefit Districts
City Hall, room 448
1 Dr Carlton B. Goodlett Place
SF, CA 94102-4653
christopher.corgas@sfgov.org

San Francisco Recreation and Park Dept
attn: Phil Ginsburg, General Manager
McLaren Lodge
501 Stanyan St.
SF, CA 94117
phil.ginsburg@sfgov.org

San Francisco Parks Alliance
attn: Executive Director and Board of Directors
1663 Mission St #320
SF, CA 94103
drew@sfparksalliance.org

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

PEDER J. V. THOREN
Deputy City Attorney

Direct Dial: (415) 554-3846
Email: Peder.Thoren@sfcityattty.org

**MEMORANDUM
PRIVILEGED AND CONFIDENTIAL**

TO: Sunshine Ordinance Task Force
FROM: Peder J. V. Thoren
Deputy City Attorney
DATE: June 28, 2019
RE: Complaint No. 19062: John Hooper v. Department of Public Works¹

COMPLAINT

Complainant John Hooper ("Complainant") alleges that the Department of Public Works ("Respondent") violated the Sunshine Ordinance, the California Public Records Act ("CPRA"), or the Brown Act by failing to provide documents related to meetings regarding Green Benefit Districts for the Greater Buena Vista and Dolores Park neighborhoods.

COMPLAINANT FILES COMPLAINT

On May 29, 2019, Complainant filed this complaint with the Task Force.

JURISDICTION

Respondent is a department subject to the provisions of the Sunshine Ordinance, the CPRA, and the Brown Act regarding records requests. Respondent does not contest jurisdiction.

After Task Force staff sought a response to the complaint from Respondent, Complainant sent an email to Task Force staff to "verify that [the Office of Economic Workplace Development ("OEWD")] is required to respond to the complaint as well as [Respondent]." While OEWD is a department subject public records requests, it is unclear whether OEWD was notified of the complaint with the Task Force or is a proper respondent at this stage. In any event, it does not appear that OEWD provided a response.

The underlying records request renewed a prior document request that, in addition to being directed to City departments, was also directed to the San Francisco Parks Alliance and committees associated with the Greater Buena Vista Green Benefit District ("GBVGBD") and the Mission Dolores Green Benefit District ("MDGBD"). When the Task Force considered Complaint No. 18086 on March 6, 2019, which was directed at MDGBD, a motion to find jurisdiction over that entity failed. However, it does not appear that Complainant's present complaint seeks enforcement directly against the San Francisco Parks Alliance, GBVGBD or MDGBD. This question of jurisdiction appears to be irrelevant to the present complaint.

¹ See discussion below regarding the proper respondents to this complaint.

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APPLICABLE STATUTORY SECTIONS**Section 67 of the San Francisco Administrative Code:**

- Section 67.5 provides that all meetings of any policy body shall be open and public, pursuant to the Brown Act or the Sunshine Ordinance, whichever provides greater public access.
- Section 67.21 governs responses to a public records request in general.
- Section 67.32 provides, *inter alia*, that the meetings of agencies or institutions attended by City officers, agents, or representatives in their official capacities shall be open. It also provides that communications between such agencies or institutions and City employees, officers, agents, or representatives shall be accessible as public records.

Sections 6252-53 of the Cal. Govt. Code ("CPRA")

- Section 6252 sets forth definitions used in the CPRA.
- Section 6253(c) governs the timeframe in which general requests for public documents must be honored.

Section 54957.5 of the Cal. Govt. Code ("Brown Act")

- Section 54957.5 provides generally that agendas and related materials considered at an open meeting of a legislative body of a local agency are public records.

APPLICABLE CASE LAW

- None

BACKGROUND

On February 11, 2019, Complainant requested from Respondent (among others) a variety of materials related to GBVGVD and MDGBD. Respondent contends that on February 20, 2019, it provided Complainant with 43 documents, comprising 240 pages of materials. Respondent contends that it also referred Complainant to responses to two prior public records act requests, which contained 30 documents containing approximately 600 pages. According to Respondent, Complainant subsequently requested additional documents responsive to his February 11 request, and Respondent informed him that it had already provided all of the responsive documents in its possession or control.

Complainant contends that Respondent has an obligation to obtain additional records from third parties. As to the San Francisco Parks Alliance, Respondent contends that it has no obligation to obtain and provide document from that entity because that party "has not received a grant from Public Works."² It is unclear whether Respondent has contractual relations with any other relevant third party or has a right or obligation to seek documents from them.

² In Complainant's May 29, 2019, submission to the Task Force, he asserts that "the City – through OEWD – has provided extensive funding to San Francisco Parks Alliance (and its predecessor organizations Place Lab and Build Public) to promote the formation of Green

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QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS

- Does Complainant contend that Respondent possesses additional responsive documents? If so, on what basis? If not, what is the legal basis for Complainant's contention that Respondent had an obligation to seek additional documents from third parties?
- From which third parties does Complainant seek additional documents? Is it only the San Francisco Parks Alliance, or it is also the committees associated with GBVGBD and MDGBD?
- Is OEWD a proper respondent? Did it receive notice of the pending complaint? If OEWD is a properly named respondent, should it be afforded additional time to provide a written response and/or present oral argument?

LEGAL ISSUES/LEGAL DETERMINATIONS

- Did Respondent violate the Sunshine Ordinance sections 67.21 or 67.32, CPRA section 6253(c), or Brown Act section 54957.5 by allegedly failing to satisfy Complainant's request for public records in a complete manner?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE TRUE OR NOT TRUE.

* * *

Benefit Districts in several San Francisco neighborhoods." (Emphasis added.) As noted above under Jurisdiction, it is unclear whether OEWD is a proper respondent in this matter and, if so, it was provided an opportunity to respond to the complaint. Complainant goes on to assert that "[p]ublic funding has also flowed to the benefit of the Mission Dolores Green Benefit District formation committee in the form of, among other things, paying for neighborhood mailings, Mission Dolores GBD website development, organizing and holding public meetings and promoting petition drives related to the formation of GDBs." It is unclear whether that, if true, any of this funding was provided by Respondent or whether, in any event, it triggered an obligation for Respondent to seek additional documents from third parties.

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**CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE
ORDINANCE)**

SEC. 67.1. FINDINGS AND PURPOSE.

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force, can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

**SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN
ACT.**

All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this Article. In case of inconsistent requirements under the Brown Act and this Article, the requirement which would result in greater or more expedited public access shall apply.

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**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;
ADMINISTRATIVE APPEALS**

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the supervisor of records for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this ordinance.

(e) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b) above or if a petition is denied or not acted on by the supervisor of public records, the person making the request may petition the Sunshine Task Force for a determination whether the record requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise

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desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.

(f) The administrative remedy provided under this article shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the superior court shall have jurisdiction to order compliance.

(g) In any court proceeding pursuant to this article there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(h) On at least an annual basis, and as otherwise requested by the Sunshine Ordinance Task Force, the supervisor of public records shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the ruling of the supervisor of public records, whether any ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions during that period regarding petitions the Supervisor has decided. At the request of the Sunshine Ordinance Task Force, the report shall also include copies of all rulings made by the supervisor of public records and all opinions issued.

(i) The San Francisco City Attorney's office shall act to protect and secure the rights of the people of San Francisco to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for purposes of denying access to the public. The City Attorney may publish legal opinions in response to a request from any person as to whether a record or information is public. All communications with the City Attorney's Office with regard to this ordinance, including petitions, requests for opinion, and opinions shall be public records.

(j) Notwithstanding the provisions of this section, the City Attorney may defend the City or a City Employee in litigation under this ordinance that is actually filed in court to any extent required by the City Charter or California Law.

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(k) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirements provided in this ordinance.

(l) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

SEC. 67.32. PROVISION OF SERVICES TO OTHER AGENCIES; SUNSHINE REQUIRED.

It is the policy of the City and County of San Francisco to ensure opportunities for informed civic participation embodied in this Ordinance to all local, state, regional and federal agencies and institutions with which it maintains continuing legal and political relationships. Officers, agents and other representatives of the City shall continually, consistently and assertively work to seek commitments to enact open meetings, public information and citizen comment policies by these agencies and institutions, including but not limited to the Presidio Trust, the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the Treasure Island Development Authority, the San Francisco Redevelopment Authority and the University of California. To the extent not expressly prohibited by law, copies of all written communications with the above identified entities and any City employee, officer, agents, or and representative, shall be accessible as public records. To the extent not expressly prohibited by law, any meeting of the governing body of any such agency and institution at which City officers, agents or representatives are present in their official capacities shall be open to the public, and this provision cannot be waived by any City officer, agent or representative. The City shall give no subsidy in money, tax abatements, land, or services to any private entity unless that private entity agrees in writing to provide the City with financial projections (including profit and loss figures), and annual audited financial statements for the project thereafter, for the project upon which the subsidy is based and all such projections and financial statements shall be public records that must be disclosed.

GOVERNMENT CODE SECTION 6250, et seq. (CPRA)

SEC. 6252

As used in this chapter:

(a) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board,

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commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) (1) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(2) Notwithstanding paragraph (1) or any other law, "state agency" shall also mean the State Bar of California, as described in Section 6001 of the Business and Professions Code.

(g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

SEC. 6253

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the

**MEMORANDUM
PRIVILEGED & CONFIDENTIAL**

TO: Sunshine Ordinance Task Force
DATE: June 28, 2019
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RE: Complaint No. 19062: John Hooper v. Department of Public Works

determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(f) In addition to maintaining public records for public inspection during the office hours of the public agency, a public agency may comply with subdivision (a) by posting any public record on its Internet Web site and, in response to a request for a public record posted on the Internet Web site, directing a member of the public to the location on the Internet Web site where the public record is posted. However, if after the public agency directs a member of the public to the Internet Web site, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the Internet Web site, the public agency shall promptly provide a copy of the public record pursuant to subdivision (b).

GOVERNMENT CODE SECTION 54950, *et seq.* (Brown Act)

SEC. 54952

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which

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have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

SEC. 54957.5

(a) Notwithstanding Section 6255 or any other law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, 6254.22, or 6254.26.

(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's

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Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 19062

John Hooper v. Public Works

Date filed with SOTF: 6/1/19

Contacts information (Complainant information listed first):

John Hooper (hooparb@aol.com); 201 Buena Vista Ave., East, SF, CA 94117-4103

(Complainant) Mohammed Nuru (mohammed.nuru@sfdpw.org) David Steinberg

(david.steinberg@sfdpw.org); Jonathan Goldberg (jonathan.goldberg@sfdpw.org) Public Works
(Respondent)

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Administrative Summary if applicable:

Complaint Attached.

Complainant/Petitioners Documents Submission

Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Monday, November 23, 2020 10:52 AM
To: SOTF, (BOS)
Subject: Revised 12/2/20 SOTF statement re #19062 with SOTF file page numbers

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**Revised Statement for the SOTF on December 2, 2020 re Complaint #19062 (PUBLIC WORKS)
to include SOTF file page numbers for ease of reference**

Thank you. My name is John Hooper.

I have explained on previous occasions the reasons for which I have included Public Works in my attempts to understand the City's role in promoting and funding Green Benefit Districts. See my April 3, 2019 letter to the City Attorney (SOTF pages 1079-1084) and my statement to the SOTF Complaints Committee dated August 20, 2019 at which the Committee found that the records I seek are public and there is jurisdiction. The SOTF has, at times, considered combining my two complaints and many references cited in complaint 19061 apply to 19062 as well, though not cited again.

Mr Steinberg has unflappably told the Task Force on several occasions that Public Works (PW) has provided all the relevant documents it has in its possession and that Public Works has no further responsibility for obtaining documents that may reside at San Francisco Parks Alliance because the City contract is between OEWD and Parks Alliance. See PW letter to SOTF dated 1/8/20: "Parks Alliance has not recieved a grant from PW." (see page 491 and 495))

Although it is true that OEWD contracted with Parks Alliance to promote GBDs, should Public Works be absolved of any responsibility to help provide complete information requested by a member of the public simply because a contractual arrangement was handled to another City Department.

Consider the following as evidence of PW's intimate involvement with this GBD program:

1. Public Works pays (or did pay during the relevant period) a full time employee with the job title "Green Benefit District Program Manager". His name is Jonathan Goldberg.
2. Former PW General Manager Mohammed Nuru personally promoted GBDs. (As, incidentally, did former Supervisor and now Mayor London Breed (see footnote 3 in my 4/3/19 letter to the City Attorney (Page 856)
3. At least some of the funding to promote GBDs originated with Public Works. (page 800) All the funding for the failed Inner Sunset GBD campaign was provided by PW and much of the funding for the Mission Dolores effort was a "pass-through" from PW to OEWD. This is a critical piece of missing information.
4. Public Works was formally represented on the 3 member "City's Team" overseeing and approving core tasks and deliverables carried out by Parks Alliance (see Appendix B to 7/1/18 OEWD-Parks Alliance contract (page 359)
5. In the failed Inner Sunset GBD promotion effort, PW was the lead agency involved. Mr Steinberg explained at your January 21, 2020 meeting that OEWD "took over" the GBD program in the Mission Dolores effort. (audio tape)

6. All deliverables under GBD-related contracts with OEWD must be submitted to the GBD Program Manager, housed at Public Works, for approval. (page 361)
7. According to correspondence between PW's GBD Program Manager and members of the defunct Greater Buena Vista GBD formation committee, OEWD does not fund GBDs. (pages 853-863 and 1079-1089). So where did the money come from? Clearly from Public Works (page 800 and 831)

In short, Public Works is not "off the hook" in its responsibility to provide requested information and the SOTF is fully justified in finding a violation and ordering PW to produce relevant information. At the very least, the public has a right to understand the manner and degree by which public funding flowed from, or through, Public Works to pay for any aspect of GBD promotion and development, including how much the Green Benefit District Manager was paid - and for how long - for carrying out the duties described by his job title. A clear violation has occurred and I hope you will confirm this fact and order production of the requested documents, wherever they may reside

Thank you.

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Friday, November 20, 2020 8:02 AM
To: SOTF, (BOS)
Subject: Please add to complaint files 19061 and 19062 for 12/2/20 SOTF meeting
Attachments: Funding page oewd_parksal_grant_01july18.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please add this funding chart to both the above agenda items in preparation for the 12/2/20 meeting. It appears that both OEWD and PW provided funding for the MDGBD campaign.

John Hooper

Please allocate the following way:

Grantee: San Francisco Parks Alliance **Blanket:** Contract ID# 1000012901

**Purpose/
Modules:** Buena Vista and Dolores Park GBDs **Amendment** or New (circle one)

Amount to be encumbered: \$156,984.00 **Workforce** or Econ (circle one)

Grant Byron M Lam
Coordinator: _____

General Fund	Other (Specify)
IIN 18th St. Merchant Capacity Building (ACT 0093) Dept: 207767 Fund: 10010 Authority: 16652 Project: 10022531 Activity: 0093 \$25,000	DPW Dept: 2207767 Fund: 10020 Authority: 17355 Project: 10022531 Activity: 0072 Budget: FY 19 \$33,000.00 \$33,000 from DPW work order in FY 17-18 Public Works work order in FY 18-19 Dept: 207767 Fund: 10010 Authority: 16652 Project: 10022531 Activity: 0136 \$98,984.00 Public Works Order FY18-19

April 3, 2019

by email and Certified Mail

The Honorable Dennis Herrera,
City Attorney for San Francisco
Office of the City Attorney
City Hall Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Does City involvement in formation of Green Benefit Districts (GBDs) violate prohibitions against public employees engaging in political activities?

Dear Mr Herrera:

The City of San Francisco has invested hundreds of thousands of dollars in public funds, grant moneys and staff time to promote the formation of Green Benefit Districts (GBDs), a form of local residential property assessment. (footnote 1) Only one GBD has been formed as a result of this effort (Dogpatch/Portrero); two other GBDs have failed in the face of strong neighborhood opposition (Inner Sunset and Haight). Another GBD effort in the Dolores Park area, also funded by the City and promoted by City employees and grantee San Francisco Parks Alliance, is proving to be contentious and divisive there. (footnote 2)

The City actively promotes the GBD program in several ways. It funds a full-time Green Benefit program manager at Public Works (Jonathan Goldberg) and grant coordinators at the Mayor's Office of Economic and Workforce Development (OEWD) (Chris Corgas and others) to advance the formation of GBDs. City employees steer neighbors toward the GBD concept (footnote 3) write grant proposals (footnote 4); help establish ad hoc GBD formation committees (footnote 5); and routinely schedule and attend GBD formation committee meetings (footnote 6).

In addition, City employees provide funding to consultants (Build Public, AKA place Lab AKA SF Parks Alliance) who further promote GBDs through mass mailings, dedicated websites, biased surveys and tightly-choreographed public meetings which fail to provide a balanced presentation of facts to help voters intelligently decide how to vote on this issue.

After providing grant funding to launch GBD efforts, the City exerts virtually no oversight over the conduct of the GBD process once under way, allowing questionable practices to go unsupervised. Most conspicuously, GBD promoters themselves write and interpret the results of highly biased surveys which serve as their principle evidence of neighborhood interest in a GBD. This lack of supervision allows GBD efforts to advance with alarmingly low survey participation rates among property owners in affected neighborhoods (footnote 7).

In the Dolores Park area, where GBD proponents only achieved a 9.7% participation rate among local property owners in a fall 2018 survey, the local GBD formation committee has declared itself "encouraged" to move ahead quickly to fund a management plan and engineer's report in the absence of public involvement.

Both the management plan and engineer's report must be reviewed by the City Attorney's office for adequacy before the process can move to the petition phase. Yet neighbors have not been provided any opportunity to participate in the creation of these documents.

Ultimately, at a point when local property owners vote in a ballot measure to decide whether to impose a special assessment on themselves, government agencies owning properties in a proposed GBD area (RPD, DPW, SFUSD, SFPD, SFFD etc) vote in the ballot process, often strongly influencing the outcome of the ballot by virtue of their large holdings. Not surprisingly, City agencies routinely vote in favor of forming a GBD.

Thus, from beginning to end, City funding, City employees and grantees and City voting power exert a decisive "thumb on the scale" of the entire GBD process in what amounts to overt advocacy for, distortion of information given to the public (footnote 8) and endorsement of the GBD program.

With the above description of how the the City is conducting GBD campaigns in mind, legitimate questions occur about the propriety of the City's role in these GBD campaigns.

SF Administrative code and state law prohibit use of City funds for "political activity".

Political activity is defined as "participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure."

Your office issues a standard memo to City employees called "Political Activity by City Officers and Employees". It states in part: " No one - including City officers and employees - may use City resources to advocate for or against candidates or ballot measures."

The City's financial backing and staff support of activities intended to lead to the establishment of Green Benefit Districts, as well as the prominent role of City grantees (Place Lab aka SF Parks Alliance) appear to represent prohibited actions because the City is funding and using staff, grantees and funding to participate in, support, or attempt to influence a "ballot measure" in the establishment of GBDs.

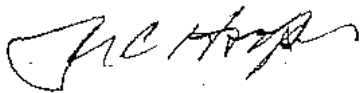
Thus, The City may have been improperly funding political efforts behind formation of the Dogpatch, Inner Sunset, Buena Vista Park neighborhood, and Dolores Park GBDs.

We request that the City Attorney take immediate action to determine the propriety and legality of the City's pivotal role in promoting GBDs and consider as remedies:

- (1) the termination of the City-funded Dolores Park formation effort
- (2) an accounting of all City funds expended or committed in all its GBD formation efforts, directly or through Place Lab, SF Parks Alliance or other intermediaries;
- (3) a return to the City Treasury of all public funds spent or allocated;
- (4) a prohibition on the use of City Funds for any future effort to fund GBDs.

Thank you for your consideration of this important issue. I look forward to hearing from you.

Sincerely,



John C. Hooper
201 Buena Vista Ave. East
San Francisco, CA 94117
415-626-8880
Hooparb@aol.com

cc: Mayor London Breed
Board of Supervisors
Sunshine Ordinance Task Force
General Manager, RPD
General Manager, DPW
Office Of Economic and Workforce Development

Footnotes:

The following "tip of the iceberg" information was only made available through numerous Public Records Act requests. We can provide additional information unearthed through PRA requests as requested:

1) Public Funding To Set up GBDs

- \$330,000 to fund establishment of Portrero GBD
- \$150,000 to fund formation of failed Inner sunset GBD
- \$221,000 projected for establishment of failed GBV GBD (Haight) of which an estimated \$33,000 was spent
- \$157,000 allocated by the City to fund the Dolores GBD through grants to SF Parks Alliance and others
- Full-time salary of DPW employee from 2015 to the present = \$325,000
- Part-time salary of OEWD employees, RPD employees: estimated \$100,000

2) See February 18, 2019 letter from Mission Dolores Neighborhood Association opposing Dolores GBD at [NoGBDtax.org](https://sites.google.com/view/nogbdtax/home) (<https://sites.google.com/view/nogbdtax/home>)

3) Examples of City Officials promoting GBDs: DPW's Mohammed Nuru and former Supervisor London Breed:

From: Breed, London (BOS)

To: Andrea Jadwin

Cc: Nuru, Mohammed (DPW); Goldberg, Jonathan (DPW); Al Minvielle; Brooke Ray Rivera; Ike Kwon

Subject: Re: Thank You for Your Good Idea

Date: Wednesday, September 13, 2017 5:59:24 PM

Thanks Mohammed! You're the best!

Sent from my iPhone

On Sep 13, 2017, at 2:50 PM, Andrea Jadwin < wrote:

Hi Mohammed,

Back in 2015, we had a meeting at McLaren Lodge to talk about improvements to the Inner Sunset neighborhood and GGPark connections. You kindly suggested we look into a Green Benefit District, to which we say 'what's that?'

Thanks to help from Public Works, Supervisor Breed and the folks at Build Public, it looks like we have a good shot at forming the Inner Sunset Green Benefit District. Our neighborhood support is broad and enthusiastic, we've got lots of positive energy about a raft of projects and we're committed to making it happen.

THANK YOU for suggesting the GBD in the first place and for your continued support for the Inner Sunset neighborhood!

Best,

Andrea Jadwin

Inner Sunset Park Neighbors

RPD's Sarah Madland urges steering Dolores neighbors toward GBD

From: Madland, Sarah (REC) Sent: Thursday, March 29, 2018 11:05 AM

To: Corgas, Christopher (ECN) Cc: Goldberg, Jonathan (DPW)

Subject: RE: Dolores park GBD

Thanks. I feel like we should steer them to GBD so the park can be included.

Sarah

Sarah Madland Director of Policy and Public Affairs
San Francisco Recreation and Park Department |
City & County of San Francisco McLaren Lodge in Golden Gate Park |
501 Stanyan Street | San Francisco, CA | 94117

4. Goldberg and GBV GBD Chair rewrite grant proposal to meet OEWD guidelines:

From: Goldberg, Jonathan (DPW)
To: "Isabel Wade"; Brooke Ray Rivera
Subject: RE: proposal
Date: Thursday, February 22, 2018 11:26:00 AM
Attachments: BVGBD Proposal draft OEWD proposal - PW Edits.docx

Hi Isabel & Brooke Ray --

Here are my revisions to Isabel's OEWD grant proposal (see attached). **One item to note: per instruction from my colleague at OEWD, I have omitted "green" from "green benefit district" and associated acronyms in the grant proposal.** For the purpose of this submittal, the titled of the group is "Greater Buena Vista Benefit District Formation Committee." (side note for Isabel: "Formation Committee" is the colloquialism used for GBDs, whereas "Steering Committee" is used for CBDs/BIDs).

I also wanted to follow-up to confirm the Formation Committee's role vis a vis Place Lab. It is my understanding

that Isabel will be the primary manager of the Greater Buena Vista GBD formation effort, with support and professional guidance from Place Lab.

Regarding the specific components of the OEWD grant proposal, here is what's outstanding vs. already completed.

PART I: LEAD APPLICANT PROFILE

Lead Applicant (i.e., fiscal agent, per instruction on RFP) -- to be filled-out by Place Lab

Program Lead -- to be filled out by Isabel

PART II: OEWD GRANT NARRATIVE

Applicant Qualifications and Staff Assignments -- 90% complete, just need a few sentences about Place Lab.

Approach, Activities and Outcomes -- complete

Performance Measurement and Reporting -- complete

Financial Management & Budget -- copy from Inner Sunset grant proposal? Isabel & PW to modify after proposal

budget template has been drafted (Appendix B, below).

APPLICATION PACKAGE CHECKLIST: OEWD SUPPLEMENTAL MATERIALS

Appendix B: Proposal Budget Template -- Place Lab to draft, submit to Isabel for review/comment/edit

Appendix C: Proposal Application for RFP 208 (these are the "grant narrative" materials listed above)

Appendix D: Staffing & Composition Chart -- Re-use modified version from Inner Sunset grant proposal to

incorporate Greater Buena Vista Benefit District Formation Committee a lead organization, supported by Place Lab.

Appendix E: Submission Authorization from E.D. -- Place Lab to draft letter OK'ing grant proposal

Org Budget -- Place Lab to re-use from Inner Sunset grant proposal

Org Chart -- Place Lab to re-use from Inner Sunset grant proposal, sans Street Plans Collab.

Letters of Support -- Isabel working on

Please feel free to let me know if there are any outstanding questions.

Cheers,

Jonathan

Jonathan Goldberg

Green Benefit District

Program Manager

Operations | San Francisco Public Works | City and County of San Francisco

2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 | (c) 415.304.0749

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-----Original Message-----

From: Isabel Wade [mailto:

Sent: Wednesday, February 21, 2018 2:11 PM

To: Brooke Ray Rivera <brookeray@buildpublic.org>

Cc: Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>

Subject: proposal

Here is a copy of the proposal as far as I took it. Also the SC list (have to check on owner status, but that's my

recollection for now) ***I changed some of the language from what I sent to Jonathan based on not wanting to identify***

the project as a Green Benefit District since OEWD doesn't seem to fund those!

As indicated to you, but restated here for Jonathan, my reservation about you submitting the proposal instead of

URS (Urban Resource Systems) relates to expenditures needed to ensure the database is robust. I don't want URS to be out on the tail end of

insufficient funds for the project; we have already advanced Ken Cook funds to date that I believe Jonathan

indicated could be reimbursed if and when the district is established.

Also, Phil wants to hire CMG for the/a vision process related to BV; he was going to ask my neighbor to pay for it.

I sent him the Capital Plan from our process, which he had not seen, and it certainly has enough vision for capital

improvements. I don't know where that is going to go but just to give you a heads up.

I will ask Bill Barnes to get us a letter from Sheehy.

Jonathan, you need to give me a call. Isabel

Steering Committee:

Isabel Wade, Convenyor, property owner

Jan Chernoff, property owner

Bonnie Fisher, Co-convenyor, property owner Boris Dramov, property owner Sue Rugtiev, property owner Tiffany

Friedman, renter Janice Nicol, renter Pat Dusenbury, renter Craig Latker, Property Owner Dan Slaughter, Property

owner Jill Allen, Property Owner Michelle Leighton, Property Owner

Isabel Wade

5) Chris Corgas contacts Jim Chappell, former SPUR director, asking him to participate in Dolores GBD formation committee; Jim Chappell accepts

From:

Sent: To:

Cc: Subject:

Great ! Welcome to our group, Jim! Thank you, Chris.

Hans Kolbe Celantra Systems

From: Corgas, Christopher (ECN) [mailto:christopher.corgas@sfgov.org]

Sent: Friday, June 01, 2018 10:45 AM

To: Brooke Ray Rivera <brookeray@placelabsf.org>; Sam@biritemarket.com; Hans Kolbe <hanskolbe@celantrasystems.com>; Carolyn Thomas <carolynj0@yahoo.com>; Toral Patel <toral@placelabsf.org>; Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>; bruce.r.bowen@gmail.com; Robert Brust <rkbrust@gmail.com>; Jim Chappell <jimchappellsf@gmail.com>

Subject: New SC member - Dolores Park GBD

Hi All,

I am sure I am missing a bunch of my emails in my haste to get this out. I ran into Jim Chappell last evening, who lives in the vicinity we are looking at for the Dolores Park GBD and is interested in becoming involved.

For those of you who do not know, he specializes in providing strategic assistance to the development community and public agencies on private-public initiatives. From 1994 to 2009, he led the San Francisco Planning and Urban Research Association (SPUR), bringing a balanced and informed perspective to San Francisco Bay Area urban issues through research, education, and advocacy. Prior to that he began his career as a planning and development consultant, working for some of the country's top planning firms, on a wide variety of projects for developers, public agencies, and community groups.

He is skilled in strategic planning, positioning, zoning and land use planning, project siting, entitlements, public/private partnerships, historic preservation, park and recreation planning, community relations and government relations.

Jim is highly regarded in the field and I have had the pleasure of working with him on various CBD formations. I trust his wisdom will be most beneficial to steering committee.

Please loop him in, he is included in this email.

Regards,

Chris Corgas, MPA

Senior Program Manager

Hans Kolbe <hanskolbe@celantrasystems.com>

Friday, June 01, 2018 11:38 AM

Corgas, Christopher (ECN); 'Brooke Ray Rivera'; Sam@biritemarket.com; 'Carolyn Thomas'; 'Toral Patel'; Goldberg, Jonathan (DPW); bruce.r.bowen@gmail.com; 'Robert Brust'; 'Jim Chappell'

'Dana De Laura'; Carolyn Kenady; 'Conan McHugh'

RE: New SC member - Dolores Park GBD

Office of Economic and Workforce Development 1 Dr. Carlton B. Goodlett Place, Room 448
San Francisco, CA 94102

O: 415-554-6661

christopher.corgas@sfgov.org

6) Goldberg and Corgas helping set up, schedule and participate in formation committee meetings:

From: "Corgas, Christopher (ECN)" Date: Tuesday, February 13, 2018 at 4:28 PM

To: "Fatooh, Martin (BOS)" , "Sheehy, Jeff (BOS)"

Subject: Dolores Park Steering Committee Update

Hi Supervisor Sheehy and Marty,

Below are the names that we have received thus far for the Dolores Park GBD Steering Committee: Gideon Kramer, formerly Mission Dolores Neighborhood Association, Mission history collector Kevin O'Shea, NAG Neighborhood Action Group / Hancock Street Neighborhood Group Robert Brust, Dolores Works and Dolores Ambassadors Peter Gabel, 24th Street Noe Valley Market Square Carolyn Kenady, Dolores Heights Improvement Club Eric Guthertz, Principal of Mission High Sam Mogannam, Birite Hans Kolbe

I believe this is a solid start to get started. Ideally, I would like to see at least 2 to 4 more people join, not including Rec and Park which will be as well. Do you have any concerns with this list or anyone you would like to see added? I will try to convene a meeting next week and will inform you of date, time, and location. Thank you!

Regards, Chris Corgas, MPA Senior Program Manager
Office of Economic and Workforce Development
1 Dr. Carlton B. Goodlett Place, Room 448 San Francisco, CA 94102
O: 415-554-6661 christopher.corgas@sfgov.org

Good afternoon all – Please use this conference call number for tonight's check-in call:
PHONE: +1 (866) 921-5445 PIN: 7402584#

I also want to congratulate you all on the successful outreach to date – as of today, you've netted 455 survey responses.

We'll be diving a bit more into these details later tonight. Looking forward to chatting with you at 6 PM!

Cheers, Jonathan

Jonathan Goldberg
Green Benefit District Program Manager

From: Brooke Ray Rivera Sent: Thursday, June 07, 2018 2:34 PM

To: Isabel Wade; Corgas, Christopher (ECN); Toral Patel; Goldberg, Jonathan (DPW)

Subject: Meeting to finalize GBV GBD grant scope Hi Isabel, Please e-meet Chris Corgas from OEWD who is our grant administrator for the \$33K GBV GBD grant. As I've discussed with

both of you, I think it's important that we all sit down together to revise and finalize the scope and allocations of this \$33K. Jonathan you should attend as well if possible.

Toral and I want to make sure that the services we at Place Lab are providing are the best use of the City's money for the most benefit to the neighborhood. Chris has confirmed that we can incorporate a revision to the scope via a grant contract amendment, which we'll be doing anyway for other reasons related to the Dolores Park GBD component of the contracts. Isabel, when is best for you within the following times, for a meeting at our office (315 Linden in Hayes Valley): [?] Thursday June 14th 9am-4:30pm [?] Monday June 18th 1-4:30pm [?] Tuesday June 19th 2-6pm All of these work for Chris, Toral and I. Jonathan please weigh in as well.

Thanks, Brooke Ray

econdevintern, (ECN)

From:

Sent: To:

Cc: Subject:

My apologies for the mix up. Thank you Hans for clarifying!

Since we have enough folks who can attend the proposed June 26th meeting date, I will be following-up with a calendar invite shortly.

Cheers, Jonathan

Jonathan Goldberg Green Benefit District Program Manager
Operations | San Francisco Public Works | City and County of San Francisco 2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 |
sfpublicworks.org · twitter.com/sfpublicworks

From: Hans Kolbe [mailto:hanskolbe@celantrasystems.com]

Sent: Tuesday, June 19, 2018 9:42 AM

To: Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>; 'Toral Patel' <toral@placelabsf.org>; 'Brett Lider' <blider@gmail.com>; bruce.r.bowen@gmail.com; 'Carolyn Thomas' <carolynj0@yahoo.com>; ckerby@sbcglobal.net; 'Dana De Lara' <danadelara@gmail.com>; 'Eric Guthertz' <guthertze@sfsd.edu>; 'Gideon Kramer' <gykramer@earthlink.net>; 'Jim Chappell' <jimchappellsf@gmail.com>; lioremg@gmail.com; nori.yatsunami.tong@gmail.com; rebecca@cds-sf.org; 'Robert Brust' <rkbrust@gmail.com>; 'Sam Mogannam' <sam@biritemarket.com>; toddsdavid@gmail.com

Cc: Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; 'Brooke Ray Rivera' <brookeray@buildpublic.org> Subject: Clarifying action item assignments and volunteers RE: REMINDER: Doodle Poll + Notes from 6/12 Dolores Park GBD Meeting

Jonathan,

Thanks a lot for the detail minutes of our meeting, great! My recollection of the two groups preparing for the next meeting is different than you wrote down. I believe Dana, Carolyn, and Robert volunteered for the communication plan, and Liore and I volunteered for the survey questionnaire draft. I asked Conan whether he volunteered. He offered to review any intermediary work product – but did not want to be part of the assignment. Please let me know if I am remembering incorrectly. In the meantime, I will start working with Liore on the survey.

Goldberg, Jonathan (DPW)

Thursday, June 21, 2018 6:03 PM

Hans Kolbe; 'Toral Patel'; 'Brett Lider'; bruce.r.bowen@gmail.com; 'Carolyn Thomas'; ckerby@sbcglobal.net; 'Dana De Lara'; 'Eric Guthertz'; 'Gideon Kramer'; 'Jim Chappell';

lioremg@gmail.com; nori.yatsunami.tong@gmail.com; rebecca@cds-sf.org; 'Robert Brust';
'Sam Mogannam'; toddsdavid@gmail.com
Corgas, Christopher (ECN); 'Brooke Ray Rivera'
RE: Clarifying action item assignments and volunteers RE: REMINDER: Doodle Poll + Notes
from 6/12 Dolores Park GBD Meeting

1

Thank you

Hans Kolbe Celantra Systems

From: Goldberg, Jonathan (DPW) [mailto:jonathan.goldberg@sfdpw.org]

Sent: Monday, June 18, 2018 5:32 PM

To: Toral Patel <toral@placelabsf.org>; Hans Kolbe <hanskolbe@celantrasystems.com>; Brett
Lider <blider@gmail.com>; bruce.r.bowen@gmail.com; Carolyn Thomas
<carolynj0@yahoo.com>; ckerby@sbcglobal.net; Dana De Lara <danadelara@gmail.com>; Eric
Guthertz <guthertze@sfsd.edu>; Gideon Kramer <gykramer@earthlink.net>; Jim Chappell
<jimchappellsf@gmail.com>; lioremg@gmail.com; nori.yatsunami.tong@gmail.com;
rebecca@cds-sf.org; Robert Brust <rkbrust@gmail.com>; Sam Mogannam
<sam@biritemarket.com>; toddsdavid@gmail.com

Cc: Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Brooke Ray Rivera
<brookeray@buildpublic.org> Subject: REMINDER: Doodle Poll + Notes from 6/12 Dolores
Park GBD Meeting

Hi all!

Just a reminder to respond to this Doodle poll to confirm our next meeting date.

At our June 12th meeting, we tentatively set our next meeting date to be Tuesday, June 26th at
6 PM, pending the availability of our greater group. If this date doesn't work for most, we'll
reschedule this meeting for another date in June or July.

Cheers, Jonathan

Jonathan Goldberg Green Benefit District Program Manager

Operations | San Francisco Public Works | City and County of San Francisco 2323 Cesar

Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 | (c) 415.304.0749

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-----Original Appointment-----

From: Goldberg, Jonathan (DPW)

Sent: Wednesday, October 24, 2018 7:40 PM

To: Goldberg, Jonathan (DPW); Brett Lider (blider@gmail.com); Bruce Bowen; Carolyn; Corgas,
Christopher (ECN); Claude Imbault; conan mchugh; Ned Moran; Eric Guthertz; Hans Kolbe;
'Jim Chappell'; Liore Milgrom-Gartner; nori yatsunami tong;

David; Brooke Ray Rivera;

Cc: brookeray@buildpublic.org; juliaayeni@sfparksalliance.org; Conan McHugh Subject:

Outreach Check-in: Mission Dolores GBD Feasibility Survey

When: Monday, October 29, 2018 6:00 PM-7:30 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Conference Call

Hi all -

This conference call will be to check-in regarding survey and outreach efforts to date.

Conference call details will be forthcoming.

Cheers, Jonathan

7) Property owner participation in Inner Sunset survey:12.8%

in Greater Buena Vista (Haight) survey:14.6%

In Dolores area survey: property owner response 9.7%

8) GBV GBD committee chair encourages RPD to omit reference to significant work done in BV Park which might give impression a GBD is not necessary.

From: Isabel Wade <

Date: April 16, 2018 at 2:49:56 PM EDT To: Phil Ginsburg <pginsburg@me.com> Subject: GBD Meeting

Hi Phil,

You mentioned you were working on something for us to help promote the need for extra resources for BV and Corona - if so, can you please send? Also, *would you please mention to Carol that her presentation at the BVNA meeting on Wed night should not be too glowing related to what has been accomplished lately (tree removal etc) and the prospect of upcoming bond funds, otherwise people will think there is no need for extra resources with the GBD!* She can point out that any bond funds that BV might get will fall far short of the \$30 million estimated in our Capital Planning process of 3 years ago (and that is without any cost increase factor for now!) unless we are able to get a much bigger bond. And RPD does not have (as far as I know) enough staff resources NOW to provide the level of service needed/desired and is very unlikely to get more given the seemingly endless (and increasing) other priorities of the city that always seem to come first (i.e. health, homeless, housing, etc). Hopefully this latter point will be covered in data you are sending? Looking forward to seeing you all on Thursday for our discussion about GBD management concepts. I really hope we will need them! Best, Isabel

--
Isabel Wade

Just One Tree, Chief Lemon Ambassador 415-

Phil Ginsburg <pginsburg@me.com> Monday, April 16, 2018 11:56 AM Pawlowsky, Eric (REC)

Fwd: GBD Meeting

Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Wednesday, May 29, 2019 8:10 AM
To: Thompson, Marianne (ECN); Corgas, Christopher (ECN); Nuru, Mohammed (DPW); Goldberg, Jonathan (DPW); drew@sfparksalliance.org
Subject: Renewed PRA request for documents related to GBDs and not yet provided
Attachments: PRA request 2_11_19 re GBVGBD and MDGBD -highlighted.pages

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May 29, 2019

by email and certified mail

Director, Office of Economic and Workforce Development
Director, San Francisco Public Works
Board of Directors and CEO, San Francisco Parks Alliance
Formation Committee, Mission Dolores GBD

Re Renewed Public Records Act request for additional documents pertaining to formation of a Greater Buena Vista Green Benefit District and a Mission Dolores Green Benefit District.

Dear Sirs and Mesdames:

The purpose of this letter is to request that you provide additional documents and materials originally requested in nine numbered paragraphs as set forth in my earlier PRA request dated February 11, 2019. **Many of the documents requested at that time have not been provided.**

The City and County of San Francisco must provide all documents and information funded by the City as described in my earlier PRA request dated February 11, 2019. I enclose a copy of that letter for your ease of reference.

Thank you for your prompt attention to this matter.

Sincerely,

John Hooper
201 Buena Vista Ave east
San Francisco, CA 94117-4103
415-626-8880

cc: standard distribution

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, June 11, 2019 10:33 AM
To: SOTF, (BOS)
Subject: Re: SOTF complaint- OEWD, Public Works, SF Parks Alliance, DPW

Hi Cheryl:

The documents guy at DPW told me he had nothing more than what they sent in February.

As far as Parks Alliance goes, that's news to me that I've been working with the Director. Have sent them the same PRA requests with no response. I have never spoken with the Director about getting documents directly from him, though I would not object.

Anyway, It's the City's responsibility to provide information from grants they funded.

Thanks!

John Hooper

On Jun 11, 2019, at 10:14 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

I spoke with Marianne and she sent via email their response. What about the requests to Public Works and Parks Alliance? Did you get anything from either dept.? I spoke with someone from Parks Alliance who said that you had been working with the Director to get your documents. Please advise. Thank you.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: JOHN HOOPER <hooparb@aol.com>
Sent: Friday, June 7, 2019 4:10 PM

To: SOTF, (BOS) <sotf@sfgov.org>

Subject: Re: SOTF complaint- OEWD, Public Works, SF Parks Alliance, DPW

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi again Cheryl:

I received over 40 emails from

OEWD - each with numerous attachments - on March 5 responding to my Feb 11 PRA request.

Although voluminous, they were only partially responsive to my request.

In particular, OEWD failed to produce any of the requested materials produced by Parks Alliance, Place Lab and/or the Dolores GBD formation committee which were paid for by the OEWD grant in question (such as mailings, website development, survey materials, agendas, petition, invoices for contractor work and so forth)

The public has a right to see these materials - paid for with public funds - even though the work may have been carried out by a third party.

The OEWD contract with Parks Alliance makes it clear that all products paid for by the grant are the property of the City and therefore subject to SOTF's jurisdiction.

I will not have access to the materials OEWD sent me til I get back to my office.

It might be quicker to ask Marianne Thompson at OEWD to send the same batch of emails to you.

Hope this helps!

John Hooper

On Jun 7, 2019, at 2:18 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

Please see attached your May 29 complaint for your requested records. I write to ask if you have received anything from these departments and if you have, please forward them to me for processing of your complaint. Thank you and call me if you have questions.

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

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P1616

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, June 11, 2019 11:43 AM
To: SOTF, (BOS)
Subject: More re SOTF complaint re GBDs

Yes, Cheryl. I was referring to David Steinberg.

I am in Arizona on a family emergency and don't have access to the most recent exchange I had with him.

Will get you that info ASAP.

It does seem strange that the City Department which houses and funds the GBD program manager - Jonathan Goldberg - has repeatedly claimed it does not have basic information about the GBD program.

Most recently, Jonathan was asked how long a petition drive involving the DOLORES GBD, which has been extended, would run and he did not know the answer to this basic question. He said he would ask the local GBD committee. That's the last anyone has heard.

This means, in effect, that informal local groups, funded by the City, are now dictating important aspects of an official process to approve a new property tax!

The public is caught in a shell game involving DPW, OEWD, Parks Alliance and the Dolores GBD formation committee: whatever information is being requested is generally somebody else's responsibility.

I hope SOTF will view this matter as the assault on the public's ability to understand what its government is doing that it represents.

Thanks and I'll get any additional info you need as soon as I get home.

Sincerely,

John Hooper

On Jun 11, 2019, at 11:13 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

Are you referring to David Steinberg when you say "guy at DPW"? Can you please provide their response to this request? Thank you.

Also, I just saw Marianne Thompson from OEWD and she provided four thumb drives holding all the documents that they produced to you.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: JOHN HOOPER <hooperb@aol.com>
Sent: Friday, June 7, 2019 4:10 PM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Re: SOTF complaint- OEWD, Public Works, SF Parks Alliance, DPW

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Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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<Hooper.pdf>

Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Monday, August 12, 2019 3:58 PM
To: SOTF, (BOS)
Subject: Re: SOTF - Complaint Committee; August 20, 2019 5:30 p.m; submitting index for the record

Hi Cheryl:

Thanks for your note explaining the 8/13 deadline for submitting materials for the SOTF Complaint Committee 8/20 hearing. I will be working out in the field Tuesday 8/13 so am going to try to send you all pertinent info today. I spoke at SOTF hearings related to the Green Benefit District issue on 3/5/19 and again on 5/21/19 at which I submitted materials and I have also written the SOTF on several occasions.

Therefore, in the Index that follows, I will make a note ("by reference") after materials I believe you already have so you don't have to wade through a bunch of stuff second time.

At the 8/20 hearing, can you tell me how much time I am given to testify and may I combine my remarks concerning the two items, since the issues I would like to raise are virtually identical.

Best, John Hooper

INDEX of materials for SOTF reading file

A. Basic documents

1. Complaint to SOTF dated 5/29/19 enclosing letters described in (2) below (by ref)
2. Renewed PRA requests dated 5/29/19 to DPW, OEWD, Parks Alliance and Formation Committee of MD GBD attaching original 2/11/19 PRA request to the same recipients (by ref)
3. My written and oral testimony before SOTF on 3/6/19, submitted for the record with 2/11/19 PRA request (by ref)
4. My written and oral testimony before SOTF on 5/21/19 submitted for the record along with my 4/3/19 letter to City Attorney (public employees are engaging in illegal political activities by promoting GBD elections) and my 4/17/19 letter to City attorney (irregularities in conduct of MD GBD petition process) (by ref)

B. Correspondence with OEWD, illustrating ongoing difficulties obtaining information requested in 2/11/19 PRA request

1. My *certified* 2/11/19 PRA request to OEWD returned as undeliverable on 2/17/19 (can send photo if useful)
2. 3/5/19 email from me to OEWD stating I have received no response to my 2/11/19 PRA request (by ref)

3. 3/5/19 a series of 44 emails from OEWD purporting to respond to my 2/11/19 PRA request. Last one says "this concludes your Sunshine request" (by ref)
4. 5/7/19 email from me to OEWD sending list of items still not received as requested on 2/11/19 (by ref)
5. 5/7/19 response from OEWD: does not have any more docs and is closing this request (by ref)
6. 6/11/19 exchange of emails between me and SOTF (by ref)
7. 6/12-13/19 and 7/3/19 exchanges of emails between me, SOTF and Parks Alliance (by ref)
8. 6/14/19 OEWD sends more info relating to MD GBD, most of it right on GBD website (by ref)
9. 6/21/19 OEWD reiterates it has sent me everything (by ref)

C. Miscellaneous/background

1. SF Chronicle front page 5/14/19: "Extra Cleanup Fee for Dolores Park neighbors?" By Dominic Fracassa (by ref)
2. 6/11/19 email to Marianne Thompson and Jonathan Goldberg (by ref) :

" I am sorry we got off to a less than optimal start after the recent SOTF hearing at which I attempted to introduce myself. My intent, wth both you and Jonathan Goldberg, was to make it clear that, though we may disagree on a given policy matter, I have nothing but high regard for City employees and the important work you do.

Howeve, I consider it inappropriate for public employees to refuse to speak to a member of the public as both you and Jonathan did on the occasion in question."

I look forward to working cordially with you in the future.

Sincerely, John Hooper

-----Original Message-----

From: JOHN HOOPER <hooparb@aol.com>

To: SOTF, (BOS) <sotf@sfgov.org>

Sent: Wed, Aug 7, 2019 9:55 am

Subject: Re: SOTF - Complaint Committee; August 20, 2019 5:30 p.m: submitting info for the record?

Good to know; thank you!

John Hooper

On Aug 7, 2019, at 8:21 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

Yes, you can submit materials as long as you do so on or before August 13. Everything else that I have been given will be included in the packet. Once the Agenda packet has been uploaded, you will be able to see everything that I have received in your file.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: JOHN HOOPER <hooparb@aol.com>

Sent: Wednesday, August 7, 2019 8:19 AM

To: SOTF, (BOS) <sotf@sfgov.org>

Cc: Juan De Anda <deanda_sophia@comcast.net>; Rudakov, Vladimir (HSA) <Vladimir.Rudakov@sfgov.org>; Pang, Ken (HSA) <Ken.Pang@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Nuru, Mohammed (DPW) <mohammed.nuru@sfdpw.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>; 72056-97339218@requests.muckrock.com; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; 72902-46637773@requests.muckrock.com; Heckel, Hank (MYR) <hank.heckel@sfgov.org>

Subject: Re: SOTF - Complaint Committee; August 20, 2019 5:30 p.m: submitting info for the record?

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Re: Files: 19061 and 19062

Hi Cheryl: May I submit written materials ahead of time for SOTF to read? If so, when would you like to receive materials?

May I assume information previously submitted by myself or others is already part of the SOTF record and may be referenced without resubmitting?

Thank you.

John Hooper

On Jul 29, 2019, at 2:05 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: August 20, 2019

Location: City Hall, Room 408

P1623

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19068: Complaint filed by Sophia De Anda against the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

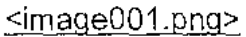
File No. 19044: Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19047: Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.25 and 67.29-5, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure). ***For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, August 13, 2019.***

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written

or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Wednesday, August 21, 2019 10:49 AM
To: SOTF, (BOS)
Subject: Legal memo re Public Records Act application to obtaining information held outside City offices
Attachments: SFPGA.Legal Rsch.Cal Pub Records Act, GC 6250 ff (00003647x9CE40) (1).DOCX

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Cheryl: I was glad to have a chance to meet you in person yesterday at the Complaints Committee hearing. May I ask you to please add this email and the attachment to the files pertaining to complaints # 19061 and #19062 (now combined). Please make sure SOTF members are made aware of this information. Thanks, as always, John Hooper

This memo speaks to the ability of City agencies to compel production of information held by Parks Alliance.

Attached is a legal research memo describing the reach of the Public Records Act into the offices and computers of government employees and contractors who are holding public documents (including documents which are, by contract, the property of the government, even when not located on governmental premises).

These are the relevant provisions from the City of SF (OEWD) July 1, 2018 grant to Parks Alliance, which give City ownership of the Parks Alliance documents, records (including invoices, surveys, etc) Cal Government Code 6252(e) and 6253.3 (*governmental entity may not allow a third party to control whether or not a public record will be produced*). The controlling cases are the 2017 City of San Jose case and the 2013 Community Youth Activity Center vs. National City cases, analyzed in above-attached memo.

California Public Records Act

https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=7.&chapter=3.5.&lawCode=GOV&title=1.&article=1.

6250.

In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

6252.

As used in this chapter:

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

6253.3.

A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this chapter.

City of San Jose vs. Superior Court of Santa Clara County (2017),
2 Cal.5th 608, 389 P.3rd 848, 214 Cal.Rptr.3d 274

Holding that writings contained in a public employee's personal e-mail account are "public records" subject to disclosure and production by the public entity under the California Public Records Act (Govt. Code Section 6250, ff).

(1) meets the "prepared by" the agency test, even if it is solely on the employee's own computer or phone

(2) meets the "owned, used, or retained by" the agency test.

"... fundamental question whether a document located outside an agency's walls, or servers, is sufficiently "owned, used, or retained" by the agency so as to constitute a public record" Concluding the documents "do not lose this status because they are located in an employee's personal account."

Proposition 59 amended the Constitution to provide "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." (Cal. Const., art. I, § 3, subd. (b)(2), *italics added*.) "Given the

strong public policy of the people's right to information concerning the people's business (Gov. Code, § 6250), and the constitutional mandate to construe statutes limiting the right of access narrowly (Cal. Const., art. I, § 3, subd. (b)(2)), "all public records are subject to disclosure unless the Legislature has expressly provided to the contrary." (Sierra Club, at p. 166.)

3. Prepared by Any State or Local Agency

The City focuses its challenge on the final portion of the "public records" definition, which requires that writings be "prepared, owned, used, or retained by any state or local agency." (§ 6252, subd. (e).) The City argues this language does not encompass communications agency employees make through their personal accounts. However, the broad construction mandated by the Constitution supports disclosure.

The City's narrow reading of CPRA's local agency definition is inconsistent with the constitutional directive of broad interpretation. (Cal. Const., art. I, § 3, subd. (b)(2); see *Sierra Club v. Superior Court*, supra, 57 Cal.4th at p. 175.) Broadly construed, the term "local agency" logically includes not just the discrete governmental entities listed in section 6252, subdivision (a) but also the individual officials and staff members who conduct the agencies' affairs. It is well established that a governmental entity, like a corporation, can act only through its individual officers and employees. (*Suezaki v. Superior Court* (1962) 58 Cal.2d 166, 174 [23 Cal. Rptr. 368, 373 P.2d 432]; *Alvarez v. Felker Mfg. Co.* (1964) 230 Cal.App.2d 987, 998 [41 Cal. Rptr. 514]; see *United States v. Dotterweich* (1943) 320 U.S. 277, 281 [88 L. Ed. 48, 64 S. Ct. 134]; *Reno v. Baird* (1998) 18 Cal.4th 640, 656 [76 Cal. Rptr. 2d 499, 957 P.2d 1333].) A disembodied governmental agency cannot prepare, own, use, or retain any record. Only the human beings who serve in agencies can do these things. When employees are conducting agency business, they are working for the agency and on its behalf.

4. Owned, Used, or Retained by Any State or Local Agency

CPRA encompasses writings prepared by an agency but also writings it owns, uses, or retains, regardless of authorship. Obviously, an agency engaged in the conduct of public business will use and retain a variety of writings related to that business, including those prepared by people outside the agency. These final two factors of the "public records" definition, use and retention, thus reflect the variety of ways an agency can possess writings used to conduct public business.

Appellate courts have generally concluded records related to public business are subject to disclosure if they are in an agency's actual or constructive possession. (See, e.g., *Board of Pilot Commissioners v. Superior Court* (2013) 218 Cal.App.4th 577, 598 [160 Cal. Rptr. 3d 285]; *Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 710 [140 Cal. Rptr. 3d 622] (*Consolidated Irrigation*).) "[A]n agency has constructive possession of records if it has the right to control the records, either directly or through another person." (*Consolidated Irrigation*, at p. 710.) For example, in *Consolidated Irrigation*, a city did not have constructive possession of documents in files

maintained by subconsultants who prepared portions of an environmental impact report because the city had no contractual right to control the subconsultants or their files. (Id. at pp. 703, 710–711.) By contrast, a city had a CPRA duty to disclose a consultant's field survey records because the city had a contractual ownership interest and right to possess this material. (See *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1426, 1428–1429 [164 Cal. Rptr. 3d 644] (Community Youth).)

It is a separate and more fundamental question whether a document located outside an agency's walls, or servers, is sufficiently "owned, used, or retained" by the agency so as to constitute a public record. (See § 6252, subd. (c).) In construing FOIA, federal courts have remarked that an agency's public records "do not lose their agency character just because the official who possesses them takes them out the door." (*Competitive Enterprise Institute v. Office of Science and Technology Policy*, supra, 827 F.3d at p. 149.) We likewise hold that documents otherwise meeting CPRA's definition of "public records" do not lose this status because they are located in an employee's personal account. A writing retained by a public employee conducting agency business has been "retained by" the agency within the meaning of section 6252, subdivision (e), even if the writing is retained in the employee's personal account.

The City argues various CPRA provisions run counter to this conclusion. First, the City cites section 6270, which provides that a state or local agency may not transfer a public record to a private entity in a manner that prevents the agency "from providing the record directly pursuant to this chapter." (*Italics added.*) Taking the italicized language out of context, the City argues that public records are only those an agency is able to access "directly." But this strained interpretation sets legislative intent on its head. The statute's clear purpose is to prevent an agency from evading its disclosure duty by transferring custody of a record to a private holder and then arguing the record falls outside CPRA because it is no longer in the agency's possession. Furthermore, section 6270 does not purport to excuse agencies from obtaining public records in the possession of their own employees. It simply prohibits agencies from attempting to evade CPRA by transferring public records to an intermediary not bound by the Act's disclosure requirements.

we have previously stressed that a document's status as public or confidential does not turn on the arbitrary circumstance of where the document is located.

D. Conclusion

Consistent with the Legislature's purpose in enacting CPRA, and our constitutional mandate to interpret the Act broadly in favor of public access (Cal. Const., art. I, § 3, subd. (b)(2)), we hold that a city employee's writings about public business are not excluded from CPRA simply because they have been sent, received, or stored in a personal account.

Statement of John Hooper to SOTF
January 21, 2020

Re file # 19061 (OEWD) and File # 19062 (DPW)
Failure of agencies to provide comprehensive documents related to a proposed
Mission Dolores Green Benefit District (MD GBD)

Good afternoon Chairman and Task Force members:

Thank you for this opportunity. My name is John Hooper. I am a resident of the Haight.

The public's right to obtain information about government activities through the use of Public Record Act Requests has been central to deciphering the City's campaign to promote Green Benefit Districts (GBDs).

On June 12, 2018, during a City-orchestrated effort to start a GBD in the Haight (the now defeated so-called Greater Buena Vista GBD), I filed a Public Records Act request to obtain basic information about the budget to form that GBD, the role of City employees and the role of a non-profit called, variously, Build Public or Place Lab which conducted the actual outreach for the scheme. The results of this PRA request proved immensely helpful in educating neighbors about that local GBD effort. Once neighbors came to understand that the City had budgeted \$221,000 merely to promote this campaign, was using City staff from both DPW and OEWD to support the effort and we understood that the City intended, ultimately, to use the voting power of City-owned properties to ram the idea through, the GBD was discredited.

After neighbors defeated that GBD in the Haight and another in the Inner Sunset, the City next targeted the Dolores Park neighborhood in an attempt to set up a GBD there - an effort which is still dragging on. The Mission Dolores GBD Petition drive has now languished for 280 days while proponents continue to contact local property owners to reach the number of signatures they need. Compare this timeframe to the maximum 180 days a citizen is allowed to qualify a ballot initiative. This petition drive and the whole GBD formation process is unregulated. No one at the City level is paying attention to it. That is why is so important for concerned citizens to be able to understand what is really going on.

In the Mission Dolores area, neighbors have witnessed the same approach which had been tried in the Inner Sunset and Haight: close involvement of City employees setting up a "steering committee", helping select its membership and

schedule meetings, setting up a glossy website, conducting a petition drive and sending out mailings. Build Public/Place Lab has now merged with San Francisco Parks Alliance and the Parks Alliance had become the foot soldier and recipient of City funding (at least \$160,000) to push through a GBD there.

I filed another PRA request on February 11, 2019 asking for much the same information that we had been able to obtain in the Haight. But, by then, OEWD and DPW seemed to be waking up to the fact that this program was universally unpopular, and it might be best if the City's role - and that of its proxy, San Francisco Parks Alliance - were kept in the shadows. Since then, I have addressed the SOTF on March 5, 2019, May 21, 2019 and August 20, 2019, all trying to get complete answers to that original February 11, 2019 PRA request.

As the City Attorney's July 15, 2019 confidential memo to SOTF states, the agencies provided "voluminous" paperwork, but failed to produce many of the requested materials produced by Parks Alliance, Place Lab and/or the Dolores GBD formation committee which were paid for by the OEWD grant in question (such as mailings, website development, survey materials, agendas, petition, invoices for contractor work and mailings).

For example, at your August 20, 2019 SOTF Complaints Committee hearing, a representative of OEWD handed me printouts of all the materials the agency allegedly had in its possession. Yet, when I went through these documents, they were more than a year old, most of the information was printed off old websites and most related to the abandoned Greater Buena Vista GBD effort. I can provide that packet for the record if you so request.

The reason the public knows that there are additional materials that have never been disclosed can be seen plainly by looking at a portion of the July 1, 2018 Contract between OEWD and Parks Alliance in an appendix entitled "**IV. Tasks and Deliverables for Project Area B: Dolores Park Neighborhood.**" I submit pages 6 through 14 of those 31 tasks and deliverables attached to this statement for the record. Those tasks and deliverables are remarkably similar to the information I requested in my February 11, 2019 PRA request.

The public has a right to see these materials- paid for with public funds- even though the work may have been carried out by a third party.

Without being exhaustive, you can readily see that Parks Alliance was hired by the City to form the steering committee, organize and run its meetings and help develop its mission. You can see that the City's grantee was paid to develop a website and fact sheets, that -with the active participation of City employees - it

ran all community meetings, kept attendance records and produced minutes; developed a data base for mailings to property owners.

In addition, the City's proxy, Parks Alliance, developed, distributed, collected and interpreted a survey of residents concerning their attitudes about a GBD. No one else had access to this information which was ultimately presented in a highly distorted fashion, indicating broad community support where there was virtually none.

Later, last April (2019) Parks Alliance initiated a Petition Drive to the Board of Supervisors in a rushed manner so that neighbors had no time to comment on either a Management Plan or Engineer's Report which are the legal underpinnings of a GBD. The Engineer's Report has since been challenged before the State Engineer's Board for using statistics unrelated to the Mission Dolores area.

DPW and OEWD are thumbing their noses at the SOTF. The only way that this kind of wasteful City-funded program can continue is for the City agencies involved to hide behind bogus arguments that they are exempt from your jurisdiction or that they have provided all relevant information when their own contracts make it clear we have only seen the tip of the iceberg.

We members of the public need your help exposing this program for the wasteful and deceitful exercise it has been. On behalf of numerous concerned San Franciscans, I hope you will require that the information I have asked for since February 2019 be provided.

Thank you.

IV. TASKS AND DELIVERABLES FOR PROJECT AREA B: DOLORES PARK NEIGHBORHOOD

Task 1. Monthly Steering Committee Meetings

- Grantee shall organize and facilitate monthly Project Area B steering committee meetings. Meetings shall develop the vision and mission for a potential GBD in Project Area B.
- Grantee shall build steering committee capacity for Project Area B GBD feasibility and formation.
- Grantee shall finalize Project Area B boundaries with input from steering committee.

Task 1 Deliverables

- A. Invoice(s) for time spent completing Task 1.
- B. An agenda and meeting minutes for each steering committee meeting

Task 2. Develop and Manage Website

- Grantee shall be responsible for managing the Project Area B website.
- Grantee shall be responsible for all domain hosting fees and volunteer coordination in relation to the website.

Task 2 Deliverables

- C. Invoice(s) for website development and ongoing management, including domain fees.
- D. A functional website url for Project Area B GBD formation.

Task 3. Develop Collateral

- Grantee shall develop collateral for the formation of the Dolores Park GBD.
- Collateral shall include, but is not limited to, the following:
 - o Fact sheet
 - o Frequently Asked Questions (FAQs)
 - o A map of the area

Task 3 Deliverables

- E. Invoice(s) for the drafting of content, graphic design services, and the printing of collateral.
- F. A copy of the fact sheet.
- G. A copy of the Frequently Asked Questions document.
- H. A copy of the map of the area.

Task 4. Conduct Community Meeting #1

- Grantee shall support a community meeting in Project Area B regarding the formation of a Green Benefit District. Grantee shall be responsible for:
 - o Meeting preparation
 - o Meeting materials
 - o Meeting facilitation
 - o Meeting minutes/notes

- o. Meeting debrief with the Dolores Park GBD steering committee.

Task 4 Deliverables

- I. Invoice for time spent completing Task 4.
- J. Copy of meeting minutes/notes
- K. Sign in sheets for community meeting showing attendance

Task 5. Draft Property Owner and Business Databases

- Grantee shall develop and maintain a property owner databases of all parcels within Project Area B. Property owner database shall contain:
 - o APN
 - o Owner Name
 - o SITUS
 - o Mailing Address
 - o Mailing City
 - o Mailing State
 - o Mailing Zip Code
- Grantee shall develop and maintain a business database of all businesses with Project Area B. Business database shall include:
 - o Business name
 - o Business address
 - o Owner name
 - o Owner contact info

Task 5 Deliverables

- L. Invoice(s) for time and fees related to the development of these databases.
- M. Final property owner database
- N. Final business database

Task 6. Develop Survey Questionnaire

- Grantee shall develop and draft a FPS for the proposed Dolores Park GBD. The FPS will allow City's Team and the Dolores Park GBD Steering Committee to determine if pursuing a GBD within the proposed district is feasible. Additionally, FPS results will serve as a guide for the development of the Dolores Park GBD management plan if the proposed GBD is determined to be feasible. The FPS will provide property owners and stakeholders the opportunity to give valuable feedback on what they see as the proposed district's biggest concerns and if they are interested in pursuing a GBD. The survey will be reviewed by City's Team before it is disseminated. Potential questions must include one in which the participant is directly asked if they are interested in pursuing a GBD in a yes or no format.

Task 6 Deliverables

- O. Invoice(s) for time and materials utilized on the development of a survey questionnaire.
- P. Email approval from City's Team indicating survey questionnaire meets City standards.
- Q. Finalized survey questionnaire.

Task 7. Disseminate Survey

- Grantee shall mail surveys to all property owners, merchants, and stakeholders by United States Postal Service (USPS). Grantee may also distribute surveys via email, in person, or via the internet.

Task 7 Deliverables

- R. Invoice(s) for surveying printing and postage.
- S. Invoice(s) for any work related to in person or digital release of surveys.
- T. Receipts for printing and postage

Task 8. Tabulate and Analyze Survey Results

- Grantee shall tabulate, analyze, and synthesize all GBD survey results.

Task 8 Deliverables

- U. Invoice(s) for time spent tabulating, analyzing, and synthesizing all survey results
- V. Draft survey results

Task 9. Conduct Community Meeting #2

- Grantee shall support a community meeting in Project Area B regarding the formation of a Green Benefit District. Grantee shall be responsible for:
 - Meeting preparation
 - Meeting materials
 - Meeting facilitation
 - Meeting minutes/notes
 - Meeting debrief with the Dolores Park GBD steering committee.

Task 9. Deliverables

- W. Invoice for time spent completing Task 9.
- X. Copy of meeting minutes/notes
- Y. Sign in sheets for community meeting showing attendance

Task 10. Draft and Final Survey Summary Report

- Grantee shall draft a survey summary report, which shall include the following work:
 - Content
 - Layout and design
 - Any and all revisions
- Survey summary report shall include
 - Results of community meetings
 - Finalized survey results
 - Recommendations and suggestions for the Project Area B GBD steering committee

- An explanation of methodology on how report was constructed.

Task 10. Deliverables

- Z. Invoice(s) for the content, layout and design, and any and all revisions related to Survey Summary Report
- AA. Final Survey Summary Report

Task 11. Conduct Community Meeting #3

- Grantee shall support a community meeting in Project Area B regarding the formation of a Green Benefit District. Grantee shall be responsible for:
 - Meeting preparation
 - Meeting materials
 - Meeting facilitation
 - Meeting minutes/notes
 - Meeting debrief with the Dolores Park GBD steering committee.

Task 11 Deliverables

- BB. Invoice for time spent completing Task 11.
- CC. Copy of meeting minutes/notes
- DD. Sign in sheets for community meeting showing attendance

Task 12. Ongoing Community and Stakeholder Engagement

- Grantee shall provide ongoing community and stakeholder engagement support including, but not limited to, the following:
 - Mailer productions
 - Promotional and marketing materials
 - Setting up and hosting meetings
 - Making and setting up phone calls
 - Neighborhood events

Task 12 Deliverables

- EE. Invoice(s) for work related to Task 12, with sufficient detail to determine what was accomplished.
- FF. A copy of each item produced under Task 12.
- GG. Proof of mailing for any item that requires mailing under Task 12.

Task 13. Biweekly Public Meetings to Develop Management Plan and Engineer's Report for Project Area B GBD

- Grantee shall organize and provide support for no less than 8 public meetings to develop a Project Area B GBD management plan and engineer's report.

Task 13 Deliverables

- HH. Invoice(s) for time, labor, and materials related to the completion of task 13.
- II. Meeting agendas for each community meeting.
- JJ. Meeting notes for each community meeting.

Task 14. Draft and Final Management Plan

- Grantee shall develop a management plan based off survey questionnaire input and public meetings.
- Grantee's first version of management plan shall be known as the draft version.
- Draft version of the management plan must be approved by a majority vote of the Project Area B steering committee.
- Draft version of the management plan shall be submitted to both City's Team and the City Attorney for review.
- Grantee shall not have a finalized management plan until an approval letter from both City's Team and the City Attorney has been received.

Task 14. Deliverables

- KK. Invoice(s) for time, materials, and labor spent on the development of draft and finalized management plan for Project Area B.
- LL. All draft management plans for Project Area B.
- MM. Final management plan for Project Area B.

Task 15. Draft and Final Engineer's Report

- Grantee shall develop an engineer's report based off survey questionnaire input and public meetings.
- Grantee's first version of engineer's report shall be known as the draft version.
- Draft version of the engineer's report must be approved by a majority vote of the Project Area B steering committee.
- Draft version of the engineer's report shall be submitted to both City's Team and the City Attorney for review.
- Grantee shall not have a finalized engineer's report until an approval letter from both City's Team and the City Attorney has been received.

Task 15 Deliverables

- NN. Invoice(s) for time, materials, and labor spent on the development of draft and finalized engineer's report for Project Area B.
- OO. All draft engineer's report for Project Area B.
- PP. Final engineer's report for Project Area B.

Task 16. Assessment Database

- Grantee shall develop an assessment database for Project Area B. Assessment database shall contain:
 - APN.
 - Owner Name.
 - SITUS.

- Parcel characteristics used to calculate assessments
- Total Assessment to be paid on that parcel.
- % that parcel's payment would be of total (% of total assessment).
- Care of.
- Mailing Address.
- Mailing City.
- Mailing State.

Task 16 Deliverables

- QQ. Invoice(s) for all time, labor, and related fees for the completion of an assessment database for Project Area B.
- RR. Final assessment database for Project Area B.

Task 17. PW and City Attorney Review and Approval

- Grantee shall obtain Public Works and City Attorney approval on the Finalized Management Plan and Engineer's Report for Project Area B.
- Grantee shall communicate the contents of the finalized Management Plan and Engineer's Report for Project Area B to the appropriate District Supervisor(s)

Task 17 Deliverables

- SS. Approval emails from Public Works and City Attorney for the finalized Management Plan and Engineer's Report.
- TT. Email indicating contents of Management Plan and Engineer's Report have been shared with the appropriate District Supervisor(s)

Task 18. Property Owner Outreach

- Grantee shall host between 5 and 10 meetings with large stakeholders in Project Area B.
- Large stakeholders shall mean the top 100 individual largest assessment holders in Project Area B.

Task 18 Deliverables

- UU. Invoice(s) for time, labor, and costs incurred in the completion of Task 18.

Task 19. Ongoing Community and Stakeholder Engagement

- Grantee shall provide ongoing community and stakeholder engagement support including, but not limited to, the following:
 - Mailer productions
 - Promotional and marketing materials
 - Setting up and hosting meetings
 - Making and setting up phone calls
 - Neighborhood events

Task 19 Deliverables

- VV. Invoice(s) for work related to Task 19, with sufficient detail to determine what was accomplished.
- WW. A copy of each item produced under Task 19.
- XX. Proof of mailing for any item that requires mailing under Task 19.

Task 20. Develop Petition campaign Outreach Materials and Strategy

- Grantee shall develop petition phase outreach materials and strategy.

Task 20 Deliverables

- YY. Invoice(s) for all time, labor, and materials used in the completion of Task 20.

Task 21. Review of Petition Package by City Attorney and PW

- Grantee shall secure approval of the City Attorney and PW prior to mailing the petition package to potential assessment payers.

Task 21 Deliverables

- ZZ. Approval email from the City Attorney
- AAA. Approval email from PW

Task 22. Develop and Mail Petition Package

- Grantee shall develop and mail a petition package to all potential assessment payers within Project Area B.

Task 22 Deliverables

- BBB. Invoice(s) for the printing and mailing of petitions

Task 23. Property Owner Outreach and Petition Tracking

- Grantee shall be responsible for property owner outreach through the petition phase.
- Grantee shall be responsible for tracking returned petitions throughout the petition phase.
- Grantee shall conduct outreach to ensure 30% or more of the total weighted assessments of the district respond in favor of forming a GBD.
- In the event the third bullet point of Task 23 is not completed, Grantee cannot bill or invoice for Tasks 24 -- 31.

Task 23 Deliverables

- CCC. Invoice(s) for time, labor, and costs incurred in the completion of Task 23.
- DDD. Bi-weekly petition tracker updates to City's Team.

Task 24. Communications and Engagement for Government Audit and Oversight Committee and Board of Supervisors Hearings

- Grantee shall be responsible for all pertinent community communication and engagement related to Government Audit and Oversight Committee hearings and Board of Supervisors hearing.

Task 24 Deliverables

EEE. Invoice(s) for time, labor, and costs incurred in the completion of Task 24.

Task 25. Ongoing Community and Stakeholder Engagement

- Grantee shall provide ongoing community and stakeholder engagement support including, but not limited to, the following:
 - Mailer productions
 - Promotional and marketing materials
 - Setting up and hosting meetings
 - Making and setting up phone calls
 - Neighborhood events

Task 25 Deliverables

FFF. Invoice(s) for work related to Task 19, with sufficient detail to determine what was accomplished.

GGG. A copy of each item produced under Task 19.

HHH. Proof of mailing for any item that requires mailing under Task 19.

Task 26. Develop Ballot Campaign Outreach Materials and Strategy

- Grantee shall develop a ballot campaign strategy and develop outreach materials for the ballot phase.

Task 26 Deliverables

III. Invoice(s) for work related to Task 26.

Task 27. Develop Ballot Cover Letter and Submit to the Department of Elections

- Grantee shall develop a ballot package which shall include cover letter, final Management Plan, and final Engineer's Report and submit it to the Department of Elections via PW.

Task 27 Deliverables

III. Invoice(s) for work related to Task 27 along with final version of cover letter.

Task 28. Property Owner Outreach and Ballot Tracking

- Grantee shall be responsible for property owner outreach through the balloting period, ensuring that identified “YES” votes fill out their ballot(s) and turn them into the Department of Elections via mail, courier, or in person.
- Grantee shall receive a ballot report every Friday of the balloting period from PW. Grantee shall review balloting report and provide a best guess estimate to whether or not a vote is in favor of the GBD or not. Grantee shall provide City’s Team an estimate of where the vote would land if election ended at that ballot period.

Task 28 Deliverables

KKK. Invoice(s) for any mailers sent out associated with property owner outreach during this period.

LLL. Ballot reports returned to City’s Team with updated hypotheses and vote projections.

Task 29. Communication and Engagement for Board of Supervisors Hearing and Resolution of Establishment

- Grantee shall be responsible for all pertinent community communication and engagement related to Government Audit and Oversight Committee hearing(s) and Board of Supervisors hearing(s) related to balloting.

Task 29 Deliverables

MMM. Invoice(s) for all time, materials, labor, and costs incurred in the completion of Task 29.

Task 30. Ongoing Community and Stakeholder Engagement

- Grantee shall provide ongoing community and stakeholder engagement support including, but not limited to, the following:
 - Mailer productions
 - Promotional and marketing materials
 - Setting up and hosting meetings
 - Making and setting up phone calls
 - Neighborhood events

Task 30 Deliverables

NNN. Invoice(s) for work related to Task 30, with sufficient detail to determine what was accomplished.

OOO. A copy of each item produced under Task 30.

PPP. Proof of mailing for any item that requires mailing under Task 30.

Task 31. Resolution of Establishment Signed by the Mayor and Certified by the Clerk of the Board of Supervisors

- Grantee shall provide City’s Team with a certified copy, with Mayor’s signature, of the Resolution of Establishment indicating the GBD passed the vote and has been established.

Task 31 Deliverables

Young, Victor (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Wednesday, February 12, 2020 4:26 PM
To: SOTF, (BOS)
Subject: Please include as part of Sunshine Ordinance Task Force record: files #19061 and 19062

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Hi Victor:

Please include this information in the SOTF reading file for the Complaint Committee on 2/18/20 as part of the official record of files #19061 and 19062 which I will present and also make this information available to the full Task Force.

The linked article referenced below relates directly to public concerns about DPW and OEWD's involvement with San Francisco Parks Alliance and involves issues which have been brought before the SOTF for more than a year.

SF corruption probe: PG&E, major construction firms, nonprofits hit with subpoenas

Pacific Gas & Electric Co. is among the companies served with a subpoena Wednesday, along with major construction firms Webcor, Pankow and Clark Construction.

Waste management company Recology was also hit with a subpoena.

Nonprofits the **San Francisco Parks Alliance**, the Lefty Lefty O'Doul's Foundation for Kids and the San Francisco Clean City Coalition were also served.

<https://www.sfchronicle.com/bayarea/article/SF-corruption-probe-PG-E-major-construction-15051179.php>

Young, Victor (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Monday, February 10, 2020 10:08 AM
To: SOTF, (BOS)
Subject: Fwd: Mission Dolores GBD Petition Drive has now run more than 300 days

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please include this email and the 2/7/20 email below in the record of SOTF file 19062. Please note that, at the 1/21/20 SOTF hearing, the SOTF Chair asked DPW's David Steinberg the status of the Mission Dolores Green Benefit District. Mr Steinberg responded that he did not know. The DPW Green Benefit District Program Manager, who presumably would have been in a position to update the SOTF, was not in attendance.

Thank you, John

-----Original Message-----

From: John C. Hooper <hooparb@aol.com>
To: jonathan.goldberg <jonathan.goldberg@sfdpw.org>
Sent: Fri, Feb 7, 2020 12:21 pm
Subject: Mission Dolores GBD Petition Drive has now run more than 300 days

To: Jonathan Goldberg, Green Benefit District Program Manager, DPW.

Hi Jonathan:

Could you please let me know the status of the Mission Dolores GBD Petition Drive to the Board of Supervisors, initiated on or about April 12, 2019.

Is the signature gathering effort still being pursued? If so, what percentage of the required signatures have been received and how much longer will the petition drive be allowed to continue?

Appreciate your acknowledging receipt of this message.

Thank you,

John Hooper

Young, Victor (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Tuesday, February 11, 2020 11:01 AM
To: SOTF, (BOS)
Subject: For SOTF Complaint Comm 2/18/20 files #19061 and 19062
Attachments: SOTF Complaint Comm 21820.pages

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Statement before the SOTF Complaint Committee re City's failure to provide full and complete responses to PRA requests regarding a proposed, publicly-funded Mission Dolores Green Benefit District. Files # 19061 and #19062 February 18, 2020

Thank you for this opportunity. My name is John Hooper. My appearance today originated with a PRA request filed with various agencies, on February 11, 2019, a little over a year ago. After several follow-up requests to OEWD and DPW to provide complete information, I filed a second similar PRA request on May 29, 2019 and a complaint to this body.

This committee established SOTF jurisdiction over my complaints at a meeting on August 20, 2019 and forwarded the matters to the full Task Force. I appeared before the task force on January 21, 2020. However, because I had neglected to submit new information to the Task Force in a timely manner prior to that hearing, this matter was referred back to you. That was my oversight and I apologize. I submitted the statement I had intended to make that day in person, requesting that it be made part of the official record.

The whole issue of Green Benefit Districts (GBD), of which you have heard testimony from numerous citizens over the past year, is particularly noteworthy now because the GBD program can be traced back directly to the desk of Mohammed Nuru, the disgraced head of DPW who is now being investigated on multiple charges of corruption. See my 4/3/19 letter to the City Attorney at footnote 3, page F1.

Prior to filing my SOTF complaint, I made numerous efforts to work with OEWD to obtain items that I still had not seen ((316). On several occasions, OEWD informed me that it had sent me everything it had available and closed the request; yet, when I insisted, the agency continued to send more information. This piecemeal release of information by OEWD is disconcerting and undermines the public's faith in City Government.

This is a serious issue for SOTF. Will this body allow an agency to state it has satisfied its obligations under the Sunshine Ordinance by inundating the public with irrelevant information or will you require substantive and complete responses provided by knowledgeable employees within a given agency?

Attempts to obtain information

2/17 - certified letter to OEWD returned as "Undeliverable" (photocopy and 286)
2/25/19 I write to OEWD stating my letter was returned and sending 2/11/19 letter again.(318)
2/25/19 OEWD replies that it is collecting documents
3/5/19 - I write to OEWD saying I've had no response to my 2/11/19 request (305)
3/5/19 I receive a series of 44 emails from OEWD - each with multiple attachments - purporting to respond to my 2/11/19 PRA request. (322-363)
3/25/19 - more documents arrive from OEWD
5/7/19 email from me to OEWD sending list of items still not received as requested on 2/11/19 (316 and 288)
5/7/19 response from OEWD: does not have any more docs and is closing this request (319)
6/7/19 info still not received (296)
6/11/19 exchange of emails between me and SOTF (313) while I was out of town for an emergency. OEWD representative tells members of SOTF that "Mr Hooper was at the Bohemian Grove and lost documents." This is a complete fabrication; I was with my daughter who had brain surgery at the Barrow Brain Center in Phoenix on 6/13/19. In any case, I am not a member of the Bohemian Grove and would have had no reason for being there. I did not lose any documents.
6/11/19 to DPW (19062 - 483 mentions a "thumb drive" (never received by me) and 484
6/12-13/19 and 7/3/19 exchanges of emails between me, SOTF and Parks Alliance (310 -312)
6/14/19 OEWD sends more info relating to MD GBD, most of it right on GBD website (308; 322 - 363; 364 and 365 -424)
6/21/19 OEWD reiterates it has been fully responsive (305).
7/3/19 same statement again (303)

8/20 - I appear before the SOTF Complaint Committee. OEWD representative hands me a packet of papers "as a courtesy" purporting to be all the information it has. Packet turns out to be obsolete information or pages copied from public websites. Jurisdiction is established and my file forwarded to the full SOTF for consideration.

1/21/20 SOTF Chair asked DPW's Custodian of Records David Steinberg the status of the Mission Dolores GBD effort. Steinberg replies he does not know and DPW's GBD program manager is absent

2/7/20 I repeat a question to DPW's Green District Manager about status of MDGBD. No response.

The first four questions in my original PRA request dated 2/11/19 pertained exclusively to the now defeated Greater Buena Vista GBD. It appears from email correspondence that DPW, OEWD and the GBV GBD formation committee conspired to alter the original OEWD grant application so that it would appear to qualify for funding. See 4/3/19 letter to City Attorney at Footnote 4 pages F2 and F3.

However, questions 5 through 9 pertain to the Mission Dolores GBD which the City is still promoting and funding through a July 2018 contract with SF Parks Alliance which runs through June of this year.

Information requested on February 11, 2019 and still not received

5. Verbatim transcripts, photographs, videos, tape recordings, sign-in sheets, attendance records, notes, memoranda, reports, and any other records in any form of public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018. NOT RECEIVED

6. All emails, text messages, and other correspondence, including minutes of all MDGBD formation committee meetings, relating to the planning, execution, and/or follow-up related to public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018. NOT RECEIVED

7. All raw survey data collected in connection with Mission Dolores GBD surveys. SOME DATA RECEIVED

8. All documents, records, and/or correspondence relating to the funding and initiation of a management plan/engineer's report in connection with a Mission Dolores GBD. NOT RECEIVED

9. All public records, as defined in Gov. Code Section 6252 (c) and (e), including correspondence (including but not limited to letters, e-mails, and text messages), contracts, agreements, mailing lists, surveys and online surveys, responses to surveys and online surveys, budgets, expenditures, and memoranda (including all methods of transcription) memorializing, describing, or otherwise relating to the planning for, public interest and/or opinion surveying for, expenditure of public funds for, organization, and/or formation of a possible Mission Dolores GBD. NOT RECEIVED, other than some information about the survey.

In a nutshell, OEWD has blocked release of invoices or money spent under the current MDGBD contract. There is no accounting of any money spent under a \$ 156,000 contract. The "official" explanation is it doesn't exist.

But, the MDGBD engineering report exists, the MDGBD management Plan exists and the Boston Tech Survey was completed. Incidentally, all of these documents have been officially questioned due to bias and inaccuracy.

We also know the this information exists because much of it is required to be provided to OEWD under the terms of the July 1, 2018 contract between OEWD and Parks Alliance. See the attachment to my statement of January 21, 2020 entitled Tasks and Deliverables under Project Area B: Dolores Park Neighborhood. All the information required by OEWD under that contract is required to be made available to the public.

Today, I request that you reaffirm your jurisdiction over this matter and send my files to the full SOTF. Thank you.

Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Tuesday, February 11, 2020 11:13 AM
To: SOTF, (BOS)
Subject: Correction to SOTF submission for the record re #19061 and 09162
Attachments: SOTF Complaint Comm 2_18_20.pages

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Victor:

Please excuse me. I just sent you an email with my proposed statement for the 2/18/20 Complaint Committee hearing.

The content in the body of that earlier email is correct but the attachment I sent was an earlier draft.

This attachment should be the current version.

Please let me know if this is still confusing.

John 415-990-9511 (cell) or 415-626-8880 (office)

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firms, nonprofits hit with subpoenas

Dominic Fracassa

Feb. 12, 2020 | Updated: Feb. 20, 2020 9:17 a.m.



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File - In this March 19, 2015, file photo, Mohammed Nuru, director of San Francisco Public Works, is interviewed at the Tenderloin Pit Stop mobile bathrooms in San Francisco. A top San Francisco official in charge of cleaning up the city's notoriously filthy streets and a champion of adding more portable toilets has been arrested, jail ...

Photo: Jeff Chiu / Associated Press

The San Francisco city attorney's office issued subpoenas for eight companies and nonprofit organizations Wednesday as part of the ongoing government corruption scandal launched in the wake of former Public Works Director Mohammed Nuru's

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Construction.

Waste management company Recology was also hit with a subpoena. Nonprofits the San Francisco Parks Alliance, the Lefty O'Doul's Foundation for Kids — which has already been implicated in the scandal — and the San Francisco Clean City Coalition were also served.

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The city attorney's office issued the subpoenas because officials suspected that the companies and nonprofits improperly funneled donations to city programs and events, including Public Works holiday parties.



San Francisco City Insider

Corruption in the Public Works Department

Supervisor Matt Haney has long been frustrated by the filthy streets and lack of trash cans and public restrooms ...

00:00:00



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The documents City Attorney Dennis Herrera's office demanded would suggest the investigation is looking into whether money was sloshing between the companies and the nonprofits for years, with some of it potentially ending up back at Public Works or other city agencies.

To print the document, click the "Original Document" link to open

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In general, the subpoenas sent to the companies demand documents dating back to January 2015 detailing any payments made to the various nonprofit groups. That includes paperwork showing any payments made specifically for city holiday parties and any evidence of city employees soliciting “money, goods or services” from the corporations.

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LOCAL

BY DOMINIC FRACASSA

SF corruption case: Nuru resigns in wake of fraud charges, but...



LOCAL POLITICS

BY DOMINIC FRACASSA

Corruption case: Nuru, Bovis in court as employment probe...

A recent report in the San Francisco Examiner detailed how Webcor, Pankow and Recology allegedly pumped money into the Lefty O'Doul's foundation, a children's baseball charity run by restaurant owner Nick Bovis, which may have paid for a \$30,000 holiday party for Public Works staff.

The subpoena to the Parks Alliance is comprehensive, demanding all bank records, correspondence, emails and any documents related to the fiscal relationship between the organization and the city. The Clean City Coalition, ostensibly a nonprofit focused on street-cleaning and beautification work, must disclose any payments it received from Recology, the Parks Alliance, the Lefty O'Doul's foundation and any donations or payments that came from, or went to, a city agency or program.

"We're following the facts, and we're following the money," Herrera said in a statement. "We are going to follow the evidence wherever it leads. We will get to the bottom of this. San Franciscans deserve no less."

Firms like Webcor, Pankow and Recology rely on city officials to approve their contracts and to green-light development projects they're involved in.

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expecting the contribution would be used to fulfill the organization's mission" and used for a holiday party toy drive, Singer said. The company made donations to the charity from 2014 to 2019, all at the request of Public Works officials, Singer said.

A PG&E spokesman, Matt Nauman, acknowledged that the company received the subpoena and is reviewing it and will respond. "PG&E and its employees work hard every day to uphold both the letter and spirit of the law and the company's own ethical standards," Nauman said.

Clark Construction said it would cooperate fully with the city attorney's office, but declined to comment further.

Recology said in a statement it launched its own investigation into the company's contributions "to the Lefty O'Doul's Foundation for Kids, the San Francisco Parks Alliance and the San Francisco Clean City Coalition." The company said it contacted the city attorney's office Monday and "pledged to cooperate with any investigation."

Nuru resigned his post as the director of Public Works on Monday, nearly two weeks after he was arrested on fraud charges linked to a widening government corruption scandal in San Francisco. He had been on paid administrative leave.

Nuru and Bovis, the owner of the now-closed Lefty O'Doul's restaurants, are accused of concocting several schemes, some of which were allegedly intended to steer city contracts to Bovis.

Nuru has also been accused of accepting gifts from a billionaire Chinese developer in exchange for help with a development deal, lying to the FBI, and receiving free and discounted building materials that he did not disclose.

Multiple people with knowledge of the matter confirmed that Nuru has been

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corruption and need to be revoked.

Herrera's office on Wednesday indicated that the investigation has already yielded some results. In their criminal complaint, federal officials alleged that Nuru gave Bovis inside information to help him obtain a city contract to build portable toilets that would serve the homeless. The city attorney and controller's investigation found that Public Works awarded the \$171,000 contract to an entity tied to Bovis, SMTM Technology, in June.

The company was supposed to deliver the toilets by December, but they never arrived. For that reason alone, the city was able to terminate the contract, which it did last week, Herrera's office said. No city money was paid to SMTM in connection with that contract.

Herrera and City Controller Ben Rosenfield have provided glimpses into the scope and progress of their respective inquiries to the public amid widespread outcry at the corruption allegations. Last week, Herrera and Rosenfield took the unusual step of outlining the contours of the investigation due in part to several supervisors suggesting that city officials could not be entrusted to produce an independent investigation.

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While city officials search for Nuru's permanent replacement, Alaric Degrafinried

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None of the other companies or nonprofits involved in the investigation responded to requests for comment.

San Francisco Chronicle staff writers Roland Li and Anna Bauman contributed to this report.

Dominic Fracassa is a San Francisco Chronicle staff writer. Email: dfracassa@sfgchronicle.com Twitter: @dominicfracassa

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San Francisco Chronicle staff writers Roland Li and Anna Bauman contributed to this report.

Dominic Fracassa is a San Francisco Chronicle staff writer. Email: dfracassa@sfchronicle.com Twitter: [@dominicfracassa](https://twitter.com/dominicfracassa)

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Young, Victor (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Thursday, February 13, 2020 10:57 AM
To: Young, Victor (BOS)
Cc: Calvillo, Angela (BOS)
Subject: Another format: SOTF statement for the record re #19061 and 09162

Hi Victor: Apologies for the inconvenience. Here is my statement below copied into the body of this email. Will this work? I'm out the door now to a meeting but will be back later today. Thanks John

Statement before the SOTF Complaint Committee re City's failure to provide full and complete responses to PRA requests regarding a proposed, publicly-funded Mission Dolores Green Benefit District. Files # 19061 and #19062
February 18, 2020

Thank you for this opportunity. My name is John Hooper. My appearance today originated with a PRA request filed with various agencies, on February 11, 2019, a little over a year ago. After several follow-up requests to OEWD and DPW to provide complete information, I filed a second similar PRA request on May 29, 2019 and a complaint to this body.

This committee established SOTF jurisdiction over my complaints at a meeting on August 20, 2019 and forwarded the matters to the full Task Force. I appeared before the task force on January 21, 2020. However, because I had neglected to submit new information to the Task Force in a timely manner prior to that hearing, this matter was referred back to you. That was my oversight and I apologize. I submitted the statement I had intended to make that day in person, requesting that it be made part of the official record.

The whole issue of Green Benefit Districts (GBD), of which you have heard testimony from numerous citizens over the past year, is particularly noteworthy now because the GBD program can be traced back directly to the desk of Mohammed Nuru, the disgraced head of DPW who is now being investigated on multiple charges of corruption. See my 4/3/19 letter to the City Attorney at footnote 3, page F1.

Prior to filing my SOTF complaint, I made numerous efforts to work with OEWD to obtain items that I still had not seen ((316). On several occasions, OEWD informed me that it had sent me everything it had available and closed the request; yet, when I insisted, the agency continued to send more information. This piecemeal release of information by OEWD is disconcerting and undermines the public's faith in City Government.

This is a serious issue for SOTF. Will this body allow an agency to state it has satisfied its obligations under the Sunshine Ordinance by inundating the public with irrelevant information or will you require substantive and complete responses provided by knowledgeable employees within a given agency?

Attempts to obtain information

2/17 - certified letter to OEWD returned as "Undeliverable" (photocopy and 286)

2/25/19 I write to OEWD stating my letter was returned and sending 2/11/19 letter again.(318)

2/25/19 OEWD replies that it is collecting documents

3/5/19 - I write to OEWD saying I've had no response to my 2/11/19 request (305)

3/5/19 I receive a series of 44 emails from OEWD - each with multiple attachments - purporting to respond to my 2/11/19 PRA request. (322-363)

3/25/19 - more documents arrive from OEWD

5/7/19 email from me to OEWD sending list of items still not received as requested on 2/11/19 (316 and 288)

5/7/19 response from OEWD: does not have any more docs and is closing this request (319)

6/7/19 info still not received (296)

6/11/19 exchange of emails between me and SOTF (313) while I was out of town for an emergency. OEWD representative tells members of SOTF that "Mr Hooper was at the Bohemian Grove and lost documents." This is a complete fabrication; I was with my daughter who had brain surgery at the Barrow Brain Center in Phoenix on 6/13/19. In any case, I am not a member of the Bohemian Grove and would have had no reason for being there. I did not lose any documents.

6/11/19 to DPW (19062 - 483 mentions a "thumb drive" (never received by me) and 484

6/12-13/19 and 7/3/19 exchanges of emails between me, SOTF and Parks Alliance (310 -312)

6/14/19 OEWD sends more info relating to MD GBD, most of it right on GBD website (308; 322 - 363; 364 and 365 -424)

6/21/19 OEWD reiterates it has been fully responsive (305)

7/3/19 same statement again (303)

8/20 - I appear before the SOTF Complaint Committee. OEWD representative hands me a packet of papers "as a courtesy" purporting to be all the information it has. Packet turns out to be obsolete information or pages copied from public websites. Jurisdiction is established and my file forwarded to the full SOTF for consideration.

1/21/20 SOTF Chair asked DPW's Custodian of Records David Steinberg the status of the Mission Dolores GBD effort. Steinberg replies he does not know and DPW's GBD program manager is absent

2/7/20 I repeat a question to DPW's Green District Manager about status of MDGBD. No response.

The first four questions in my original PRA request dated 2/11/19 pertained exclusively to the now defeated Greater Buena Vista GBD. It appears from email correspondence that DPW, OEWD and the GBV GBD formation committee conspired to alter the original OEWD grant application so that it would appear to qualify for funding. See 4/3/19 letter to City Attorney at Footnote 4 pages F2 and F3.

However, questions 5 through 9 pertain to the Mission Dolores GBD which the City is still promoting and funding through a July 2018 contract with SF Parks Alliance which runs through June of this year.

Information requested on February 11, 2019 and still not received

5. Verbatim transcripts, photographs, videos, tape recordings, sign-in sheets, attendance records, notes, memoranda, reports, and any other records in any form of public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018. NOT RECEIVED

6. All emails, text messages, and other correspondence, including minutes of all MDGBD formation committee meetings, relating to the planning, execution, and/or follow-up related to public meetings to discuss, organize, and/or promote a Mission Dolores GBD held on September 17, 2018, October 10, 2018, and/or November 15, 2018. NOT RECEIVED

7. All raw survey data collected in connection with Mission Dolores GBD surveys. SOME DATA RECEIVED

8. All documents, records, and/or correspondence relating to the funding and initiation of a management plan/engineer's report in connection with a Mission Dolores GBD. NOT RECEIVED

9. All public records, as defined in Gov. Code Section 6252 (c) and (e), including correspondence (including but not limited to letters, e-mails, and text messages), contracts, agreements, mailing lists, surveys and online surveys, responses to surveys and online surveys, budgets, expenditures, and memoranda (including all methods of transcription) memorializing, describing, or otherwise relating to the planning for, public interest and/or opinion surveying for, expenditure of public funds for, organization, and/or formation of a possible Mission Dolores GBD. NOT RECEIVED, other than some information about the survey.

In a nutshell, OEWD has blocked release of invoices or money spent under the current MDGBD contract. There is no accounting of any money spent under a \$ 156,000 contract. The "official" explanation is it doesn't exist.

But, the MDGBD engineering report exists, the MDGBD management Plan exists and the Boston Tech Survey was completed. Incidentally, all of these documents have been officially questioned due to bias and inaccuracy.

We also know the this information exists because much of it is required to be provided to OEWD under the terms of the July 1, 2018 contract between OEWD and Parks Alliance. See the attachment to my statement of January 21, 2020 entitled Tasks and Deliverables under Project Area B: Dolores Park Neighborhood. All the information required by OEWD under that contract is required to be made available to the public.

Today, I request that you reaffirm your jurisdiction over this matter and send my files to the full SOTF. Thank you.

-----Original Message-----

From: Young, Victor (BOS) <victor.young@sfgov.org>
To: John C. Hooper <hooparb@aol.com>
Cc: CaMillo, Angela (BOS) <angela.calvillo@sfgov.org>
Sent: Thu, Feb 13, 2020 10:37 am
Subject: RE: Correction to SOTF submission for the record re #19061 and 09162

Mr. Hooper:

I am unable to open the document you provided on 2/11/20. Please provide to me in a pdf or word format.

Thank you.

Victor Young
Assistant Clerk
Board of Supervisors
phone 415-554-7723 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

From: John C. Hooper <hooparb@aol.com>
Sent: Tuesday, February 11, 2020 11:13 AM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Correction to SOTF submission for the record re #19061 and 09162

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Victor:

Please excuse me. I just sent you an email with my proposed statement for the 2/18/20 Complaint Committee hearing.

The content in the body of that earlier email is correct but the attachment I sent was an earlier draft.

This attachment should be the current version.

Please let me know if this is still confusing.

John 415-990-9511 (cell) or 415-626-8880 (office)

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, March 5, 2020 4:56 PM
To: Steinberg, David (DPW)
Cc: SOTF, (BOS); Thompson, Marianne (ECN); Corgas, Christopher (ECN)
Subject: Re: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Follow Up Flag: Follow up
Flag Status: Flagged

Hi David:

The new info I submitted at the full SOTF on 1/21/20 should be available through SOTF. What I submitted was an addendum to a 7/1/18 contract between the City and Parks Alliance listing 31 tasks and deliverables, several of which are similar to information I asked for in my 2/11/19 PRA request.

This new submission is intended to show that some of what I have been asking for must exist somewhere.

If it's easier for me to send you the document, I'd be glad to.

As you have heard me say before, the reason I have continued to name DPW in these proceedings is that DPW has a full-time GBD program administrator (Jonathan Goldberg) and has transferred DPW funds to OEWD to promote GBDs. So it's reasonable to expect DPW to know what's going on.

It's simply not possible for a concerned member of the public to know whose responsibility it is to provide documents to the public when both DPW and OEWD deny such documents exist and Parks Alliance will not release this info.

This is not intended to be any criticism of your work at all.

There is no reason you should be familiar with the duties of another DPW employee. So when you told the Chair of the SOTF that you did not know the status of the Mission Dolores GBD effort, that's completely understandable. Why should you? It's not your job.

However, to get to the bottom of this mystery, SOTF needs to compel the appearance of the line officers involved at both agencies; in this case, Jonathan Goldberg From DPW and Chris Corgas at OEWD.

Cheryl, may I please ask that this email be made part of the official record of 19061 and 19062.

Thank you!

John Hooper

On Mar 5, 2020, at 2:11 PM, Steinberg, David (DPW) <david.steinberg@sfdpw.org> wrote:

Mr. Hooper or Cheryl,

Can we see the documents that were submitted at the full SOTF hearing? The existence of these "new" documents are ostensibly the reason we are back at the Complaints Committee, though I don't know why they have any relevance to the complaint against Public Works.

Thank you,

<image003.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director

San Francisco Public Works | City and County of San Francisco

City Hall, Room 348 - 1 Dr. Carlton B. Goodlett Pl. | San Francisco, CA 94102 | (415) 554-6950

sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

From: John C. Hooper <hooparb@aol.com>

Sent: Thursday, March 5, 2020 12:43 PM

To: SOTF, (BOS) <sotf@sfgov.org>; Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-25916958@requests.muckrock.com; 80695-54486849@requests.muckrock.com; Cityattorney <Cityattorney@sfcityatty.org>; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; grovestand2012@gmail.com; McHale, Maggie (HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>

Subject: Re: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

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Re #19061 and #19062:

I apologize, but I will not be able to attend the 3/17 meeting. For the record, I was prepared to speak at the Feb 18 meeting which was cancelled for lack of a quorum. Please let me know when the next Complaint Committee meeting is expected.

John Hooper

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To: Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-25916958@requests.muckrock.com <79999-25916958@requests.muckrock.com>; 80695-54486849@requests.muckrock.com <80695-54486849@requests.muckrock.com>; Cityattorney <Cityattorney@sfcityatty.org>; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; JOHN HOOPER <hooparb@aol.com>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Stephen <grovestand2012@gmail.com>; McHale, Maggie (HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>

Sent: Thu, Mar 5, 2020 10:11 am

Subject: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Good Morning:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee of the Sunshine

Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: March 17, 2020

Location: City Hall, Room 408

Time: 5:30 p.m.

File No. 19113: Complaint filed by Anonymous against Jason Moment, Thomas Campbell and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c)(k), 67.29-7(a)(c), 67.25, 67.26, 67.27, CPRA Government Code 6270.5-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to assist, failure to retain records, failing to record third party transactions, withholding and failure to justify withholding, failure to respond to a public records request in a timely and/or complete manner.

File No. 19120: Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a request for public records in a timely and/or complete manner; failing to justify withholding of records and failing to provide assistance.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, February 12, 2020.**

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

<image004.png>

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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, May 5, 2020 11:01 AM
To: Steinberg, David (DPW)
Cc: SOTF, (BOS)
Subject: Re: SOTF - Why Public Works is included in SOTF complaints regarding GBDs

Hi David and Cheryl and hope you and yours are all safe and sound!

To respond to David's observation of 3/5/20 (below) asking why Public Works is involved before SOTF, In complaints involving GBDs, it is simply because concerned citizens assume that DPW is knowledgeable about all matters pertaining to Green Benefit Districts (GBD) because Public Works' staff includes a full time person working on GBDs.

We have repeatedly requested of SOTF that the full-time Public Works staffer who is responsible for GBDs be required to appear before the SOTF to explain the program. We appreciate David Steinberg's several appearances before SOTF but his responsibilities as custodian of records are different than the line officer responsible for GBDs.

We hereby renew our request that SOTF require the responsible official(s) at PW to come before the committee and respond to concerns.

Cheryl, would you please include this exchange of emails as part of the official record of 19061 and 19062.

Thank you!

John Hooper

On May 5, 2020, at 9:43 AM, Steinberg, David (DPW) <david.steinberg@sfdpw.org> wrote:

Thanks, Cheryl,

Glad to hear you're back. Hope you're staying safe and healthy in this crazy time!

Regards,

<image004.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director

San Francisco Public Works | City and County of San Francisco

City Hall, Room 348 - 1 Dr. Carlton B. Goodlett Pl. | San Francisco, CA 94102 | (415) 554-6950

sfpublishworks.org · twitter.com/sfpublishworks

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From: SOTF, (BOS) <sotf@sfgov.org>

Sent: Tuesday, May 5, 2020 9:43 AM

To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>

Cc: JOHN HOOPER <hooparb@aol.com>

Subject: RE: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Hello David!! As of last week I am back from medical leave. I have included a link to the January 21, 2020, Agenda where you will find the records you are seeking. Let me know if you need anything else from me.

https://sfgov.org/sunshine/sites/default/files/sotf_012120_agenda.pdf

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

<image005.png>

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From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>

Sent: Thursday, March 5, 2020 2:12 PM

To: John C. Hooper <hooparb@aol.com>; SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>

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Mr. Hooper or Cheryl,

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Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, May 5, 2020 11:10 AM
To: SOTF, (BOS)
Cc: Steinberg, David (DPW)
Subject: Re: SOTF - 1/21/20 statement re 19061 and 19062?

Hi again Cheryl: I can't find the testimony I submitted in person at the SOTF hearing on 1/21/20 in the link you provided to David.

I'm working off a tiny phone screen and apologize if I missed something.

John Hooper

On May 5, 2020, at 11:02 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

John, Will do.

Cheryl

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, May 5, 2020 11:01 AM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Cc: SOTF, (BOS) <sotf@sfgov.org>
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From: SOTF, (BOS) <sotf@sfgov.org>

Sent: Tuesday, May 5, 2020 9:43 AM

To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>

Cc: JOHN HOOPER <hooparb@aol.com>

Subject: RE: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Hello David!! As of last week I am back from medical leave. I have included a link to the January 21, 2020, Agenda where you will find the records you are seeking. Let me know if you need anything else from me.

https://sfgov.org/sunshine/sites/default/files/sotf_012120_agenda.pdf

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

<image005.png>

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From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Thursday, March 5, 2020 2:12 PM
To: John C. Hooper <hooparb@aol.com>; SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>
Subject: RE: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Mr. Hooper or Cheryl,

Can we see the documents that were submitted at the full SOTF hearing? The existence of these "new" documents are ostensibly the reason we are back at the Complaints Committee, though I don't know why they have any relevance to the complaint against Public Works.

Thank you,

<image006.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director

San Francisco Public Works | City and County of San Francisco

City Hall, Room 348 - 1 Dr. Carlton B. Goodlett Pl. | San Francisco, CA 94102 | (415) 554-6950

sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

From: John C. Hooper <hooparb@aol.com>
Sent: Thursday, March 5, 2020 12:43 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-25916958@requests.muckrock.com; 80695-54486849@requests.muckrock.com; Cityattorney <Cityattorney@sfcityatty.org>; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; grovestand2012@gmail.com; McHale, Maggie (HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>
Subject: Re: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re #19061 and #19062:

I apologize, but I will not be able to attend the 3/17 meeting. For the record, I was prepared to speak at the Feb 18 meeting which was

cancelled for lack of a quorum. Please let me know when the next Complaint Committee meeting is expected:

John Hooper

-----Original Message-----

From: SOTF, (BOS) <sotf@sfgov.org>

To: Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-

25916958@requests.muckrock.com <79999-25916958@requests.muckrock.com>;

80695-54486849@requests.muckrock.com <[\[54486849@requests.muckrock.com\]\(mailto:54486849@requests.muckrock.com\)>; Cityattorney <\[Cityattorney@sfcityatty.org\]\(mailto:Cityattorney@sfcityatty.org\)>; COTE,](mailto:80695-</p></div><div data-bbox=)

JOHN (CAT) <John.Cote@sfcityatty.org>; JOHN HOOPER <hooparb@aol.com>;

Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher

(ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW)

<david.steinberg@sfdpw.org>; Stephen <grovestand2012@gmail.com>; McHale, Maggie

(HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>

Sent: Thu, Mar 5, 2020 10:11 am

Subject: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Good Morning:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee of the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: March 17, 2020

Location: City Hall, Room 408

Time: 5:30 p.m.

File No. 19113: Complaint filed by Anonymous against Jason Moment, Thomas Campbell and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c)(k), 67.29-7(a)(c), 67.25, 67.26, 67.27, CPRA Government Code 6270.5-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to assist, failure to retain records, failing to record third party transactions, withholding and failure to justify withholding, failure to respond to a public records request in a timely and/or complete manner.

File No. 19120: Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a request for public records in a timely and/or complete manner; failing to justify withholding of records and failing to provide assistance.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine

Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, February 12, 2020.**

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

<image005.png>

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Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Monday, July 13, 2020 6:32 PM
To: l-tsi@pacbell.net; Breed, Mayor London (MYR); Board of Supervisors, (BOS); Peskin, Aaron (BOS); Yee, Norman (BOS); Mandelman, Rafael (BOS); Haney, Matt (BOS); Preston, Dean (BOS); Walton, Shamann (BOS); Fewer, Sandra (BOS); Mar, Gordon (BOS)
Cc: Cityattorney; Ethics Commission, (ETH); SOTF, (BOS)
Subject: Re: NY Times - security cameras and Community Benefit Districts

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Thank you, Lillian, for writing the City Administration with an important message.

Numerous Citizens have been asking the City (Mayor's Office, City Attorney, SOTF, BOS, OEWD, DPW etc) to look into CBDs and GBDs for several years. n There has been no (as in ZERO) interest at City Hall!

Commercial Benefit Districts (CBDs) and Green Benefit Districts (GBDs) are major recipients and distributors of public funds which are then paid to various autonomous firms (private security, private street cleaning, private gardening etc) at the behest of a small group of "in" neighbors which is selected for its subservience to City policy. One such recipient of public funds - SF Parks Alliance - is currently being investigated by the feds.

Is a genuine effort being made to clean up San Francisco government? Are you up to it, Mayor Breed?

Best, John Hooper

-----Original Message-----

From: Lillian Tsi <l-tsi@pacbell.net>
To: Breed Mayor London (MYR) <mayorlondonbreed@sfgov.org>; Board of Supervisors (BOS) <board.of.supervisors@sfgov.org>; aaron.peskin@sfgov.org <aaron.peskin@sfgov.org>; Norman Yee <norman.yee@sfgov.org>; Mandelman Rafael (BOS) <rafael.mandelman@sfgov.org>; matt.haney@sfgov.org <matt.haney@sfgov.org>; dean.preston@sfgov.org <dean.preston@sfgov.org>; shamann.walton@sfgov.org <shamann.walton@sfgov.org>; sandra.fewer@sfgov.org <sandra.fewer@sfgov.org>; gordon.mar@sfgov.org <gordon.mar@sfgov.org>
Cc: cityattorney@sfcityatty.org <cityattorney@sfcityatty.org>; ethics.commission@sfgov.org <ethics.commission@sfgov.org>
Sent: Mon, Jul 13, 2020 5:30 pm
Subject: NY Times - security cameras and Community Benefit Districts

Dear Mayor and Board of Supervisors,

First of all, thank you for your prompt actions regarding the pandemic sweeping through this country. The early actions to shut the city down was a good pre-emptive move against a virus which knows no limits.

While in "shelter in place" mode, lots of reading and the article in the NY Times (link below) highlight issues with Community Benefit Districts that are disturbing.

1. Community Benefit Districts (CBDs) have to be approved by the Board of Supervisors ...after a petition and ballot process which is horrifying to say the least. (another rant another time) Proposed CBD's have to make known their management plans to the Board of Supervisors. How many of the CBDs included "spyware" in their management plans for approval?

2. In the article, the rich man on the hill says "it's whack-a-mole" with reference to how the criminals move away from Area A to Area B after cameras are installed in Area A. Area B then is forced to install cameras...and criminals move to Area C...and now...what if Area C is not a CBD...are residents/business owners in Area C then forced to set up a CBD so that they too can enjoy the largesse of the rich man on the hill? By the way...the same applies to homeless individuals who have been "ushered" away from downtown are now camping in Golden Gate Park...lovely isn't it when children go to the playgrounds or tourists walk in the park and find needles and assorted litter?

3. CBDs are non-profit organizations and request for grants and additional support for funding beyond collecting assessments from property owners. As it is now publicly known...the DPW and it's crony network of SF Parks Alliance nonprofits is rife with corruption. CBDs are potentially now another funnel for corruption for city contracts and services. Or maybe they already are...

Cameras filming and documenting crimes are not necessarily an evil. Most honest people don't care and won't mind. However, the citizens affected need to consent and be aware of the cameras. That means, if you are running for office, it should be a part of your platform and citizens vote you in to effect such policies. If indeed it is the city's policy to have cameras, the cameras need to be everywhere...not just in select areas, we can't have some neighborhoods more equal than others. CBDs and GBDs are dangerous entities which privatize what should be services provided by the city.

<https://www.nytimes.com/2020/07/10/business/camera-surveillance-san-francisco.html>

Writing from home,
Lillian Stielstra
Inner Sunset long time resident

Leger, Cheryl (BOS)

From: Thompson, Marianne (ECN)
Sent: Monday, September 21, 2020 10:56 AM
To: Steinberg, David (DPW); SOTF, (BOS)
Cc: Heckel, Hank (MYR)
Subject: RE: SOTF - file nos. 19061 and 19062
Attachments: hooper.pdf

Good Morning Cheryl,

I read the document that was sent, and I sincerely do not understand it. I do not see the need to proceed forward. M.

Marianne Mazzucco Thompson
Office of Economic and Workforce Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
P: 415-554-6297
E: Marianne.Thompson@sfgov.org



From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Wednesday, September 16, 2020 5:20 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Thanks, Cheryl.

-d.



David A. Steinberg
Custodian of Records & Executive Assistant to the Director
San Francisco Public Works | City and County of San Francisco
49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (628) 271-2888
sfpublicworks.org · twitter.com/sfpublicworks

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Note: The new contact information above is effective July 6, 2020.

From: SOTF, (BOS) <sotf@sfgov.org>
Sent: Wednesday, September 16, 2020 2:34 PM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hello Marianne and David: Attached are the materials submitted by Mr. Hooper at the January 21, 2020 SOTF hearing. Let me know if you need anything further. I will be at the office tomorrow if you need me to get other records to you.

Cheryl Leger
415-425-6918 – my cell

From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Tuesday, September 15, 2020 3:12 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hi Cheryl,

I don't see the additional records that Mr. Hooper provided at the in-person meeting as part of the minutes you provided. My notes from previous emails show that you said you had them in your office and you would send us copies when the stay-at-home order was lifted. Do you have access to them? The whole reason to schedule the committee meeting was to consider these new records, so there isn't much point holding a meeting until we have copies.

Thanks much and stay safe.
-d.



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Cheryl Leger
Assistant Clerk, Board of Supervisors
Cheryl.Leger@sfgov.org
Tel: 415-554-7724
Fax: 415-554-5163
www.sfbos.org



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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, September 24, 2020 11:54 AM
To: SOTF, (BOS)
Cc: Thompson, Marianne (ECN); Steinberg, David (DPW)
Subject: Re: SOTF - rescheduling GBD hearing

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Hi Cheryl: I'm now in my SF office with my files at hand.

I was most recently scheduled to appear before the SOTF Complaint Committee on February 18, 2020 but SOTF cancelled that meeting. So you are now seeking to reschedule that meeting, as I understand it.

I prepared and sent to SOTF the statement I had expected to make on February 18, so It looks like you've got what you need. Please let me know if I can provide more info.

It would be helpful if the Committee would require City employees from Public Works and OEWD who are knowledgeable about GBD programs to appear rather than custodians of records who are - by their own admissions - not familiar with the details of these programs.

Please let me know when you plan to schedule the next hearing.

Thanks, as always.

John Hooper

On Sep 21, 2020, at 12:18 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Mr. Hooper: Attached are the materials you submitted to me at the January Sunshine Ordinance Task Force hearing. Are these the only materials you wish to submit or do you have other documents? I would like to schedule your file nos. 19061 and 19062 to be heard by the SOTF Complaint Committee. The decision of the SOTF is below. Please respond. Thank you.

January 21, 2020 SOTF hearing, SOTF referred the matter back to the Complaint Committee and have new materials provided to SOTF be included in the file for review to determine which documents are applicable to which respondent and provide a recommendation to the SOTF.

Cheryl Leger
Assistant Clerk, Board of Supervisors

Cheryl.Leger@sfgov.org

Tel: 415-554-7724

Fax: 415-554-5163

www.sfbos.org

<image009.png>

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Cc: Heckel, Hank (MYR) <hank.heckel@sfgov.org>

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<hooper.pdf>

Leger, Cheryl (BOS)

From: Steinberg, David (DPW)
Sent: Thursday, September 24, 2020 12:14 PM
To: SOTF, (BOS)
Cc: Thompson, Marianne (ECN); JOHN HOOPER
Subject: RE: SOTF - rescheduling GBD hearing

Hi Cheryl,

In response to Mr. Hooper's request that a most knowledgeable employee appear at the hearing, please note the following:

- Jonathan Goldberg is on a Disaster Service Worker assignment, is not reporting to Public Works and is unavailable for the foreseeable future.
- The sole purpose of this committee meeting was to review the "new" materials that Mr. Hooper belatedly tried to present at the January 21, 2020, hearing. None of those materials has any bearing on his request to or the response from Public Works. Further, as I've said at several meetings now, we have provided all responsive records in our possession and having Mr. Goldberg on hand to confirm that isn't necessary.

Regards,

David A. Steinberg



Custodian of Records & Executive Assistant to the Director
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Cheryl Leger
Assistant Clerk, Board of Supervisors
Cheryl.Leger@sfgov.org
Tel: 415-554-7724
Fax: 415-554-5163
www.sfbos.org

<image009.png>

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Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Sent: Monday, September 21, 2020 10:56 AM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; SOTF, (BOS) <sotf@sfgov.org>
Cc: Heckel, Hank (MYR) <hank.heckel@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Good Morning Cheryl,

I read the document that was sent, and I sincerely do not understand it. I do not see the need to proceed forward.

M.

<image003.png>

From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Wednesday, September 16, 2020 5:20 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Thanks, Cheryl.

-d.

<image005.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director
San Francisco Public Works | City and County of San Francisco
49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (628) 271-2888
sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

Note: The new contact information above is effective July 6, 2020.

From: SOTF, (BOS) <sotf@sfgov.org>
Sent: Wednesday, September 16, 2020 2:34 PM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hello Marianne and David: Attached are the materials submitted by Mr. Hooper at the January 21, 2020 SOTF hearing. Let me know if you need anything further. I will be at the office tomorrow if you need me to get other records to you.

Cheryl Leger
415-425-6918 – my cell

From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Tuesday, September 15, 2020 3:12 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hi Cheryl,

I don't see the additional records that Mr. Hooper provided at the in-person meeting as part of the minutes you provided. My notes from previous emails show that you said you had them in your office and you would send us copies when the stay-at-home order was lifted. Do you have access to them? The whole reason to schedule the committee meeting was to consider these new records, so there isn't much point holding a meeting until we have copies.

Thanks much and stay safe.

-d.

<image006.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director

San Francisco Public Works | City and County of San Francisco

49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (628) 271-2888

sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

Note: The new contact information above is effective July 6, 2020.

From: SOTF, (BOS) <sotf@sfgov.org>

Sent: Tuesday, September 15, 2020 2:11 PM

To: Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>

Subject: SOTF - file nos. 19061 and 19062

Hello Marianne and David: Attached are the minutes from the January 21, 2020, Sunshine Ordinance Task Force hearing. Reflected in the minutes is the inclusion of records that were provided to Mr. Hooper. I would like to schedule these two matters to be heard next month before the Complaint Committee. Please review the minutes and let me know if you need anything further from me or if I need to do something. Thank you.

Cheryl Leger

Assistant Clerk, Board of Supervisors

Cheryl.Leger@sfgov.org

Tel: 415-554-7724

Fax: 415-554-5163

www.sfbos.org

<image009.png>

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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Saturday, September 26, 2020 8:18 AM
To: SOTF, (BOS)
Subject: SF Parks Alliance: Report details alleged pay-to-play scheme - Mission Local

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Cheryl:

Please include the Mission Local

Article referenced below as part of the record of files # 19061 and 19062 so SOTF members will be able to read it prior to my next scheduled testimony.

Please acknowledge receipt of this information.

John Hooper

Begin forwarded message:

From: john osborn <peninsularoad@icloud.com>
Date: September 26, 2020 at 7:52:00 AM PDT
To: John Jock Hooper <hooparb@aol.com>
Subject: 'Friends of' Nuru: Report details alleged pay-to-play scheme - Mission Local

Did you see this? The Parks Alliance is a criminal organization. xo John

<https://missionlocal.org/2020/09/friends-of-mohammed-nuru-report-details-alleged-pay-to-play-scheme/>

'Friends of' Nuru: Report details alleged pay-to-play scheme

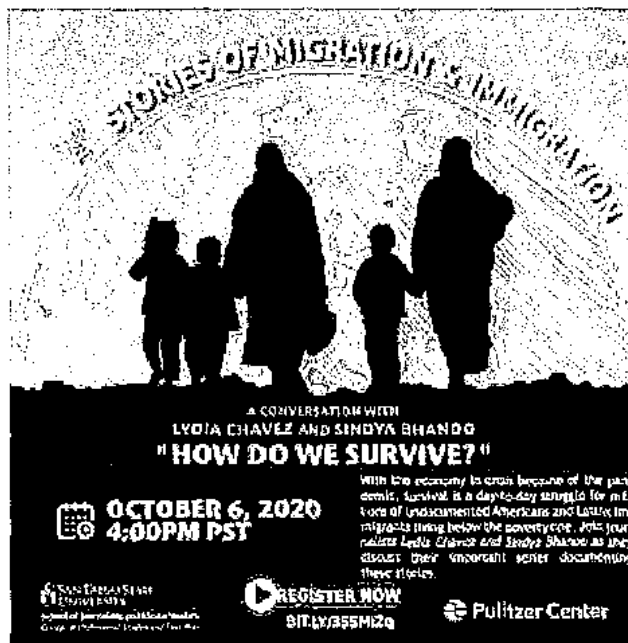
The San Francisco Controller's Office on Thursday recommended a slew of measures to prevent city departments from engaging in "pay-to-play" schemes through "non-city" entities — schemes that Mohammed Nuru, the embattled former Public Works boss and accused federal criminal, allegedly mastered.

In a detailed assessment released Thursday, the Controller homed in on the [San Francisco Parks Alliance](#), a nonprofit that makes

improvements to parks and other public areas in the city, which allegedly became a conduit for Nuru to funnel payments to his cohorts.

Nuru allegedly solicited donations from contractors and permit-seekers for the Parks Alliance and that money went into accounts there, over which Nuru had wide discretion. The money in the accounts totaled \$990,830 over a four-and-a-half-year period. Nuru allegedly used it to direct the donated money to vendors.

Those vendors include restaurateur Nick Boyis and permit expediter Walter Wong, both of whom have pleaded guilty to charges of conspiracy and fraud.



A major recipient of the money was SDL Merchandising which, according to the Controller, was owned by a former Public Works employee, who worked for Nuru at the time, and who the Controller did not name. Other funds from Nuru's account at the Parks Alliance were used to reimburse Public Works employees for "staff appreciation" parties.

"Mohammed Nuru and others would direct staff to procure goods and services for staff appreciation, volunteer programs, merchandise, community support, and events from specific vendors, circumventing city purchasing controls," the Controller wrote in its report. "These purchases would then be reimbursed through Public Works

subaccounts held by the Parks Alliance, a non-city organization, again outside of city purchasing rules.”

“Mr. Nuru solicited funds for these purchases from interested parties, including businesses that had contracts with the department or city building permits,” the report added. “The gifts, which were not accepted or disclosed by the City, create a perceived “pay-to-play” relationship.”

The review further found that the money directed to some of these vendors was not properly accounted for. In the case of SDL Merchandising, “multiple payments totaling \$164,885 were made to SDL Merchandising for various shirts, caps, and merchandise” over roughly three years, the report says. “No quantities are documented.”

In other words, it’s unclear if the shirts, caps and merchandise were ever received.

Through its audit, the Controller zeroed in on so-called “friends of” organizations, non-profit entities that support city departments through charitable donations. The accounts are unregulated by the city and can be “unscrupulously exploited by city officials,” as in the case of the San Francisco Parks Alliance.

In theory, any “interested party,” such as someone holding a city contract, could make a donation to one of these organizations at the urging of a department head in exchange for preferential treatment.

Any unregulated account or “friends of” organization without formal agreements and oversight by the city can create “the opportunity for unethical steering of purchases to occur,” the report says.

The Controller noted that the Parks Alliance said it was not aware of Nuru’s manipulation and had attempted to formalize its relationship with Public Works in 2019 but was ignored.

The Controller made 10 recommendations to create more transparency so they can’t be exploited. These include formalizing a department’s relationship with “friends of” organizations through written agreements, prohibiting anonymous donations, and prohibiting non-elected department heads from soliciting donations from

"interested parties," such as contractors and people seeking permits. The Controller recommends clearly defining what an "interested party" is.

Following its release on Thursday, city leaders seized on the report, denouncing the gaps that led to the alleged corruption and promised to take action.

Mayor London Breed issued an "executive directive" requiring department heads to report any money directed to such nonprofits and requiring formalized relationships between such organizations and departments. The directive also asked departments to "ensure compliance" with the city's rules for reporting gifts.

"These 'Friends of' organizations provide important philanthropic support for our parks, our libraries, and other important civic services, but we need to ensure that this support is not tainted with any perception or risk of 'pay to play' politics," Breed said.

Moreover, Supervisor Matt Haney said he would introduce legislation at Tuesday's Board of Supervisors meeting. Following the Controller's first recommendation, the legislation would "prohibit department heads, who are very close to control of contracting decisions, from asking any person or party doing business with or seeking to do business with their department for donations at the Department head's behest."

Haney denounced what could happen without the proper controls.

"This loophole creates a situation where contractors can access business with the city or receive preferential treatment because of donations given, rather than work that has been done," he said in a statement Thursday afternoon. "This is a massive disservice to the residents of San Francisco and a blatant violation of the public trust."



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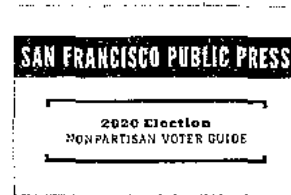
'Friends of' Nuru: Report details alleged pay-to-play scheme

By Julian Mark | Sep 24, 2020 | Featured, Front Page, Mobile, Newsletter, Topics, Trouble | 3



Contractor and permit expeditor Walter Wong, right, pictured here in 2018 with ex-Public Works boss Mohammed Nuru. Photo by Susana Bates for Drew Alitzer Photography.

The San Francisco Controller's Office on Thursday recommended a slew of measures to prevent city departments from engaging in "pay-to-play" schemes through "non-city" entities — schemes that Mohammed Nuru, the embattled former Public Works boss and accused federal criminal, allegedly



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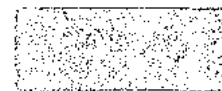
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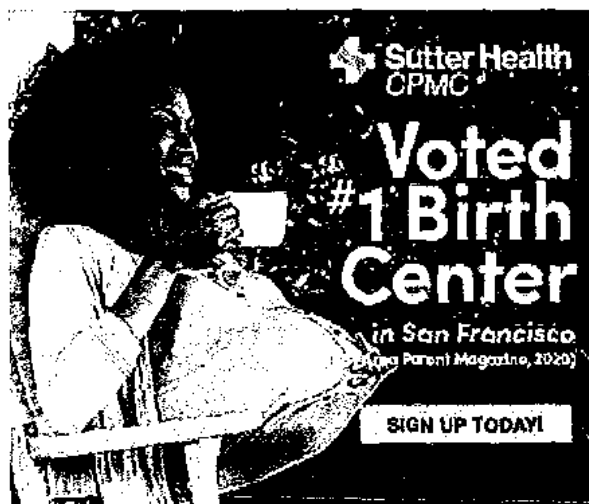
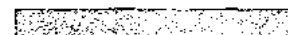
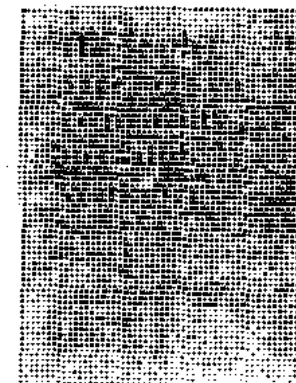
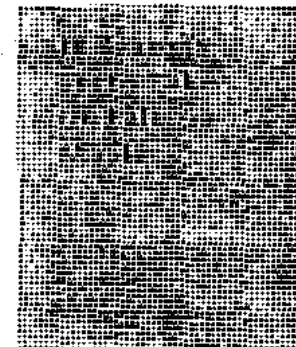
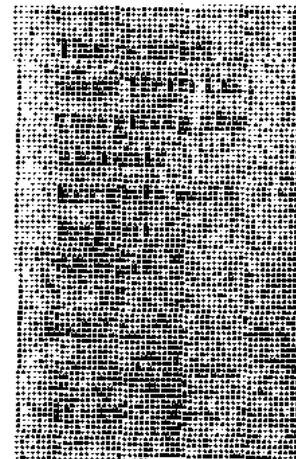
What To Do

MISSION LOCAL

In a detailed assessment released Thursday, the Controller homed in on the San Francisco Parks Alliance, a nonprofit that makes improvements to parks and other public areas in the city, which allegedly became a conduit for Nuru to funnel payments to his cohorts.

Nuru allegedly solicited donations from contractors and permit-seekers for the Parks Alliance and that money went into accounts there, over which Nuru had wide discretion. The money in the accounts totaled \$990,830 over a four-and-a-half-year period. Nuru allegedly used it to direct the donated money to vendors.

Those vendors include restaurateur Nick Bovis and permit expediter Walter Wong, both of whom have pleaded guilty to charges of conspiracy and fraud.



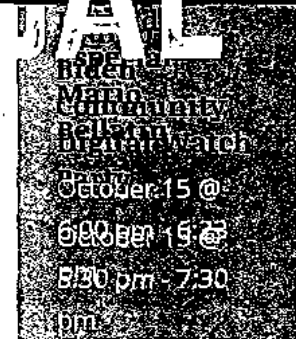


Controller, was owed by a former public Works employee, who worked for Nuru at the time, and who the Controller did not name. Other funds from Nuru's account at the Parks Alliance were used to reimburse Public Works employees for "staff appreciation" parties.

"Mohammed Nuru and others would direct staff to procure goods and services for staff appreciation, volunteer programs, merchandise, community support, and events from specific vendors, circumventing city purchasing controls," the Controller wrote in its report. "These purchases would then be reimbursed through Public Works subaccounts held by the Parks Alliance, a non-city organization, again outside of city purchasing rules."

"Mr. Nuru solicited funds for these purchases from interested parties, including businesses that had contracts with the department or city building permits," the report added. "The gifts, which were not accepted or disclosed by the City, create a perceived "pay-to-play" relationship."

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In other words, it's unclear if the shirts, caps and merchandise were ever received.

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"These 'Friends of' organizations provide important philanthropic support for our parks, our libraries, and other important



perception of risk of pay-to-play politics, Breed said.

Moreover, Supervisor Matt Haney said he would introduce legislation at Tuesday's Board of Supervisors meeting. Following the Controller's first recommendation, the legislation would "prohibit department heads, who are very close to control of contracting decisions, from asking any person or party doing business with or seeking to do business with their department for donations at the Department head's behest."

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About The Author



Julian Mark

julian.mark@missionlocal.com

3 Comments



...e cha di ng n t e tat: Co po: tion. s not a corp
and it has no records.

Does anyone know who the owner is, or the company
structure?

REPLY

aapi on September 25, 2020 at 4:27 pm

And there's surely so much more than this. Mission
Local, can you look into how Azul Works, the
construction company owned by Nuru's crony and
former DPW employee Balmore Hernandez, became
a subcontractor on MEDA's affordable housing
projects in the Mission? Unqualified but connected
sub lands lucrative contract on publicly-financed
project sure sounds like part of this whole scandal.

REPLY



Sebra Leaves on September 25, 2020 at 4:47 pm

Bring some charges and remove the city officials who
are taking advantage of the system. Drop the benefit
districts. We don't need them. And write some
legislation to protect whistle-blowers so people can
report suspicious activity when they see it.

REPLY

Leave a reply

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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Sunday, September 27, 2020 8:06 AM
To: SOTF, (BOS)
Subject: Fwd: City Hall scandal: Nuru used 'unethical' practice to solicit funds for department, controller says - SFChronicle.com

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Please add this Chronicle article to SOTF files 19061 and 19062.

Thanks.

John Hooper

Begin forwarded message:

From: Carol Glanville <cg2906@earthlink.net>
Date: September 26, 2020 at 3:51:37 PM PDT
To: hooparb@aol.com
Subject: City Hall scandal: Nuru used 'unethical' practice to solicit funds for department, controller says - SFChronicle.com

This is better!

Carol

<https://www.sfchronicle.com/politics/article/City-Hall-scandal-Nuru-used-unethical-15597464.php>

Sent from my iPad

San Francisco Chronicle

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solicit funds for department, controller says

Trisha Thadani

Sep. 25, 2020 | Updated: Sep. 25, 2020 3:45 p.m.



Disgraced former Public Works Director Mohammed Nuru allegedly solicited donations from private sources and directed them toward a nonprofit that financially supported his department, according to a new report by the City Controller. (AP Photo/Jeff Chiu, File)

Photo: Jeff Chiu / Associated Press

Disgraced former Public Works Director Mohammed Nuru allegedly solicited donations from private sources and directed them toward a nonprofit that financially supported his department, according to a new report by the city controller. The concern is that the arrangement allowed Nuru to quietly work

San Francisco Chronicle

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community events. Since these arrangements have little public oversight, Controller Ben Rosenfield said, it creates an opportunity for “unethical steering of purchases to occur.”

Such is the latest revelation in a sweeping corruption investigation led by the city attorney, which is largely focused on San Francisco City Hall. The investigation first came to light in January, when Nuru was charged over an alleged scheme to bribe an airport commissioner in exchange for approving a lease at San Francisco International Airport. Since the initial charge against Nuru, the investigation has expanded to include others in City Hall and the private sector.





Fifth & Mission

A Battle Over Lowell High School

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20 min

The sweeping investigation has put a spotlight on a “pay-to-play” culture in San Francisco City Hall, where critics say personal relationships and loyalties are rewarded and help cover up political corruption. Critics of the long-standing culture of the so-called “city family” say the scandal puts a massive stain on City Hall, and undermines the public’s confidence in their elected officials.

San Francisco Chronicle

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But the report focused on how Nuru allegedly used one such nonprofit, the San Francisco Parks Alliance, to circumvent the city's purchasing controls and then direct funding to vendors of his choice. Their relationship with the Department of Public Works was unique in that there is no public oversight on the account.

The vendors who benefited from the donations, according to the report, include restaurateur Nick Bovis and permit consultant Walter Wong, both of whom have also been charged by the FBI for corruption and have pleaded guilty to conspiracy and fraud.

This is an issue, the report says, because donations that would end up benefiting the Department of Public Works were never publicly disclosed. That created "a perceived 'pay-to-play' relationship" between Nuru and those who donated, the report said.

"While philanthropic organizations provide tangible benefits to all of our residents, abuses in these relationships undermine the important role they play," Rosenfield said. "When gifts are solicited from those that do business with the City, it creates a risk to fair and transparent public processes."

According to the report, City Administrator Naomi Kelly allegedly knew about at least one instance when Nuru solicited funds from companies with business or regulatory decisions before the Department of Public Works. Those funds were donated to the Parks Alliance and then used to host a 2019 holiday party "and other employee appreciation events that benefited those in the department."

San Francisco Chronicle

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According to the report, the Parks Alliance says it didn't know it was being used "unscrupulously" by city officials.

"Like everyone, we were outraged to learn of the public corruption in our local government," Drew Becher, CEO of the San Francisco Parks Alliance, said in a statement. "We're a trusted partner to many community groups and city departments and welcome any and all actions that bring more transparency and oversight to ensure the public's trust."

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The Parks Alliance also said in the report that it did not profit from the relationship with Public Works.

According to the report, the Parks Alliance made 960 payments totaling nearly \$1 million to support Public Works activities between July 1, 2015 through Jan. 17, 2020. Those funds were largely spent at the direction of Nuru on events for his staff, merchandise and volunteer programs, according to the report.

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While the city attorney's office is leading the investigation, the controller's office plans to release a series of reports that look into the policies and practices that have allowed corruption to exist. Thursday's release was the second report.

The Parks Alliance works with or provides money to 200 groups and city agencies to support "citywide open space and park infrastructure."

The Parks Alliance said it reached out to Nuru in 2019 to formalize its relationship through a memorandum of understanding, "though this effort was ignored," according to the report.

Immediately after the report was released, Mayor London Breed issued an executive order to "strengthen transparency and accountability" between departments and such nonprofits.

Among other new rules, Breed's order requires all department heads follow rules around payments made for legislative, governmental or charitable purpose, at the request of the public officials. Such rules do not currently apply to department heads.

"These 'friends of' organizations provide important philanthropic support for our parks, our libraries, and other important civic services, but we need to ensure that this support is not tainted with any perception or risk of 'pay to play' politics," Breed said in a statement.

Supervisor Matt Haney, who has long sparred with the Department of Public Works over the city's filthy streets, said he will introduce legislation next week that would go even further than Breed's order and prohibit department heads and some employees from soliciting donations for such organizations.

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department to handle engineering, design, project management and other work tied to public infrastructure.

"This report detailing flagrantly inappropriate behavior by the Department of Public Works also underscores the need to pass Prop. B in November, and implement effective oversight at a Department that is clearly out of control," he said.

Trisha Thadani is a San Francisco Chronicle staff writer. Email: tthadani@sfchronicle.com Twitter: [@TrishaThadan](https://twitter.com/TrishaThadan)

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Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Friday, October 9, 2020 9:32 AM
To: SOTF, (BOS)
Subject: Please add to SOTF files #19061 and 19062 :Recology was the major donor to Mohammed Nuru's nonprofit slush fund

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Hi Cheryl! please make sure this information is available to the members of the SOTF prior to my next scheduled testimony. Thanks! John

Subject: Garbage time: Recology was the major donor to Mohammed Nuru's nonprofit slush fund

"But the real shocker — and a potential window into where investigators may well be going with all this — came three pages earlier. It's the breakdown of the sources of the money siphoned into the funds Nuru controlled at the Parks Alliance. And, wouldn't you know it, 88 percent of the money comes from just two sources: \$131,948 from Recology and \$721,250 from the San Francisco Clean City Coalition, a nonprofit.

But wait: In the footnotes, it reveals that, during the five-year window of this probe, Recology — which has enjoyed a city charter-enshrined monopoly to haul San Francisco's waste since 1932 — gave \$630,000 to Clean City. In fact, in 2019 alone, Recology donated \$180,000 to Clean City, which then turned around and paid \$171,000 to the Parks Alliance.

So, Recology is a huge source of the money that trickled into Public Works' subaccounts with the Parks Alliance. And Public Works is pivotal in setting Recology's citywide rates.

Because, coincidentally or not, during the five years analyzed in the controller's probe — during which Recology was funneling money into Nuru's preferred subaccount — the amount *you* pay for Recology's services went up some 20 percent.

With the staunch backing of Mohammed Nuru."

<https://missionlocal.org/2020/10/nuru-recology-parks-alliance-clean-city/>

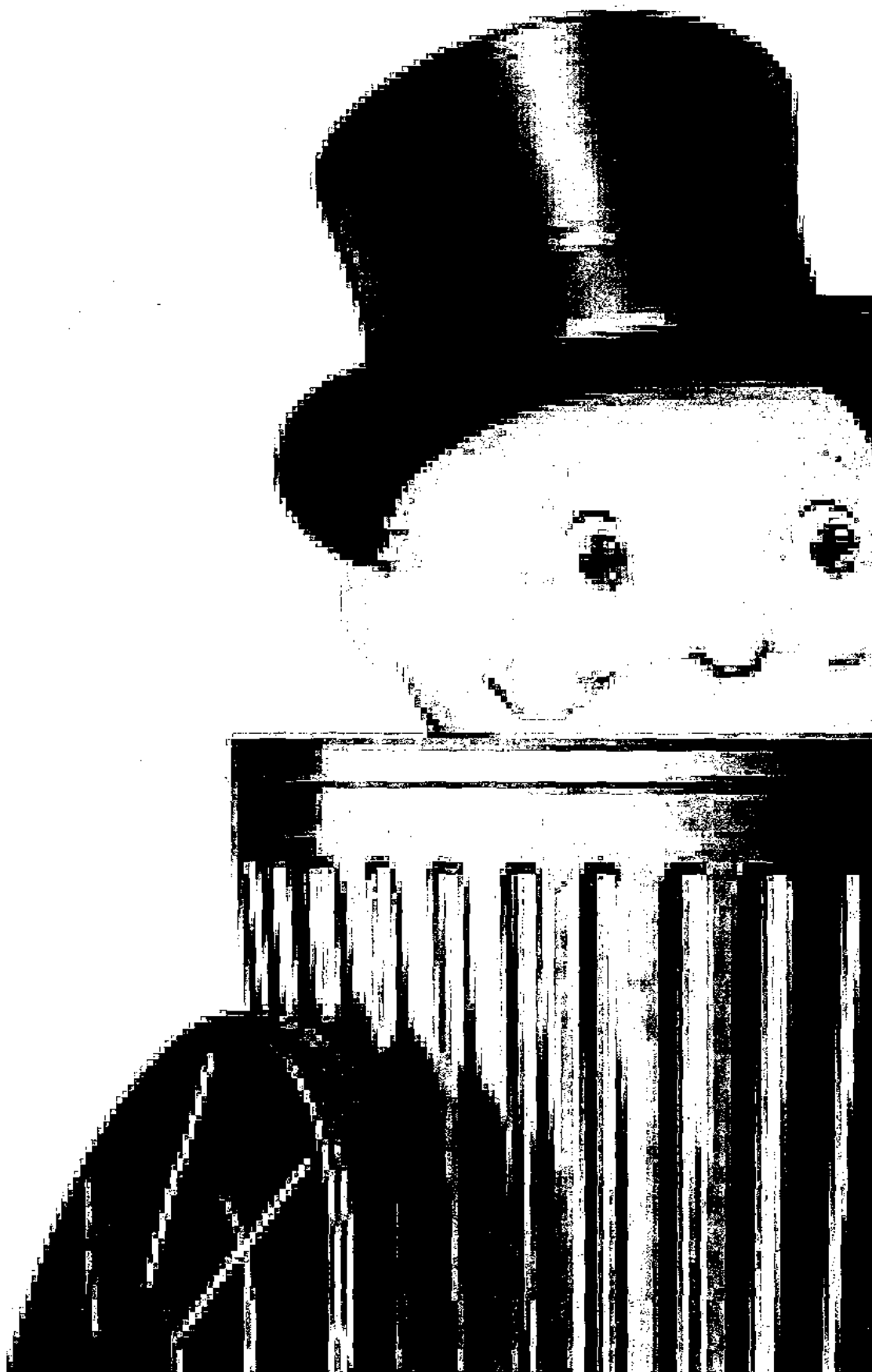
SFWEEK

MATT SMITH

Supes Want to Rescind Law that Bans Com Trash Collection

Matt Smith • 02/23/2011 4:00 am





Does Recology have a right to pick up San Francisco's trash forever? and David Campos don't think so. They plan to put a measure before a 1932 law that prevents the city from introducing competition to San

"I don't have anything against Recology," Campos says about the co from Norcal Waste Systems in 2009. "From a public policy standpoint service has not been subjected to a competitive bid for 78 years."

But of course. Consumers would be stupid not to shop around. That s probably get squashed in this fall's campaign.

With \$206 million in annual trash pickup fees at stake, the election b Recology's city-sanctioned monopoly promises to become "a ding-c the city hasn't seen in a decade or more," says retired Judge Quentin the 1970s and a state senator during the '80s and '90s. "We'll see the political consulting firms. They'll all be involved."

If the past is any indicator, Recology will fight hard to preserve its m a long way to go in settling on a convincing message. I asked Recolog what would be wrong with putting the garbage contract out to bid.

"We believe the current system in place provides the best option for

I repeated the question.

"It's a charter amendment, and it can't be put out to bid."

What would be wrong with making it so it could be put out to bid?

"The debate about whether the system works or not is a debate we'd

"But we feel that debate is afield of the issue now at hand."

Shall I just write that you refuse to answer the question? What would contract out to bid?

“Legally, the problem would be that the city and county would not have. Practically, we believe that the system in place, it would be the super and ultimately it's a board policy matter on how they would proceed, answer the question.

In 1993, Kopp, with the San Francisco Taxpayers Association, backed city's trash service to competitive bidding, just like most cities with j During the three weeks leading up to the 1993 election, his Senate of anonymous, threatening calls. “One even said she would come down passed,” Kopp said in news reports. The Chinese American Democra initiative in a newspaper ad, was also deluged with calls. “You have r I hope to God we win, and if we don't, something's going to be done ; reportedly said.

Norcal's campaign manager disavowed the threats. The measure lost voters in 1994. In 1997, the *Examiner's* Lance Williams tallied \$1.28 n the previous four years to persuade voters and politicians not to touc

But this time around, Recology might have a more difficult time piec campaign.

The company admittedly has history on its side. During the early 20t haulers exclusive purview over 97 different garbage routes — a polic than allowing a route-poaching free-for-all. Over the years, smaller absorbed into bigger ones, until the business became dominated by t Italian-American trash haulers: Sunset Scavenger and Golden Gate I revision enshrined the monopoly and assigned a city board to regula

haulers were eventually merged into Norcal, even though trucks still Golden Gate.

The question of what to do about the city's garbage-pickup monopoly the Board of Supervisors held a hearing on a different matter: Where annual mountain of waste? The Department of the Environment recommended deal with Waste Management Inc. to haul San Francisco garbage to a instead enter a 10-year, \$112 million deal to let Recology use a dump

City budget analyst Harvey Rose produced a report saying the best way hauling services into one giant contract. But, he explained, the city was possible deal on combined pickup and disposal unless it handled it in to bid.

During the early 1990s, garbage haulers wishing to get a piece of Norcal ones putting pro-competition measures on the ballot. In campaign paged them as self-interested interlopers.

For this year's proposed initiative, however, Campos took his cue from reported on SFWeekly.com ["Should City's Garbage Contract be Trashed scathing 2002 budget analyst's report equating the Norcal monopoly service.

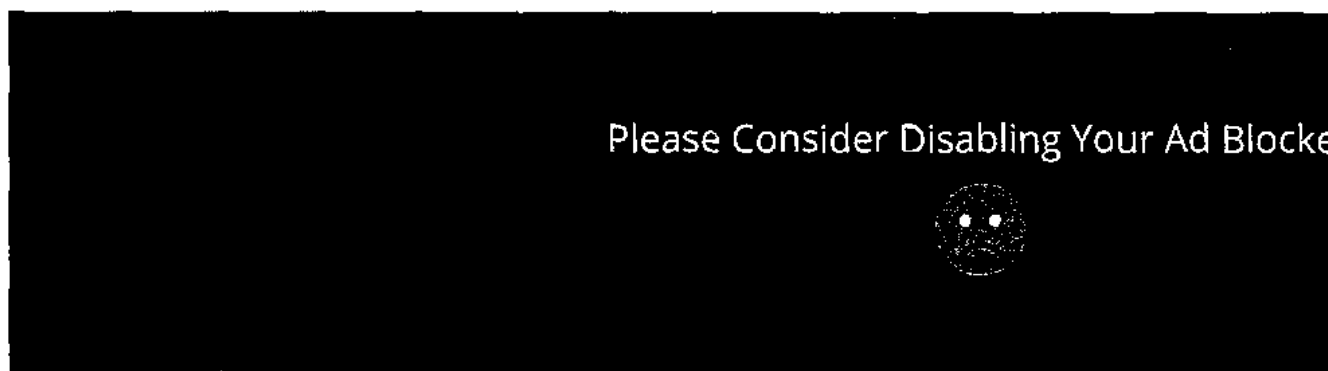
"My understanding is they haven't changed," says Debra Newman, who worked on both studies. Her boss, Rose, says, "It's a time-honored to evaluate who is the most qualified firm that will provide the best service

Even if Recology scrapes together another million or so dollars to fight initiative, the company just might be crushed under the tonnage of it

Not long ago, Recology submitted the best bid to pick up trash in San

incumbent hauler Allied Waste there in January. But Recology's spot deluge of complaints from skipped customers. Service there isn't much. Redwood City, halfway between San Francisco and San Jose, Recology customers \$321 per year, just \$9 less than in San Francisco.

If Campos and Mirkarimi's measure makes it to the ballot, Recology that competition is good for San Mateo County, where the company has San Francisco, where it stands a risk of losing.



proponents and the opponents.”

Let the trash-talking begin.



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June 14, 2017

Refuse Collection and Disposal Rate Board
Jennifer Johnston for Naomi Kelly, Chair, City Administrator
Ted Egan for Ben Rosenfield, Controller, Member
Michael Carlin for Harlan L. Kelly, General Manager, Public Utilities Commission, Member

Edwin M. Lee
Mayor

Re: Response to Objections to the Director's Report

Mohammed Nuru
Director

Dear Members of the Rate Board:

San Francisco Public Works
1 Dr. Carlton B. Goodlett Pl.
Room 348
San Francisco, CA 94102
tel 415-554-6920

This letter summarizes my responses to the objections that have been filed in connection with the Director's Report and Recommended Orders of May 12, 2017 ("Director's Report"). Under the Refuse Collection and Disposal Ordinance ("Refuse Ordinance"), the Rate Board must rely on the evidence placed in the administrative record during the Director's 2017 hearings through testimony or documents.

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I have organized the objections into eighteen categories, building on a matrix created by the City Attorney's Office, which is included as Attachment A. In the sections below, I have cited those sections of the record that address each category of objection and that support the Director's Report. I will be available during the Rate Board hearings along with staff from Public Works and Department of the Environment (SFE) to address the objections and answer any questions from members of the Board.

1. Rate Increase is Too High (Objections #1, 2, 3, 16, 17, 18)

I agree that the proposed increase of 20% over four years (14.42% in Rate Year 2018, 5.46% in Rate Year 2019, -0.55% in Rate Year 2020, and 0.79% in Rate Year 2021) is considerable and may pose a hardship for some ratepayers. The City has not approved any rate adjustments other than cost-of-living increases since 2013.

The rates are based on Recology's actual costs for services necessary to collect and process residential and commercial refuse. As described in the Director's Report, the largest cost drivers for the rate increases are costs related to business as usual (28%), increased public participation in current programs (24%), implementation of new programs (20%), the higher cost of the new landfill agreement (20%), higher costs related to composting operations (6%), and new capital investments (2%) (Director's Report pages 2-5; Exhibit 86).

The Refuse Ordinance states that rates be "just and reasonable," and requires the Director to review the application and submit a report and recommended orders to the Rate Board. "Just and reasonable" is not a formula or test that the proposed rate must meet to be approved. As noted in the Staff Report (Exhibit 78 pages 5-8), the Director followed a carefully constructed public process. Staff from Public Works, SFE, and consultants, conducted a thorough review of Recology's projected revenues and expenditures, verified detailed information and determined they were generally appropriate, and well documented. The higher cost for expanded collection and processing operations is needed

to move toward the City's zero waste goal (Director's Report; Exhibits 78, 79, and 80). In a number of cases, staff recommended adjustments to cost and revenue projections (Exhibit 78 page 3). I recommended additional changes in the Director's Report (pages 5-8). I am confident that the rates in my Recommended Orders are based on solid evidence and reflect the actual costs for collecting and processing San Francisco's refuse.

2. Rate Increase Is Higher for Apartment Owners with 2-5 Unit Buildings (Objections #52, 53)

Recology's rate increase applies to all residential customers. The 16.4% average projected rate increase includes all residential accounts, not just single family homes (Exhibits 44, 45). Apartment buildings of 2-5 units represent 15% of the accounts within the 1-5 unit category (Exhibit 88). Even with the higher fixed charge, the total cost on a per-unit basis is less than the minimum service for a single family residence because multi-unit buildings can share bins (Director's Report page 10).

A higher than average increase for some customers is the result of structural changes in the rates, increasing the base dwelling unit charge and adjusting bin volumetric charges, toward a more accurate reflection of the cost of service. This rate structure also reflects the operational reality of this industry, in which roughly 60% of the costs of collecting and processing material from customers are fixed. Some differential impacts on customers are an inherent part of rate setting, especially when it is also moving from a focus on volumetric charges on trash bins to a structure that reflects the cost of collecting and processing all refuse streams (i.e., trash, recyclables, and compostables).

R3, a firm with solid waste management industry expertise that served as a financial consultant for Public Works, evaluated Recology's rate proposal as well as other rate structures with different values and ratios of fixed and volumetric charges (Exhibits 79, 87, 88, 89, 90). R3 concluded that the rate structure proposed by Recology produced one of the most consistent and even distributions of customer accounts, with 87% of accounts at or below the 16.4% average increase (Exhibit 68). Another rate option, which kept most customers close to the average increase, but moderated the increase for some customers by reducing the unit charge and increasing the volumetric charges, are the rates that I recommended in my report (Director's Report pages 9-10).

3. Base Service Charge is Too High (Objections #4, 5, 22, 24, 31, 38, 45)

The base unit charge is only one component of a customer's refuse rate. The rates also include volumetric charges for trash (black bins), recyclables (blue bins) and compostables (green bins). A rate needs to be evaluated with all the charges together; it is misleading and inaccurate to assess a single rate component, such as the unit charge, in isolation.

Recology presented an analysis of the fixed versus variable costs of its operations (Exhibit 43). The density and terrain of San Francisco creates a challenging operational environment, with collection costs affected by many variables. Recology's fixed collection and processing costs consist of more than the cost of a truck coming to an address to pick up bins. Recology has overhead and offers a variety of other programs to its customers (Exhibit 1 pages 2-6). In addition to those 32 programs, Recology processes all refuse streams at Recycle Central or Tunnel Avenue before transporting the remainder to other facilities.

By incrementally increasing the unit charge, the City is taking an additional step toward aligning the rates with the fixed cost components of residential and apartment services. A rate structure with a higher unit charge also mitigates the impact of declining trash volumes on Recology's total revenues, as San Francisco increases recovery and moves closer to its goal of zero waste. While the cost of collecting and processing each of the three

streams is comparable and the volumetric charges for recycling and composting service are being increased, these rates are still lower than the volumetric charges for trash service. These lower charges continue to provide an incentive for composting and recycling. Under my Recommended Orders, the volumetric charges for recycling and composting for residential customers are 50% of the cost of an equivalent-sized trash bin.

In recognition of the differential impact of the rates on small quantity waste generators, I recommended a transition credit of \$5 for the first two years for current 20-gallon trash customers (Director's Report page 6).

4. Rate Increase is Unfair to Single Family Residences and 2-5 Unit Buildings (Objections #6, 7, 11, 19, 25, 32, 39, 46)

The increased cost of refuse collection and processing is borne by all customers, not just single family homeowners and 2-5 unit buildings (Exhibit 1A RSS/RGG Schedules B.1-3, F.1). While the unit charge for 6-unit and larger apartment buildings is \$5, the volumetric charges are computed differently – \$24.03 per 32 gallons for trash, recyclables, and compostables, with diversion discounts (Exhibits 1A, 78 page 15; Director's Report pages 10-11). The distribution of the increase for apartment customers is tighter, so more of these customer accounts will experience a rate increase that is closer to the average, but some customers will experience increases that are above and below the average amount (Exhibits 68, 87).

5. Cost-of-Living Adjustment Not Justified (Objections #8,20)

Revising rates using a cost-of-living adjustment (COLA) mechanism is a standard practice in utility rate-making and has been applied to refuse rates in San Francisco since 2001. The formula is tied to known cost increases and published indices, such as the Consumer Price Index, which also fluctuate with the economy. Several of the indices used in the COLA formula are capped. Since the last approved rate adjustment in 2013, the COLA formula has resulted in annual increases of less than 2% each year (Exhibits 46, 47, 61). The City and its financial consultant, R3, performed an extensive analysis of the inflation factors and the COLA formula (Exhibits 78 pages 17-20; Exhibit 79 pages 57-60) and recommended changes to improve the methodology that would be applied in the annual rate adjustment process (Director's Report pages 12-13).

I continue to believe that the COLA mechanism is a reasonable approach to adjusting rates between rate applications. I would also note that in addition to saving ratepayers the cost of more frequent, time-consuming and costly rate applications and proceedings, there is the potential for the COLA to result in a negative adjustment to rates when indices decline. The Proposition 218 notification properly noticed the inclusion of the COLA mechanism as part of the rate application (Exhibit 73).

6. Abandoned Materials Program Should Not Be in the Rates (Objections #13, 30, 37, 44, 51)

While all residences and commercial premises are required to have adequate refuse services, a survey of the abandoned materials collected from San Francisco's streets and public areas suggests that these materials (including mattresses, appliances, electronics, furniture, and other large items or bags of material) come from those same residences and businesses predominantly and are not being brought into the City from other locations. Recology offers many services for customers to discard their unwanted items, including bulky item recycling (bulkyitemrecycling.com) and district cleanup events, yet some customers continue to leave materials on the streets.

The Rate Board affirmed the validity of including the costs of the Abandoned Materials Program in prior proceedings (Exhibits 8, 16). The effectiveness of Recology's management of the program was also demonstrated in a previous report to the Rate Board, including faster response time and greater diversion of

materials from landfill (Exhibit 9). This year, Recology proposes to combine the Abandoned Materials Collection Program with the Bulky Item Recycling Program, which will result in greater efficiencies and lower costs (Exhibit 50). I approved this change, which reduced the number of additional drivers that Recology was requesting for the programs managed separately (Director's Report page 8 and pages 15-16).

A portion of Public Works funding goes to support the Outreach and Enforcement Team (OnE Team), which focuses on reducing illegal dumping with outreach, education, and enforcement. The allocations to Public Works are fully enumerated in the record (Exhibit 55). Recology does not earn a profit on these costs.

7. Zero Waste Incentive Fund Rebates Have Been Misapplied (Objections #20, 30, 37, 44, 51)

Several objectors appear to have misunderstood the issue of "rebates" as reflected in the rate adjustments. In its application, Recology proposed using surplus revenues from two accounts (Special Reserve Fund and Zero Waste Incentives) to offset a portion of rate increase (Exhibits 1A, 49). These funds were collected from all customers (a 1.3% surcharge on volumetric billings for the Special Reserve Fund and an additional 2% operating ratio for Zero Waste Incentives). Recology proposed to apply these excess funds to reduce the rate increase, which would benefit all customers (Exhibits 1A, 49). I concurred that Recology's proposal for the application of surplus revenues resulted in the most efficient and equitable way to use the funds for customers per the procedures governing those funds (Director's Report page 11-12). The gradual drawdown of the Special Reserve Fund mitigates the rate impact over three years (Exhibit 69), builds the new Reserve Fund to the target funding level in lieu of assessing a 1% surcharge to customers, and maintains a balance in the old Special Reserve Fund to protect against unanticipated claims (Exhibit 78 pages 11-13).

8. More Information Needed on Recology's Costs (Objections #14, 21, 28, 35, 42, 49)

Recology's costs are described in detail in the rate application (Exhibit 1A). City staff and an outside consultant reviewed and validated these costs (Exhibits 79, 80).

9. Impact of Zero Waste Incentives on Trash Pickup (Objection #21)

The Zero Waste Incentives do not impact the planning or health departments. The incentives are set as part of the rate process and designed to reward Recology if it reduces disposal tons. State and City laws dictate health department (DPH) and other agency roles in refuse collection and disposal. SFE, DPH, Public Works and Recology will be meeting again soon to discuss minimum service requirements and how to best handle customers that legitimately do not require one or more components of refuse collection (i.e., recycling, composting and/or trash).

10. Blue and Green Bin Charges Generate Revenue to Cover Costs (Objections #28, 35, 42, 49).

The value of recyclables and compostables recovered from the blue and green bins does not cover their cost of collection and processing (Exhibit 1A). City staff reviewed facility costs and the prices for commodities to ensure Recology is maximizing projected revenues. The revenue that Recology collects from recyclables is enumerated in the application (Exhibit 1A RSF Schedule F.3) and has been verified by City staff (Exhibit 78 page 4). Recycling revenue offsets Recology's processing costs (Exhibit 1A RSF Schedule B; Exhibit 70). The revenue from compost is applied at the composting facilities and used to offset their tip charge.

The City, through SFE, has worked to reallocate refuse collection, processing costs, and other externalities to the producers and consumers of products. This process is called producer and consumer responsibility, extended producer responsibility or product stewardship. It is a slow, complex, political process, primarily facilitated through state and, to some degree, local legislation. There have been some variants of success, such as aspects

of state bills on beverage containers (the bottle bill), electronics, mattresses, carpet and paint (Exhibit 58 page 27), and San Francisco bans (e.g., expanded polystyrene), charges (e.g., checkout bags) and other ordinances (e.g., pharmaceuticals). These efforts have reduced San Francisco refuse rates. SFE is currently engaged in additional state bills and efforts (e.g., Sacramento workshops on printed paper and packaging, and plastics), as well as some more local policies under consideration and will continue to help reassign costs back on responsible parties to the benefit of ratepayers.

11. Landfill Agreement Is Too Long (Objection #10)

California law requires each county to have or provide a strategy for obtaining 15 years of disposal (i.e., landfill) capacity. San Franciscans continue to put material in black bins destined for landfill. This rate process provides additional resources to encourage San Franciscans put recyclables and compostables in the proper bins, process landfill bound material to extract recyclables and compostables, and develop markets for problem materials. Nevertheless, Recology projects that some material will continue to be sent to the landfill (Exhibit 2 page 6, Exhibits 64, 71).

12. Recology's Use of Routing Equipment for Enforcement (Objection #15)

In hearings, Recology described expanding its route management system (Transcript pages 175-194, 224-225). The routing software will improve Recology's operational efficiency and communication with its customers and is not intended to be punitive; rather, Recology will use the improved communication to educate customers and ensure compliance.

San Francisco code requires everyone to keep recyclables, compostables and trash separate, and allows Recology and designated people to look in bins. Recology and SFE have audited bins and provided outreach to customers in a wide variety of ways for many years, and additional outreach resources are funded in this rate and outlined in the record. Cameras are fairly common on refuse collection vehicles and their use is increasing as technology improves. Cameras will help identify major sources of bin contamination to enable Recology and SFE to educate customers, assist them in a targeted way, and provide any needed documentation. Customers causing egregious contamination have also received financial penalties for many years. Cleaning up this contamination increases operating costs at the various processing facilities.

13. Lack of Outreach (Objection #23)

Per the Rate Board's direction in the 2013 proceedings (Exhibit 16), Public Works engaged a Ratepayer Advocate to assist in outreach efforts to facilitate public participation in the process and present the public's views at the Director's hearings. Outreach efforts by the Ratepayer Advocate are documented in the record (Exhibits 22, 82, 102) and included both traditional mechanisms (e.g., neighborhood newspaper ads, dedicated phone line, e-mail) as well as the use of new communication tools such as social media (e.g., Facebook, Twitter). This approach resulted in a broader and more inclusive process than in the past, as shown by the number of "hits" on the Ratepayer Advocate's web page and social media sites, phone calls and e-mails, as well as attendance and participation at more than 60 community meetings (Exhibit 102). Recology also sent the Proposition 218 notification concerning the proposed rate increase to all its billed customers and residential service addresses (Exhibit 73; Transcript page 508).

Public Works recognizes that it cannot guarantee that the outreach efforts will reach everyone who might be interested in the rate increase, despite our best efforts to employ traditional and new outreach techniques and communication mechanisms (e.g., social media). I would note that while there were criticisms of our outreach

efforts again this year, nevertheless the seven Director's hearings were well-attended and public comment was robust at every hearing. In response to the Proposition 218 notice, I received more written protests than in prior proceedings, which indicates that the notification was effective. I would also observe that the objections filed with the Rate Board are coming from a broader cross-section of ratepayers than in prior years, which suggests that there is a greater awareness of the rate application and the Director's proceedings.

14. Landlords Cannot Pass Through the Rate Increase (Objections #18, 26, 33, 40, 47)

The ability of landlords to pass through costs as part of rent is not within the jurisdiction of the refuse rate setting process.

15. Recology is a Monopoly (Objections #29, 36, 43, 50)

Recology holds the City's permits under the Refuse Ordinance to collect and transport refuse within San Francisco. The City performed an extensive review, validating costs and revenues projections (see response #1). Recology's allowed profit is set in the rate process, like other regulated utilities.

16. No Senior Discount (Objection #9)

The low-income discount program is not age-related. The Director's Report recommended increasing the income eligibility threshold, potentially increasing the number of individuals who would be eligible for the discount and bringing them into alignment with the low-income programs provided by other local utilities, such as Pacific Gas and Electric and the San Francisco Public Utilities Commission (Director's Report page 19). All customers have the opportunity to right-size their service, if they haven't already done so. Customers are still required to meet minimum service levels. Recology provides some services free of charge, helping customers with disabilities that need extra assistance.

17. Variable Charges Too High (Objections #27, 34, 41, 48)

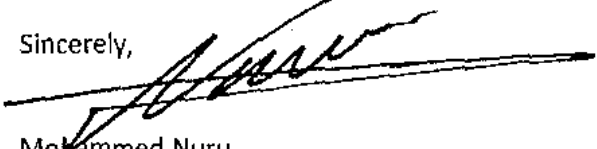
Collection and processing costs are directly correlated with time and material weight. Recology and the City have performed due diligence and researched state of the art technology. Systems that weigh bin contents or determine fullness volume are not sufficiently developed to be used for charging customers. San Francisco is considered a leader in adopting new refuse collection and processing technology. See response #1.

18. Minimum Service and Frequency of Collection (Objections #12, 27, 34, 41, 48)

Weekly collection of putrescible material is required by state law (CCR Title 14, Div. 7, Ch 3, Art. 5, Sec. 17221). In San Francisco, refuse includes recyclables, compostables and trash. Per four interrelated San Francisco codes, dwelling owners are required to have and pay for adequate refuse service, with some exceptions. If after a thorough review process, owners are not in compliance with the minimum service, the City can attach a lien to their property. San Francisco's Mandatory Recycling and Composting Ordinance (Environment Code Section 291) requires everyone to keep recyclables, compostables and trash separate. Approved refuse rates help define minimum service levels. SFE and Recology tested every other week service, pay per set out and smaller trash bins. Smaller trash bins produced the best results with the least amount of contamination between the bins (Exhibit 18; Transcript pages 100-104). In my report, I reduced the minimum trash service for a single family home from 20 gallons to 16 gallons, which will allow many customers to adjust their service and potentially reduce their rates.

Thank you for your consideration of these responses. I look forward to assisting the Rate Board with its deliberations.

Sincerely,



Mohammed Nuru
Director of Public Works

cc: Julia Dawson, Public Works

Deborah Raphael, Robert Haley, Jack Macy, Department of the Environment

Manu Pradhan, Brad Russi, City Attorney's Office

Dwayne Jones, Rosemary Dilger, Ratepayer Advocate, RDJ Associates

Attachment A

Attachment A – Summary of Rate Board Objections by Category

Objection Number	Increase Too High	Base Service Charge Too High	Unfair to SFH and 2-5 Units	COLA	Abandoned Materials Program	More Info Needed
1. Rate increase too high (<i>Schlatz</i>)	X					
2. Rate increase too high (<i>Lindeboom</i>)	X					
3. Rate increase too high (<i>Bassan</i>)	X					
16. Rate increase is too high (<i>Wong</i>)	X					
17. Rate increase is too high (<i>Sinn</i>)	X					
18. Rate increase is too high (<i>Damm</i>)	X					
52, 53. Rate increase too high, particularly for 2-5 unit buildings (<i>Kramer, Richen</i>)	X					
4. Base service charge too high (<i>Bassan</i>)		X				
5. Basic service charge for single family homes excessive (<i>Bassan</i>)		X				
22. Base charge discriminates against customers with small trash footprint (<i>Laffan</i>)		X				
24, 31, 38, 45. Increase in base rate is too high (<i>Lemmon, et al.</i>)		X				
6. Basic service charge for single family and 2-5 unit buildings unfairly shifts burden from bigger buildings (<i>Bassan</i>)			X			
7. Increase for blue and green bins too high for single family homes and 2-5 unit buildings (<i>Bassan</i>)			X			
11. Homeowners cannot opt out of garbage service. Unfair to place burden on single family homes and smaller buildings (<i>Bassan</i>)			X			
19. Increase to base charge is too high and unfair to 2-5 unit buildings (<i>Laffan</i>)			X			
25, 32, 39, 46. Base rate unfairly discriminates against owners of 2-5 unit buildings (<i>Lemmon et. al.</i>)			X			
8. No justification for COLA adjustments (<i>Bassan</i>)				X		
20. Customers being charged for COLA twice; once with Zero Waste Initiative and once with rate increases (<i>Laffan</i>)				X		

Attachment A – Summary of Rate Board Objections by Category

13. Rates should not include the cost of cleaning up illegal dumping (<i>Bassan</i>)					X	
30, 37, 44, 51. Rate Board should demand information on what charges Recology included in the application to pay for costs by City departments (<i>Lemmon et al.</i>)					X	
14. Customers lack information regarding Recology's Costs (<i>Bassan</i>)						X
21. There should be a review of the Zero-Waste Initiative (<i>Laffan</i>)						X
28, 35, 42, 49. Increase in blue and green bins despite revenue generation; should seek an explanation for this (<i>Lemmon et al.</i>)						X
10. Consumers should not be paying for a 15-year contract (<i>Bassan</i>)						
15. Tool to photograph and report improperly sorted bins is improper (<i>Bassan</i>)						
23. Outreach efforts for rate application were not effective (<i>Laffan</i>)						
26, 33, 40, 47. Director's ruling conflicts with the Rent Ordinance (<i>Lemmon et al.</i>)						
29, 36, 43, 50. Increase represents monopoly pricing by Recology (<i>Lemmon et al.</i>)						
9. Recommended low-income discount for seniors is deficient (<i>Bassan</i>)						
12. Increasing charges on larger bins will encourage dumping (<i>Bassan</i>)						
27, 34, 41, 48. Increase for black bins does not recognize that rates should not necessarily increase with bin size (<i>Lemmon et al.</i>)						



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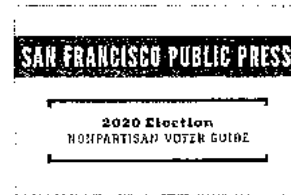
Garbage time: Recology was the major donor to Mohammed Nuru's nonprofit slush fund

By Joe Eskenazi | Oct 9, 2020 | Featured, Front Page, Instagram, Mobile, Newsletter, Today's Mission, Topics | 11



The three: blue for recycling, black for trash, and green for compost. File photo, 2009

City, customer payments to Recology waste collection company spiked during



MLesp

Noticias de último



Subsc

MOBILE NUMBER

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A text input field for the mobile number.



What To Do

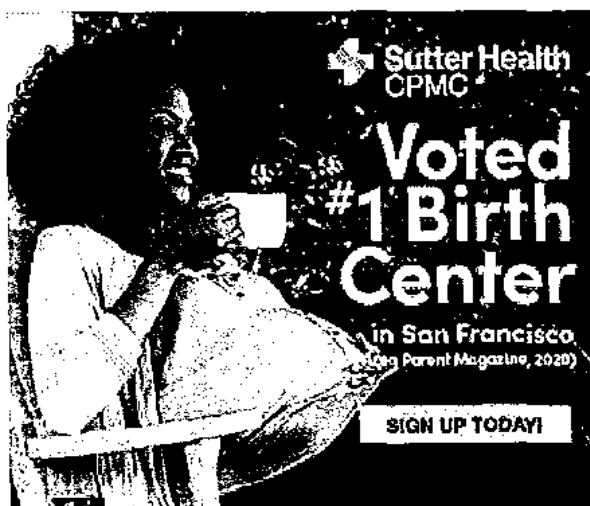


MISSION LOCAL

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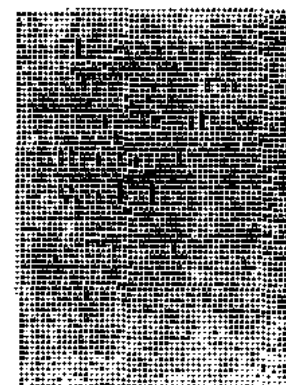
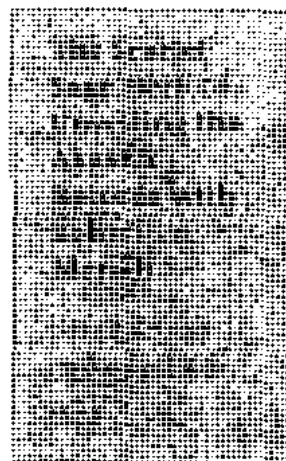
Nuru's boss was aware of his dodgy fundraising activities, report states

Before they formed *Monty Python*, John Cleese and Graham Chapman had a program called *At Last, the 1948 Show*. The joke: It was 1967.



No joke: Sometimes covering news in San Francisco feels like that.

There's a pandemic, an economic catastrophe, multi-front investigations into long-running and far-reaching corruption launched following the January arrest of erstwhile Public Works boss Mohammed Nuru, and a sprawling election — with the presidential race obscuring all of the above.



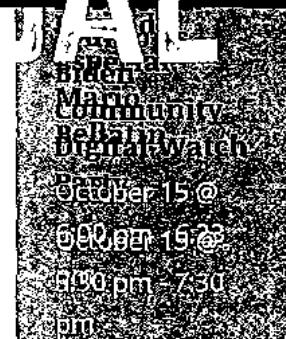
MISSION LOCAL

local is has of er more c itc so new ing
else. Perhaps the focus has already shifted
several times; there's so much to pay
attention to but it feels like our attention
spans have never been shorter.

So, some of you may have heard about a
late September report from the city
controller's office outlining the systemic
breakdowns that allowed Nuru to solicit
entities with business before him to donate
funds into Public Works-controlled sub-
accounts at the nonprofit San Francisco
Parks Alliance. Nuru was then able to
redistribute those dollars as he saw fit.

But most of you probably didn't. The
contents of an interstitial controller's report
about nonprofits and sub-accounts just
doesn't amount to a hill of beans in this
crazy world. And the amount of money
funneled into the sub-accounts between
2015 and 2020 — \$993,000 — doesn't
amount to a hill of beans in this crazy city:
As of 2017, the government spent \$1.2
million yearly on toilet paper.

But that doesn't mean what's in here isn't
important. Far from it: The focus needs to
be on the baked-in corruption and the
debilitating effect it has on the city. *That's*
the problem, even if one needn't pay all that



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left in San Francisco.



As such, the controller's report is narrowly focused on outlining a flawed system and suggesting methods of repairing it. It notes, by the way, that, had the Board of Supervisors adopted a 2009 Chris Daly ordinance it spurned by a 6-5 vote, unelected honchos like Nuru would've long ago been barred from soliciting donations to nonprofits to fund the city — proving, once again, we all should've listened to Daly more. And we probably would've, if he'd talked less.



Photo by Lydia Chávez.

And yet, in the course of 50 pages of noting details such as “Mr. Nuru was not required to file Form SFEC-3610(b),”

the controller's report does drop a few bombs — albeit subtly. It notes, on page 31,



efforts to entice entities with business

before him to put money into nonprofit accounts he could tap. It does this without acknowledging her by name.

But the real shocker — and a potential window into where investigators may well be going with all this — came three pages earlier. It's the breakdown of the sources of the money siphoned into the funds Nuru controlled at the Parks Alliance. And, wouldn't you know it, 88 percent of the money comes from just two sources: \$131,948 from Recology and \$721,250 from the San Francisco Clean City Coalition, a nonprofit.

But wait: In the footnotes, it reveals that, during the five-year window of this probe, Recology — which has enjoyed a city charter-enshrined monopoly to haul San Francisco's waste since 1932 — gave \$630,000 to Clean City. In fact, in 2019 alone, Recology donated \$180,000 to Clean City, which then turned around and paid \$171,000 to the Parks Alliance.

So, Recology is a huge source of the money that trickled into Public Works' subaccounts with the Parks Alliance. And Public Works is pivotal in setting Recology's citywide rates.



— during which Recology was funneling money into Nuru's preferred subaccount — the amount *you* pay for Recology's services went up some 20 percent.

With the staunch backing of Mohammed Nuru.

Donations to the Public Works Subaccounts at the Parks Alliance

Below are the city contractors and building permit holders that donated to the Parks Alliance's Public Works subaccounts during the review period.

Donors	Donations Made to Public Works Subaccounts at Parks Alliance			Building Permits at City of SF			Public Works Payments to Contractor/Permit Holder			Other Departmental Payments to Contractor/Permit Holder		
	Amount	% Total	Number	Amount	% Total	Number	Amount	% Total	Number	Amount	% Total	Number
SF Clean City Coalition	\$721,250	53%	0	\$1,288,175	1%	0	\$1,288,175	1%	0	\$1,288,175	0%	0
Recology	191,948	53%	4	5,775,112	1%	0	5,775,112	1%	0	186,493,379	10%	0
Pacific Gas & Electric	42,093	4%	8	3,236,409	1%	0	3,236,409	1%	0	234,720,652	13%	0
Emerald Fund II LLC	17,000	2%	6	0	0%	0	0	0%	0	22,745,925	2%	0
Clark Construction	16,286	2%	60	247,209,740	43%	0	247,209,740	43%	0	27,706,950	3%	0
Wilco Construction	15,600	2%	45	193,766,888	34%	0	193,766,888	34%	0	762,989,344	66%	0
Wilco's Int'l Union	11,200	1%	0	273,197	0%	0	273,197	0%	0	7,428,116	1%	0
Pathway Construction	10,500	1%	86	110,719,636	20%	0	110,719,636	20%	0	966,197	0%	0
Airbnb	1,000	0%	7	0	0%	0	0	0%	0	0	0%	0
Total	\$966,347		218	\$572,269,168			\$572,269,168			\$1,151,472,701		

* According to the City Attorney's public inquiry into SF Clean City Coalition received \$100,000 from Recology in each of three years—2018, 2019, and 2020—for Public Works' GWT Sweep program, Clean Team program, and other environmental and community efforts. In 2019 Recology donated \$100,000 to the GWT Sweep and Clean Team programs to SF Clean City Coalition which then paid \$100,000 to the Parks Alliance.

[Click for larger version.](#)

Recology characterized its decade of donations to Clean City and the Parks Alliance to Mission Local as being “in support of their efforts to clean, beautify, and expand access to the City’s parks and public spaces.”

These donations, the company continued, are “only a small part of Recology’s record of giving to organizations throughout the City.”

Fair enough. But the lion’s share of the money funneled into what amounted to a Nuru slush fund stems from Recology.



this city — and every newspaper was more transactional — has not yet been determined by an outside party.

What has been determined is that, during the period these donations were being made, Recology's customer fees spiked. They were hiked by 14.4 percent in 2017, another 5 percent last year, and a 1 percent rise in 2021 is anticipated. These prices were approved by a city rate board — which unanimously approved the rates suggested by Public Works and Nuru.

So, we're no longer talking about mere hills of beans here. Additionally, In 2019, the city approved upping Recology's contract from \$40 million to \$48 million. In June of this year, the city proposed raising it again, to \$53.5 million.

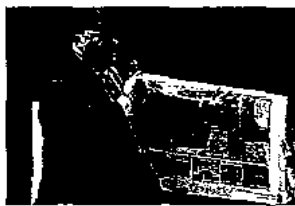
Clean City did not return our messages by press time. The Parks Alliance said, via statement, "We had no prior knowledge, did not benefit in any way, nor had any control over the donations that Nuru and Public Works solicited and directed to the sub-account, as the report states."

Recology added that, after its leaders learned local and federal investigators were probing both these organizations, they



strengthens employment, to ensure it addresses applicable ethics rules."

Well, good. Based upon what we already know, it's hard to imagine that serious questions won't be asked and documents won't be demanded — if that hasn't happened already.



Former Director of Public Works Mohammed Nuru. Photo by Lola M. Chavez.

But, as the city continues to investigate, perhaps it ought to keep a closer eye on the reflection in the mirror. In the course of five years,

Recology gave

hundreds of thousands of dollars to the Clean City Coalition, which acted as a conduit to the Nuru-controlled subaccount at the Parks Alliance. But, in that same timeframe, Public Works gave Clean City far more: \$3.3 million. All told, between 2016 and 2019, San Francisco gave Clean City \$5.2 million.

It seems Nuru was, in essence, siphoning city funds to his chosen recipients in a scheme that resembles money-laundering. It's as if the bartender stepped out and Nuru began pouring everyone beers: *Drink up,*



for months to be seen to win a party
atrocities will capture and lose our
attention before we potentially receive
definitive answers to all our questions here.
But, God willing, that day will come — *at*
last.

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SF Police Commission
approves sweeping new policy
on community policing

Snap: Oh Nick

About The Author





Joe Eskenazi

getbackjoejoe@gmail.com



11 Comments

Willy N. on October 9, 2020 at 8:46 am

Recology spreads their money wide. In 2016, Recology donated \$4,000 to The League of Pissed Off Voters. But why would @TheLeagueSF even take their  .

REPLY

CARLOS SPINOZA on October 9, 2020 at 10:25 am

Ahh...

Was wondering when the Garbage Mafia would find itself in this story.

There used to be a thing called the Colma Dump as a repository for our trash.
Open to the public.

One inched along behind a long line of refuse carrying vehicles up the slopes of San Bruno Mountain along a rutted road ending up at a little guard shack.
Manning this position was a big Beluga with the most dour/serious expression possible.
Hard to forget that face.
He'd peek in and give everyone in the pickup cab a serious once over.
Then take a quick look at the load and pronounce –
20.
On a bad day with more or less an identical load – 40.
Quickly cough up the requested cash – debating the price was not an option.



...and the little executive, he'd pull out
humongous roll of cash from his pocket and add your
remittance to the bundle.

Curiously, Mr. Beluga bore a striking facial
resemblance to Michael J. Sangiacomo - President
and CEO of Recology since 1990. And before that -
Chief Financial Officer right around the time of my
story.

Was that little shack on San Bruno Mountain his
office?

REPLY

Anon on October 9, 2020 at 12:28 pm

May want to investigate how money is spent on those
SFPUUC "green projects". Holloway cost \$7.4M to do 8
blocks while Ocean Avenue continues to flood every
time there's moderate rain fall.

REPLY

sf immigrant on October 12, 2020 at 3:09 pm

A "regular" curb extension (bulb-out) with no
landscaping, rain garden, or street furniture
costs \$150k per corner (maybe more now).
Assuming two bulb-outs per 9 intersections,
that's \$2.7 mil just on bulb-outs. At San
Francisco costs, it's easy to believe that
replacing sewers, water lines, drainage,
landscaping, street furniture, and paving
would eat up the other \$4.5 million.



developed world. Unfortunately the answer is a lot more complicated, pernicious, and difficult to solve than corruption. There are myriad answers to the question, but all generally relate to the San Francisco Way. Generous benefits and salaries for public employees, prevailing wage requirements for contractors, poor contracting processes, and a host of other random requirements that companies who want to work with the city all have to meet (LGBT protections, paid leave requirements) that all drastically shrink the pool of companies that meet these requirements, and drive up their labor costs (and allow them to set higher costs).

What you need to see are investigations into questions like: what's more important, that a tiny group of rent seeking construction contractors or SFPW employees get paid generous wages, or that the whole population of SF benefit from cheaper capital projects which would free up funding for more projects than the city could construct otherwise? Why do SF progressives demand that private companies fulfill the social obligations that governments should be responsible for, driving up costs for everyone (including housing construction costs, which raises housing prices, which necessitates even more generous wages – and continuing in a terrible, expensive negative feedback loop)?

REPLY



With the City of San Francisco, we don't have a secret. It's also a progressive, cutting edge, employee owned, union company that pays a living wage, with healthcare and pensions to thousands of blue collar people in San Francisco, and the Bay Area.

Go ahead and tear them down... and replace them with Waste Management, or another publicly traded company? Goodbye living wages, benefits, progressive recycling and composting programs, etc.

Oh... and San Francisco's garbage rates are cheaper than Oakland, Berkeley, Alameda and San Jose.

REPLY

Get Real on October 10, 2020 at 4:14 pm

Not sure what you're saying, here. No reason we can't have both a corruption-free city and good companies with good wages. In fact the one should lend itself perfectly to the other. And I sincerely doubt Recology is going anywhere, anyway. So relax.

REPLY

Old Mission on October 9, 2020 at 2:44 pm

What were the payments by Public Works & Other Departments to building contractors such as Webcor for?

I can see why they would pay Recology & PG&E, but big commercial building contractors?

I agree with Compost Kid. I have dealt with Recology for my workplace & my home; their decently paid



BigFrisco on October 9, 2020 at 5:38 pm

Joe,

First time caller, long-time reader. I really appreciate your work and donate to both mission local and subscribe to your text service. With Joe Fitz moving to KQED, you are the last of a dying breed of hard hitting reporters.

Unfortunately, I feel like this one misses the mark a bit. If there was information about Recology knowingly making donations into these slush funds, I could see the headline deserving that story. If you read the controller's report, it sounds like the money was donated to one non-profit, then transferred to a second non-profit, which was the Park's Alliance. From my POV, the story here is that Nuru had control of a Park's Alliance account. How does that happen? Look at the Park's Alliance board. Its got some very well connected people and some very high level professionals (accountants, attorneys, etc.). If this is happening at the Parks Alliance, it begs the question about what is happening at the numerous other non-profits in the City.

Ultimately, the controller report concludes that the real issue is the policies surrounding the "friends of" organizations and Nuru using this account to subvert city purchasing policies. It even sounds like the expenses went to their intended purpose. I am not sure how you connect these issues to Recology? I get that they are an easy target but I don't see enough here to justify the headline.



REPLY

Ginger on October 10, 2020 at 4:18 pm

The headline and content are right, true, and fair. Nothing at all wrong with this very informative piece.

REPLY

Mike Black on October 12, 2020 at 11:50 am

Excellent observation, BigFrisco.

Thank you, Joe Eskenazi, for this very informative summary. You state, "the cost of doing corruption is, sadly, apparently one of the few bargains left in San Francisco." The purposefully circuitous nature of that bargain can be seen in the fact that the nonprofit San Francisco Clean City Coalition was getting a whole lot more out of the system (\$5.2 million) than it was putting into the system (\$721,250) — with \$630,000 of that "donation" to Mohammed Nuru's Park Alliance slush fund over five years actually coming from Recology.

As you suggest, the real question here may eventually be to what extent the feds decide to hold City Administrator Naomi Kelly accountable for all of this as the "capo dei capi" in the racket that is city government.

REPLY



ny plus fund.

Unlike when he lent Breed money to "fix" her car.

REPLY

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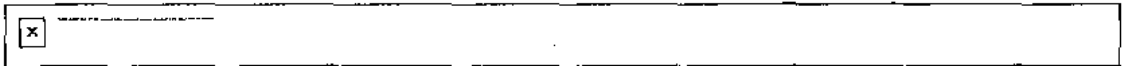
Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Sunday, October 11, 2020 4:56 PM
To: SOTF, (BOS)
Subject: Please include article re Parks Alliance corruption in SOTF files # 19061 and 19062

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

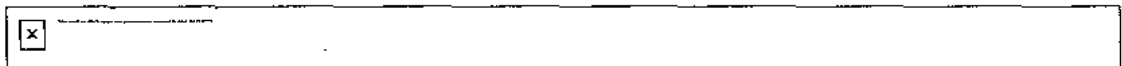
Hi Cheryl: please make sure the article below "City Hall's web of corruption" from the Westside Observer is included in the SOTF reading file for files # 19061 and 19062 so task force members can read it before the next Complaint Committee hearing on these agenda items.
Thank you.

John Hooper



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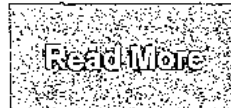


San Francisco's legal, ethical and financial guardians: Ben Rosenfield, Lee Ann Pelham, and Dennis Herrera,

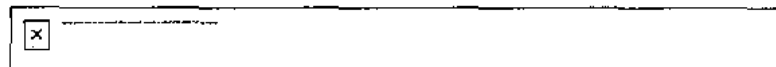
City Hall's Web of Corruption

DPW's subaccounts at the Parks Alliance amassed \$990,000 and spent \$980,000 ... \$966,000 of that money was donated by 8 contractors who had received \$572 million from DPW plus 7 companies that obtained 218 building permits from the Department of Building Inspection (DBI)

by Dr. Derek Kerr



.....



Isolating Seniors on Northwest Parking Lot

Laguna Honda: Inappropriate for Housing

Yee's pitch to place housing on LHH's campus was a terribly misguided idea. There's actually very little land on LHH's campus that can be pressed into service for housing. Essentially, only two spots on the northwest side of the campus are viable, because the campus has largely been built out.

by Patrick Monette-Shaw



The developments on Treasure Island and Hunter's Point are the worst known
superfund developments in San Francisco

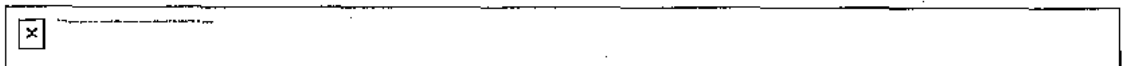
Treacherous Toxics Haunt Treasure Island

Contamination at Treasure Island is unsafe for housing. Despite
this, the Budget and Finance Committee and now the Board of
Supervisors, are continuing the planned development, surreptitiously
misdirecting funds planned for Yerba Buena Island.

by Glenn Rogers



.....



Vote for Kids!

One question I always ask is "Does it help our children and our schools?"
This year there are three significant measures I want to bring to your
attention ...

by Carol Kocivar



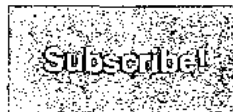
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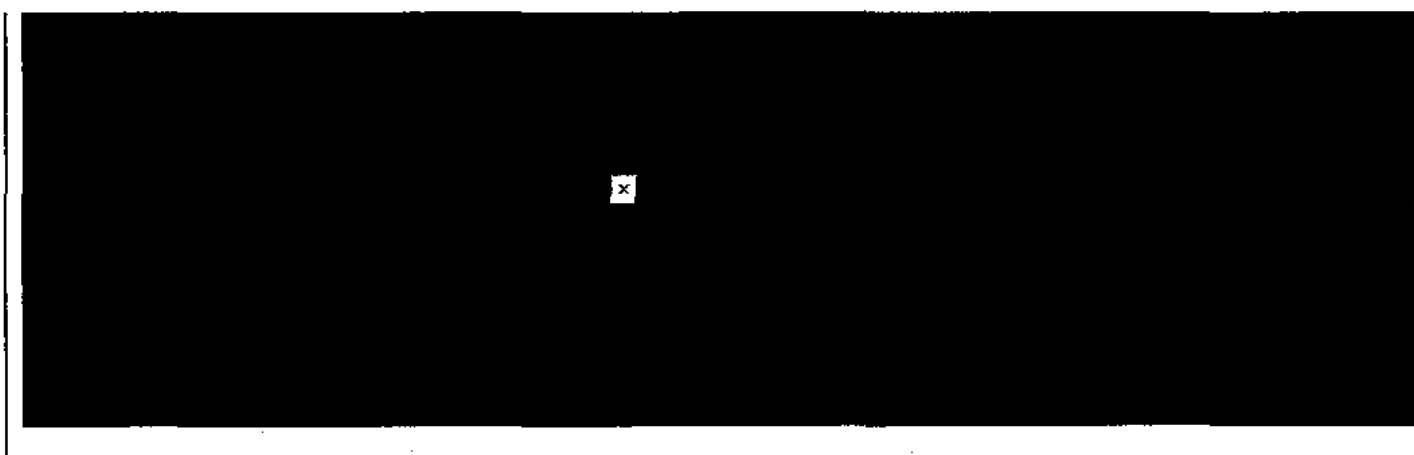
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Inside City Hall's Web of Corru

by Dr. Derek Kerr

Self-dealing, influence-peddling, cronyism and pay-to-play transactions have long-sustained the City Family. Now that the FBI and US Attorney's Office are targeting shady City departmental financial guardians are scrambling to conduct damage-control investigations.



Ben Rosenfield, Lee Ann Pelham, and Dennis Herrera, SF's legal, ethical and f

Early warnings from City whistleblowers and civic watchdogs were usually dismissed or internalized. The *Bay Guardian* published Friends in the Shadows in 2013, sounding the alarm about conflicted relationships between city officials and contractors. Even official efforts to tackle soft corruption were repeatedly thwarted. In the 2019 *Westside Observer's* Struggle for Sunlight on Dark Money, Commissioners Daina Chiu and Dennis Herrera's Ethics Commission's plan to bring its "Anti-Corruption and Accountability Ordinance" to the v

.....
DPW's subaccounts at the Parks Alliance amassed \$990,000 and spent that money was donated by 8 contractors who had received \$572 million from companies that obtained 218 building permits from the Department of I

Controller's Public Integrity Reviews

On 6/29/20 the Controller's Office, with City Attorney input, issued its first public integrity review of Public Works (DPW) contracting practices. From July 2017 through March 2020, DPW awarded

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The Controller's second policy review focused on the relationship between the DPW and the Parks Alliance functions like the many "Friends of..." outfits that financially support 33 out of these non-City entities are private-sector branches of City agencies. True, they raise philanthropic projects that aren't funded by department budgets. But, they often lack the controls to prevent schemes by private interests. The City can't impose its own stringent gift requirements on no company solicited private donations for DPW accounts held by the Parks Alliance then directly spent. It was a slush fund, unmoored from City controls.

In the 4.5 years between July 2015 and January 2020, DPW's subaccounts at the Parks Alliance \$980,000 – about \$18,000 per month. Interestingly, \$966,000 of that money was donated by \$572 million from DPW plus 7 companies that obtained 218 building permits from the Department. One hand washed the other.

Of the \$980,000 expended, \$720,000 went to selected vendors who provided goods and services and appreciation events. One such vendor, SDL Merchandising – owned by a DPW employee – resold and merchandise. There's no record of the quantities provided for this phenomenal expense. Restaurateur Nick Bovis got \$25,327 for catering while permit-expediter and contractor Walter event set ups.

The other \$260,000 of the \$980,000 spent went to 164 individuals, mostly City employees. The Parks Alliance for their out-of-pocket expenses at DPW events. For example, Sandra Zuniga, Nuru's Mayor's Office of Neighborhood Services, was reimbursed \$10,464 for her employee appreciation. Three other DPW employees received more than \$10,000, one of whom collected almost \$60,000 to City Administrator Naomi Kelly who oversees DPW, and downward to rank and file workers. DPW and City Administrator staff cost \$40,000, of which \$33,000 was solicited from folks doing DPW work.

Isn't it Illegal?

The Administrative Code requires City departments to report gifts to the Controller, obtain Board approval to accept and spend gifts worth more than \$10,000, and annually publish the donor names, the disposition. The Sunshine Ordinance requires disclosure of the true source of outside funds and any financial interest the donor has with the City. DPW's Statement of Incompatible Activities prohibits accepting gifts in exchange for doing their jobs. Trouble is, laws don't enforce themselves and violations.

Unlike elected officials and commissioners, appointed department heads were not required to report gifts. They could covertly ask contractors to donate to non-City organizations that supported their projects. Department heads were not required to disclose when donors to their non-City affiliates had contracts or subcontracts with the City. The Controller's report identified these loopholes and on 9/24/20 the Mayor issued an Executive Order requiring all City employees to report gifts.

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adjudicate complaints, it cannot enforce compliance. That responsibility lies with the Ethics ~~Society of Professional Journalists, Now Gal Center~~ dismisses Sunshine violations referred for enforcement by the Task Force.

When did the City Guardians Know?

Now that the Feds have pounced on the City Family, the Controller pleads for better rules and Commission appeals for virtual public input to find “ways to strengthen San Francisco’s gove Attorney’s Office vows to “lead when it comes to clean government” as it follows the course : \$171,000 contract for portable toilets unfairly awarded to a Nick Bovis company, barring forr Hernandez’s engineering firm AzulWorks, Inc. from City work for 5 years for bribery, releasing including DBI Director Tom Hui and DPW boss Mohammed Nuru, and issuing 24 subpoenas : schemes - uncovered by the FBI. Better late than never, some say. To be fair, this January Del Building Inspection Commission President, Rodrigo Santos, for a \$420,000 check fraud sche guidance.

Still, the public needs to know why our own watchdog agencies missed the rot. Tips pertaini the offices of the Controller and the City Attorney since the Feds announced their charges in tips submitted before the scandal broke?

The Controller’s Whistleblower Program, the Ethics Commission’s Enforcement Division and Team should audit all the complaints they received over the past 5 years. Then, disclose how that festered undisturbed until the FBI and the US Attorney led the clean-up.

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

October 2020

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Ethics Executive Director LeeAnn Pelham

by Dr. Derek Kerr

Expectations ran high after voters approved Prop K in 1993, launching the City's Ethics Commission agency to counter corruption in government and political campaigns. But between intent and human nature. So, the quest for good government has vied with the pursuit of self-interest. So repeatedly dashed public expectations. Civil Grand Juries pushed to strengthen Ethics in 2000 prompted initiatives by the public, the Board of Supervisors, and the Commission itself to amend Governmental Conduct Code and redefine Ethics' responsibilities.

Curiously Coincidental Timing

One way that governments blunt the impact of scandals is to show that remedial measures were already underway. On 11/5/19 Supervisor Norman Yee introduced a Motion (File No.

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claims have ever been sustained by the Ethics Commission. That startling fact has been hidden by reporting only that cases are "dismissed" or "closed." The public is never told if a case was substantiated, partially-substantiated or not substantiated."

On 1/15/20, the FBI filed a sealed Criminal Complaint in US District Court alleging that former DPW chief Mohammed Nuru had pursued 5 corrupt "schemes" since 2018. The following day, on 1/16/20, the Board's Government Audits & Oversight Committee approved Supervisor Yee's audit request. The rationale, as stated by Supervisor Gordon Mar, was to check if recent changes in campaign finance and lobbying laws were being addressed and to improve the timeliness of investigations and enforcements, given "a *political landscape like the one we are in.*" He added that "it seems as though the lowest hanging fruit are the targets of investigation rather than the more sophisticated operations."

Neither the "more sophisticated operations" nor the current "political landscape" were described.



Supervisor Norman Yee

On 1/21/20 the FBI arrested Nuru. After promising to keep the probe, Nuru alerted his boss, City Administrator Naomi Kelly, FBI wire-tappers. On 1/28/20, the full Board unanimously agreed without mentioning the explosive scandal then rattling City and anodyne reasons for the audit, plus the Board's policy to subject of a performance audit at least once every eight years. A analyst last reviewed Ethics Commission practices in 2013. The timing makes one wonder if Supervisor Yee was clairvoyant.

Audit Findings

The BLA's 81-page "Performance Audit of the Ethics Commission" contains 5 findings and 16 recommendations. The recommendations of Executive Director LeeAnn Pelham who introduced many of the findings are summarized below;

Assessing Effectiveness and Risks

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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 month complaints takes 6 months. Then, just 1/3 of complaints receive formal investigations. Because it 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 investigations."

Unmentionables

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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 retaliation claims are DOA. This failure to enforce the City's Whistleblower Protection Ordinance renders it meaningless. Non-enforcement gives retaliators a green light to pursue their 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 file complaints. Non-enforcement gives retaliators a green light to pursue their 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 the claims are unfounded. More likely, Ethics investigations are superficial and deficient. Too, investigators and over-worked Ethics staff seek counsel or coaching from City Attorneys who are sent copies of all

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 could be funded 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 Skullduggery

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 their personnel files were searched for documents showing they re-approved certain contracts. Some of these contractors involved corruption, alongside former Mayor's Administrator Naomi Kelly.

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US Attorney, David Anderson

Society of Professional Journalists, NorCal Chapter

where she also serves

Acting Executive Director
State and City conflicts
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 38
promises to help "un-
social programs." Sin

guidance from the SFPUC, Lawrence sees a form of "tribute" that invites favoritism and to 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 she pioneered at SFPUC. Designed to help underserved communities, the Community Benefits requires contractors to disburse a percentage of their income to non-profits serving local communities. The beneficence is that the SFPUC informs contractors about non-profits that deserve their dollars. But the problem, as Reynolds details, is that; "There's no oversight, no voting, no public input. Juliet Ellis and her team run a shadowy show that makes it impossible for outsiders to find out exactly what is going on." Similarly, in a 2/14/19 Resolution, the SF Labor Council criticized the opacity of SFPUC stating "the Commission 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 have been aware of 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 M

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 Whistleblow 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 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. They 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. They are "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

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Assistant General Manager for External Affairs, Juliet Ellis

San Francisco Public Utilities Commission, the largest utility in California, yielding a \$103,794 pension.

Another way to slip under-qualified positions, sources say, is to bypass Civil Service vetting requirements. There's no open application process or expert panel. "Acting" appointments that provides the qualifications. Meanwhile, already-qualified employees have opportunities. Amazingly, the Enterprise Organizational Committee managers (40%) are "Acting"

Cronyism and the

Cronyism splits workforces leading to mistrust in management. Cronyism begets more cronies who promote

poor performance and ethical lapses. For the SFPUC, there are costs beyond the public anger in promoting under-qualified employees. The professional time and effort expended to develop new 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. Cronyism begets benefactors and unlikely to challenge managerial misconduct.

As the *Westside Observer* previously reported, employee outrage over favoritism also erupted at the San Francisco 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. "flexible staffing" can undermine merit-based employment and trigger costly accusations of

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

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(2,124.75 hours) \$100,825

Court Judgment for Hoeper

\$7,309,940

Keke



City and County of San Francisco

-\$12,198,473

City Attorney Dennis Herrera Source: City Attorney's Office

by Dr. Derek Kerr

The City Attorney's calamitous war against Joanne Hoeper's Whistleblower Retaliat cost taxpayers \$12,198,473. This whopping expense passed unnoticed due to mai 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, Jo Ho Dennis Herrera's Chief Trial Deputy since 2000. In December 2011, the FBI notified her abo sewer repair claims submitted to the Claims Unit within the City Attorney's Office (CAO). H 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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Society of Professional Journalists, National Center for
badgered them to sign claims. Many claims were signed by plumbing
property owners, making them invalid. Sewers were usually replaced rare
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.

.....
**...the lawsuit and jury verdict serve a significant benefit on the general public by
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 the end, she had to wrap up her investigation. She turned in a report recommending further investigation of public works. Essentially, she faulted oversight within the Claims Unit - and the City Attorney's Office. On the same day, a choice; unemployment or reassignment to the District Attorney's Office. Once Hoeper transferred, the retaliation 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 argument would bar most retaliation claims by attorney employees."

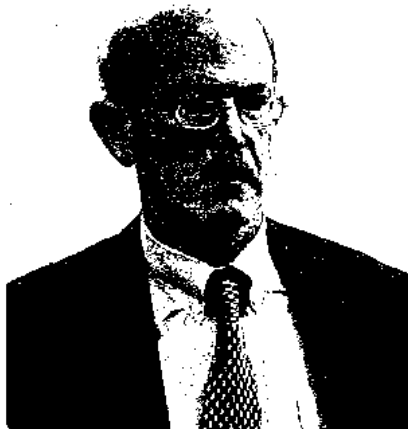
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34.6 hour cut, thus saving a measly \$15,950. Meanwhile, legal fees mounted. Since Hoeper on a contingency basis, they were entitled to a "multiplier" to boost their fees. Courts grant multipliers to pursue public interest cases when clients can't pay up front. Hoeper requested a multiplier of 1.35. The judge awarded a 1.35 multiplier because, "...the lawsuit and the benefit on the general public: to deter government officials from engaging in unlawful retaliation of various statutes."

On August 3rd, 2017, the Court awarded Hoeper's attorneys \$ 2,408,468 in trial fees. To this, the Court added \$226,046 in post-trial fees, \$56,512 in interest to the original jury award, \$68,141 in interest on 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 Hoeper introduce evidence that was attorney-client privileged, that the jury erred in its finding of whistleblower retaliation, that Hoeper failed to mitigate her damages, and that her award for emotional distress was excessive. After poring through 4,000 pages of court records, Hoeper'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 Hoeper'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 Hoeper's attorneys that he had been "asked to handle the resolution of the judgment." Still, no s

DCA Rolnick reviewed - but did not contest - Hoeper's May reimbursement of appeal expenses. Records show no City and services detailed in laborious Declarations from her attorney 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, Fie lawyers. The money came from the City's General Fund. In a 5/28/20 email, DCA Rolnick e way to get the \$ out the door and given the other issues the Controller is dealing with did no also the quietest, least embarrassing way.

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

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

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

In a June, 2003 Press Release, Dennis Herrera had praised Joanne Hooper as "a public wr Back then, her efforts to "stamp out public corruption through aggressive legal action" wer found fraud-enabling practices within his office, Herrera apparently contrived a pretext for penchant for "knowing more than anyone else," resorting to a "scorched-earth approach" a frequent efforts to settle." In pot-versus-kettle irony, Herrera failed to follow his own couns jury and judges, tempered his lawfare, and settled earlier, taxpayers and whistleblowers w

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July 18, 2020

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Captain Nick Rainsford Photo: Ingleside Light

by Dr. Derek Kerr

On June 17, the *SF Examiner* reported that Taraval Station's Captain Nicholas Rainsford "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 tell them the police had handled previous protests. His exact statement is not known. He thought it was wrong, felt offended and filed a complaint. Internal Affairs is looking into it.

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 "we 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 "Anti-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 over 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.

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July 3, 2020

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Deadly Rip Currents at Ocean Beach

Ocean 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 to sea, and frigid waters can quickly cause drowning. Prominent signs warning of the dangers 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.

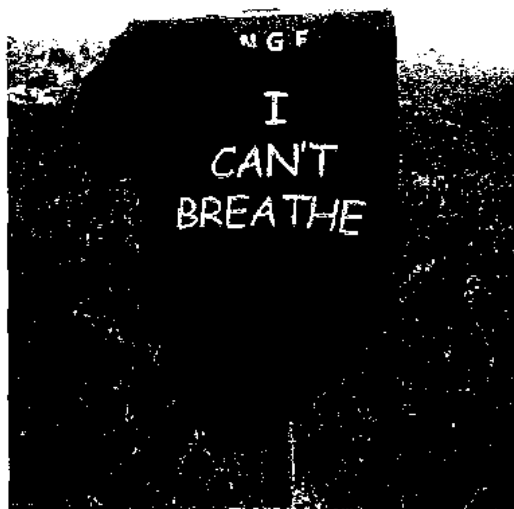
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...annual drowning deaths at Ocean Beach haven't exceeded two. Because Ocean Beach is not a designated swimming area ... lifeguards are not routinely assigned there. Also, the presence of lifeguards could mislead visitors into thinking that swimming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

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Society of Professional Journalists, New York City



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 Oc in the nation. In 2015 alone, the Park Service cond which 19 required hospital attention.



Despite enhanced signage and rescue patrols, casualties among unwary swimmers have deaths in 1998. Between 1998 and 2006, 7 deaths were reported. In January 2006, the bod and novice surfer Sean Fahey washed up near Sloat Blvd. Then in May 2006, Marlin Coats, drowned while trying to save 2 boys who were struggling in the surf. The boys were hospit. recovered. In April 2014, Abel Cornejo, his 14 year old son Marcos and a cousin were swept saved, the father ended up in a coma in the ICU at UCSF and young Marcos was lost at sea surfer who drowned in August 2016. A swimmer was lost in the surf near the Cliff House n December 2018, Jay Seideman, a 43 year old tech executive from Oakland, succumbed to stricken surfer required CPR after being rescued then was hospitalized in critical condition 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 curre rescues. Three foot waves can strike with surprising force, tossing waders off their feet. E water can pull the strongest swimmers out to sea. A UC Berkeley oceanographer explains incoming waves are deflected by the beach into an underwater channel that funnels the w streams are deceptive. By flowing out through the surf zone, rips create a calm spot that s actually hazardous. Rips move at a rate of up to 8 feet per second, making it impossible to who panic and fight the current are soon exhausted. They are further incapacitated becau stays at a bone-chilling 56 degrees even in the hottest months. Drowning can occur in a fe

A handy YouTube video shows how to identify a rip and escape it. Comprehensive informa

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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.

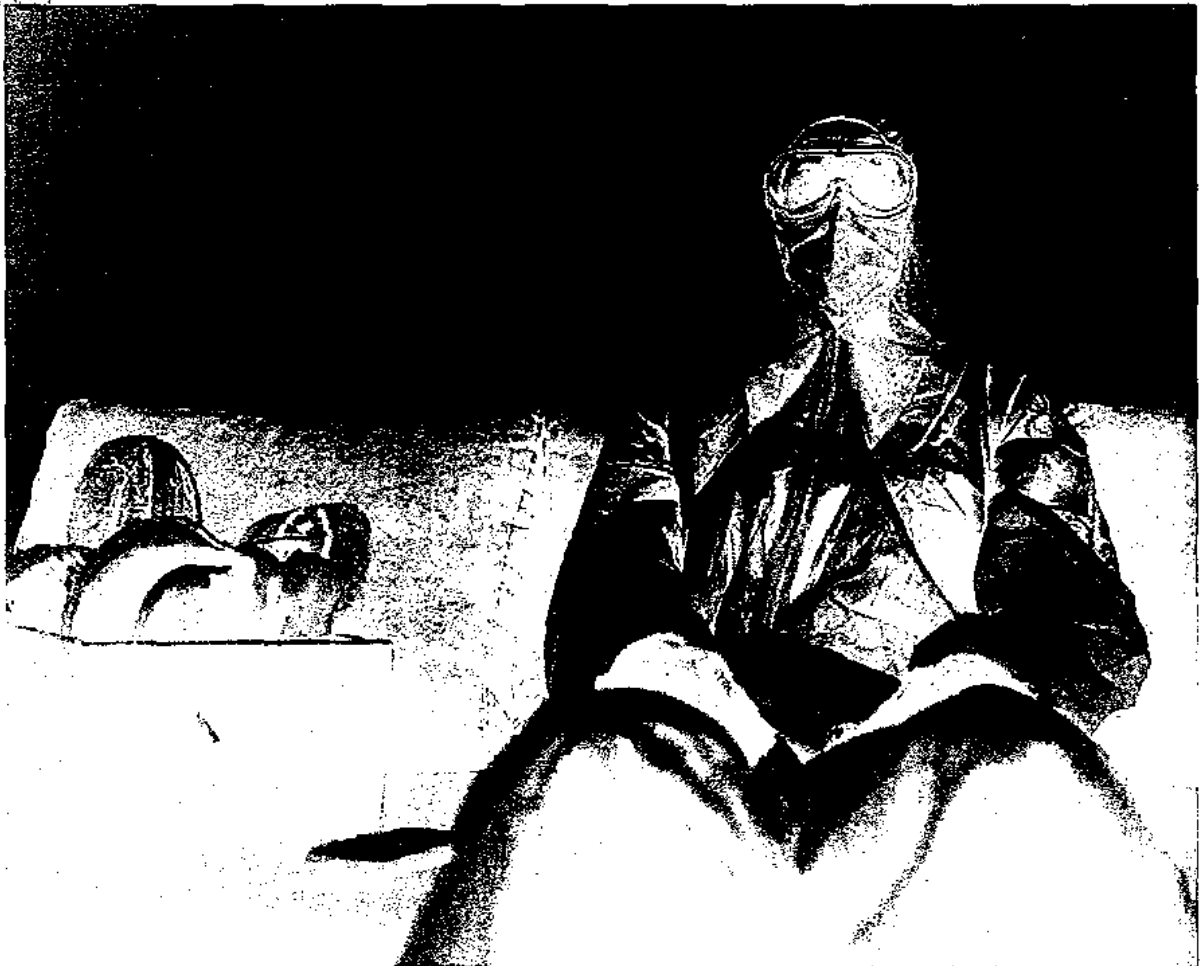
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June 15, 2020



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. In some cases, the recovered, presumably the cellular component of the immune system fought off the virus. However, the immune system 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 for COVID-19. 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. 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.

.....
Contra these gloomy laboratory studies, clinical findings from South Korea show that despite 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. 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. describes 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 antibodies are protected from a second infection"*. Also, many anti-vaccine 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" where cells attack organs infected by the virus. A related immune over-reaction called "multi-systemic inflammatory 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 immune cells. Thus, anti-viral immune cells get infected by the virus they are supposed to destroy. Some patients 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 was part of 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, none had viable viruses. 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 damage immune 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 coronavirus 2) is the new coronavirus that causes the disease called COVID-19, is spread by infected persons cough or sneeze. These virus-laden droplets can be inhaled into the mouth. Droplets also land on nearby surfaces. If we touch contaminated surfaces, our noses, eyes and perhaps genitals, the virus can invade our bodies. That's because the virus 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 sick, a survey of 3,000 people in Italy found that, "the great majority of people infected with COVID-19 were asymptomatic but represented a formidable source of contagion". By definition, asymptomatic people are not sneezing so they probably spread the virus by other means.

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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 clothing, scattering viral particles into the air. However, well-ventilated patient care areas and open areas are free 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 are unknown. We know how many viruses are needed to cause infection. However, because SARS-CoV-2 is likely to be spread by aerosols 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 circulate 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

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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 did not. Virus, 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 refrigerate and sanitize. 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



Times 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 patrol in various neighborhoods, they do not ask to enter homes or establishments. DPH Environmental Health checks checking sanitation in SRO hotels, but they notify building managers in advance and prepare for 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 SEPDC 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 at that claim to prevent, detect, treat or cure COVID-19." Notably, deceptive websites generally 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 thru retailers who sell unregistered COVID-19 related products.

Social Security Scams The Social Security Administration (SSA) is warning the threatening suspension of Social Security benefits due to COVID-19 –related office closure recipients 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 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 on the \$1,200 "Stimulus Check." The official term is "Economic Impact Payment" and the IRS is asking for 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 the email. 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 for Disease Control and Prevention at <https://www.cdc.gov/coronavirus/2019-ncov/whats-new>. The U.S. Department of Public Health provides information and updates on COVID-19 at; <https://www.sfdph.org/dph/cdc/Pages/default.aspx>. City's overall responses can be tracked at; <https://sf.gov/topics/coronavirus-covid-19>.

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April-May 2020

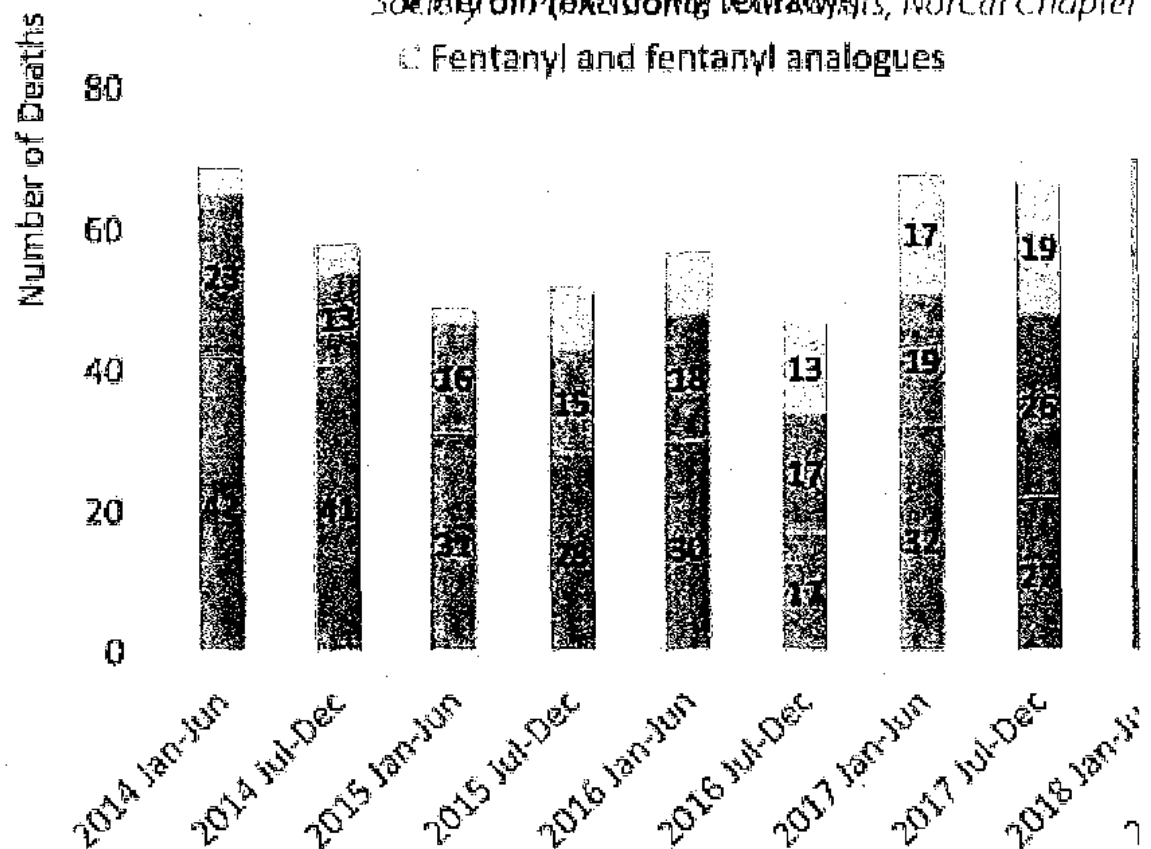
Fentanyl & Meth Push Overdose Deaths to

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■ Fentanyl and fentanyl analogues



by Dr. Derek Kerr

There's another deadly epidemic in the City. Until now, San Francisco's robust reduction programs had forestalled the opioid overdose epidemic sweeping the City. [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 [journalism](#), Fentanyl, Inc., it mostly comes from China where chemical companies synthesize recreational drugs. These labs produce fentanyl variants or precursors that haven't yet been detected by the DEA. They are then shipped to US clients and Mexican cartels. 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 and toxicology results. DPH projections for 2019 foresee around 200 fentanyl-linked overdoses, far exceeding 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, fentanyl test strips so users can check their stash, and planning drug sobering centers. Needle exchanges allow users 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 seek treatment. 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 increased over the decade. However, the numbers exploded in 2019. As the Medical Examiner told the *WSO*, there were 126 meth deaths as of March, with a projected total of 252. That's double the 126 meth deaths from 2017-18 overdoses, the DPH found that 47% of Psychiatric Emergency visits in 2017-18 were for methamphetamine.

Although no medications can reverse methamphetamine overdoses or block cravings, there are interventions like Contingency Management, whereby users receive cash rewards for staying clean. Sen. 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 suicides. 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 is often attributed to meth, cocaine and heroin. When one death is caused by 2 drugs, it gets counted as two deaths. 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 i 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 opj 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 introd 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 publ 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 sl 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 i show the Health Commission that its many - and costly - interventions are still effective deaths; drug-related Emergency Room visits and hospitalizations indicate that City prog 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 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 also received \$2,267,75, back in September 2016, records show."

The Court of Appeals sustained Hoeper's awards of \$1,338,578 for lost wages, \$1,291,750 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 also received \$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, East Bay Migrate to LA

by Dr. Derek Kerr

Although 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



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CompStat shows that in 2019, home and shop burglaries numbered 334 versus 507 reported in 2017. 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 20,000 in 2017. That is dubious. By the time all the delayed reports for 2019 are tabulated, the updated total will show a 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 the San Francisco 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 2017. 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 get away with 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 LA Times article reported on auto burglaries in Hollywood, using electric scooters to hustle the goods away. The store was robbed in Oakland and 5 people were arrested.

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

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Cannabis in San Francisco, the City of 2019/2020 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 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, operating budget. Those fees came from existing businesses. But zero application fees due to the logjam. Yet, its operating budget w



Doors are open at 2161 Irving St.

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

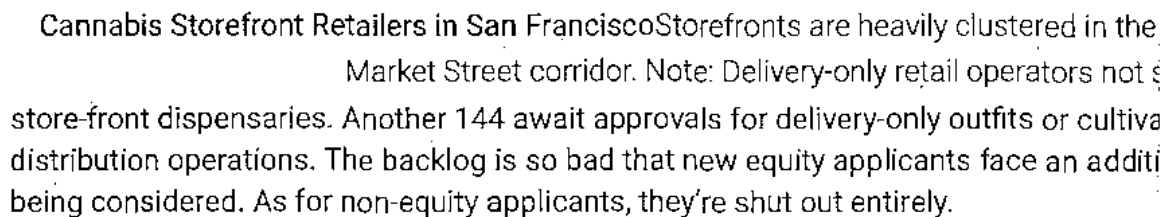
The land-use Ordinance worked, as shown by the O At this time, the only Westside storefront dispensary and medicinal cannabis is Barbary Coast Sunset at two on Ocean Avenue are closed for renovations. B

created a self-defeating solution.

REGULATORY LOGJAM: Although 212 cannabis businesses are authorized operating. That's way less than the 387 operating in Oakland. Of these 118 operating by retailers and all were pre-existing or pre-approved Medical Cannabis Dispensaries. Like only retailers, growers, manufacturers, and distributors were already in place. New business That's because Equity Program applicants hold top priority. By City law, no other applicant equity entrants get 50% of all permits issued. Only three equity entrants have been applied backlog.

EQUITY REVERSAL: Equity Program applicants must meet strict criteria involving and school attendance, loss of housing, or arrests for cannabis-related crimes. Then, the approvals from SFPD, Cannabis, Planning, Public Health, Building Inspections and Fire,

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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.

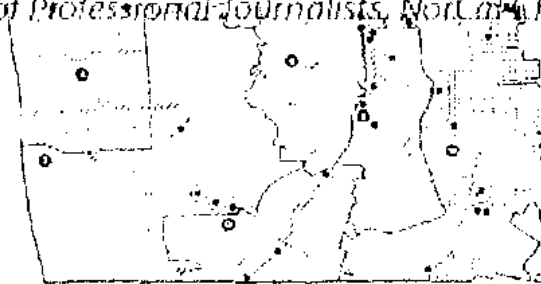
Although a Community Reinvestment Fund was set up to offset costs for equity applica
City fears liability for aiding sales of a federally-outlawed drug. Further, there are so ma
that the market will be saturated before they're all approved, per the Controller's analysis

As for the black-market entrepreneurs who opted to go legit, they're stuck in the permit thriving illicit market that dwarfs the legal upstart by a factor of 3 to 1. As the Report cc 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 revenue came from existing businesses. But in 2019-20 it will collect zero application fees due to a budget that 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 the cannabis sales taxes covered these losses. That may not last. After 3 years of steady increase, cannabis prices declined by 16% then leveled out in 2019. Statewide cannabis sales saw a similar decline as 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 high priority. Since then, cannabis arrests have steadily declined, although African-American 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 offenses comprised 0.1% of recorded City crimes. As for marijuana-related complaints reported to the City, 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 retailers dropped by 2%, whereas they increased citywide. Larceny theft and burglary near dispensaries – but also throughout the City and at similar rates. Since dispensaries cluster in certain areas, the Controller's Report concluded; "...crime that occurs near cannabis locations is likely driven by the concentration of commercial districts, rather than the notion that cannabis operators attract more crime."

California Highway Patrol records showed that cannabis-only stops for San Francisco increased 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 limited 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 – and this is despite 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 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.

... 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 Ge 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 enshrir DGO 8.10's transparency and accountability provisions. It also mandated Police Commi 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, telephone deploying informants, all without evidence of wrongdoing. Anyone could be targeted be 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 have received departmental approvals. None were forwarded to the Police Commission or the Accountability, records show. That's because none targeted "solely constitutionally protected activities." Crew repeatedly told the Police Commission. But, "That's the FBI standard – not the SFPD standard," 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 adds to the secrecy by proposing workarounds including, "sanitizing" JTTF reports, or amending DGO 8.10 to prevent "leakage of information" from the Police Commission.

Secrecy in Violation All this secrecy surrounding JTTF investigations nullifies any assurance that it "did not detect any instance of non-compliance with a DGO" by SFPD's JTTF. This was highlighted by former FBI counter-terrorism expert Mike German at the must-see Governing the City conference.

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adopted in San Francisco and California. And those protections can be slashed, defunct 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 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 Commission to restore its JTTF partnership, decrying that it was abandoned "in a political 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. Worse, more law-abiding San Franciscans view police as potential threats because uncontravene 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 [Mission Local](#) and [The Intercept](#) first reported on the FBI White Paper. *Dr. Derek Kerr is a SF investigative reporter. Contact: watchdogs@westsideobserver.com*

December 2019



Hedging the Shake-Up at Laguna Honda

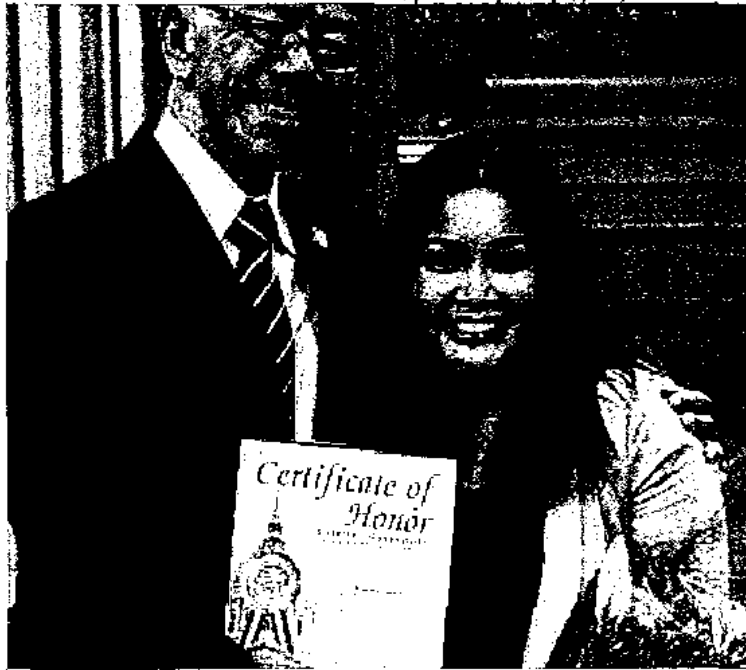
by Dr. Derek Kerr

Three months after Laguna Honda Hospital (LHH) CEO Mivie Hirose and Quality Director ousted, another top executive has fallen. On Sunday, October 7, Acting CEO Maggie "Madonna Valencia, our Chief Nursing Officer, has left Laguna Honda Hospital." By this as an opportunity for us to welcome meaningful changes to our standards, reputation. Valencia's exit to the patient abuse scandal covered in the September *Westside Observer*. Restoring LHH's standards, reputation and purpose won't be easy given the long tenure of Hirose. Hirose served as Associate Director of Nursing since 1999, then as Chief Nurse as CEO from 2009 until the scandal emerged this June. Over those 20 years, Hirose helped culture. 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 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 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-p
 sedatives. All suffered life-threatening overdoses ... caused by mi
 drugs smuggled into the hospital. LHH physicians knew someth
 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-CI 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 & 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 July, LHH forwarded 37 reports to CDPH. In August, it was 42. Health Director Dr. G. G. "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 die 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 bad behavior 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 CDPH's Flow Project brings disorder that undermines patient care. Increased alterations, threats, thefts and AWOLs are predictable with the

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said SFGH Chief Quality Officer, *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 in front of a car, set the brakes, resulting in a fall and a fatal head injury. Surprisingly, LHH contested the citation. An Attorney sued the CDPH to drop the citation and fine. In Superior Court case #CGC-17-411, the court ruled that LHH's lapse did not warrant an "AA" citation and that the fine was invalid as it was issued outside of an investigation rather than within 30 days as required. After 2 years of legal wrangling, the court ruled in favor of LHH, 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 imposed 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 not being properly 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

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 Ifuga, 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 spinal cord injury. To remove a bullet lodged in his jaw, he suffered several cardiac arrests. Weeks later, he died.

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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 undermine 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 "brutal". 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 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 reference to "GTFO" (Get the F—k Out) and "NorCal" - pointing to his "outsider" American identity. Publicly in 2018, after another colleague who campaigned against the hydro-electric project was killed, Army investigators asked Brandon to name his coworkers, he disclosed just two - those who were his friends.

In the days and weeks before being shot, soldiers had repeatedly appeared at IPM offices asking about his 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 (Brandon and his colleagues in the Philippines) is behind the alleged shooting incident, this is devoid of logic and factual basis. It is in the interests of the government and AFP". Instead, Lorenzo proposed that the Communist Party of the Philippines (CPP) was the one behind the shooting.

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murdered in 2018. This April, our own Board of Supervisors passed Resolution 209-194 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 mili
Supervisor Gordon Mar publicly condemned the "unconscionable human rights abuses
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 miss
hospital. On 9/10/19 the Board of Supervisors unanimously passed a Resolution calling
evacuation" for medical care, a Congressional investigation, and suspension of US milit
resolved. A Go Fund Me campaign has been set up to raise money for Brandon's medic
via airlift to San Francisco.

Dr. Derek Kerr is a San Francisco investigative reporter Contact: watchdogs@westsideob

October 2019

Raided Westside Journalist Bryan Carmody by Dr. Derek Kerr



Bryan Carmody

Bryan Carmody, the freelance journalist whose Sunset newsroom was raided by
August 13th at a Society of Professional Journalists (SPJ) forum at Northwest
Journalism in San Francisco. The panel included National SPJ President, J. Ale
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 City of San Francisco, the police department 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 in 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 officers with Carmody. As for the FBI involvement, Burke was mystified. Carmody previously involved in 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 department was being targeted and barraged by media criticism, Scott apologized.

The Carmody search warrants were pursued by the Internal Affairs Division – part of SFPD. Scott. As ex-cop Lou Barberini reported in the July *Westside Observer*, there are “cowboy” tactics in the 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 control.

Given law-enforcement capabilities for unlocking computers, Carmody advised, “Don’t let anyone want someone to see.” He admitted that he “would have been sunk” without Burke’s legal help. If 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

September 2019



by Dr. Derek Kerr

Laguna Honda's Silent Abuse Scandal

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

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Acting CEO Margaret Rykowski

Itreatment. 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. Silencing 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 enable
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 out.
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 to
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 \$273,436 in 2018, was mistakenly reported that she had resigned. In fact, she was placed on paid administrative leave. Gomez 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 substandard 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 metrics, and "Kaizen" workshops became proxies for patient well-being. For example, LHH's May 5th celebration 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 with experience helping residents with challenging behaviors. The program provides a variety of services including compassionate counseling with the goal of improved social functioning." North 2 aims to "provide a safe and supportive environment 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 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 within its 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 they indifferent, or blinded by group allegiance? How did hiring and assignment practices impact 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 and check their patients weekly instead of monthly, and re-engage with their staff. Hiring will include questions about abuse and neglect. Tighter controls will be applied to narcotics and security allegations will be audited for timely reporting. As to why this scandal occurred, perhaps a 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 whistleblowing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

SEPTEMBER 2019

Breaking the Silence:

Laguna Honda's Patient Abuse Scandal



Former CEO Mivic Hirose

Stunned and bewildered. That was the reaction when 1,650 Laguna Honda employees received an 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 she implemented 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

JULY 2019

Sunset Uprising: Residents Tackle Prop

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Photo courtesy: stopcrimesf.com

District 4 Supervisor Gordon Mar heard an earful about property crimes from his 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 were disappointing. Most of the commenters were older Chinese residents who recounted the theft of food delivered to a 90 year old woman. Some feared going out at night because of people wandering about and sleeping on private property. Seeing strangers now "cause trouble" was said. Amid demands for more police patrols, arrests and prosecutions, one gentleman said, "maybe policeman sleeping?"

.....
...residential burglary cases had risen from 137 in 2014 to 237 in 2018, a 73% increase. In 2019, there was an 18% drop so far this year. In 2018, the DA filed charges in 86% of burglaries.

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 property 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 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. In the new system, arrests for burglaries and robberies increased from 322 in 2015 to 465 in 2018. Reported burglaries in 2018 versus 10% in prior years. Yet many Sunset residents complained that the police were not doing enough to protect their neighborhoods.

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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 into 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.

Cristine DeBerry from the District Attorney's Office reported 16,000+ thefts in 2018. She said 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 137 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 monitors 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

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The handouts also showed that burglaries and robberies had fallen in May, compared to last year, thanks to the efforts of anti-crime neighborhood leaders; Amos Lim, a gay and immigration rights activist, Si Wendy Wong from Coalition for Good Neighborhoods, John Zwolinski, a Neighborhood Watch leader, Nancy Tung from Stop Crime SF and a DA candidate. Also present was mayoral candidate David S. Cho with a "make SF safe and clean" agenda.

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 services.
- 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 and conservative 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



The Struggle for Sunlight on Dark Money

by Dr. Derek Kerr

The Sunlight On Dark Money initiative launched this March is a rear-guard action to salvage the political process. The back-story features a split within the Ethics Commission, the resignations of Quentin Kopp, and 2 years of excruciating deliberations that pitted the Ethics Commission against the City Attorney. Sponsored by Keane and Supervisors Mar, Haney, Fewer, Ronen and Mandelman, the 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 City. It revealed that Ethics and the Board had covertly neutered Prop J of 2000, a measure that 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 by Ethics. Prop E empowered the Board to amend - or undermine - voter initiatives in the City and Government Conduct Code. Sold as a more efficient way to update ethics laws, it passed with a majority of votes; 8 of 11 Supervisors plus 4 of 5 Ethics Commissioners. Prop E drew parallels to "guarding the hen-house" features, but passed with 62% of the votes. Thereafter, conflicts of interest 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 astroturf 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 a public vote. Ethics placed Prop C "Expenditure Lobbyists" on the November 2015 ballot. Approved by 62% of the voters, it was opposed by the nonprofit sector. Then in November 2016, Ethics introduced Prop T to ban gifts 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 whereby developers seeking City entitlements to fund their favored nonprofits or political committees - who are "behest". Keane wanted Ethics - not the Board - to place the ACAO on the ballot since it was about City officials in terms of raising money." But it also cramped the fundraising and influence of

The Nonprofit Perspectives According to the June 2018 Budget Book City of San Francisco
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Since the ACAO applied to nonprofits big and small, the nonprofit representatives emptied nonprofits that struggle to make ends meet and serve needy clients. For these Mom-and-pop operations, they argued, drowning them under layers of accountability. They could sue for 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 commissions that would prohibit them from fundraising for their nonprofits, or supporting candidates who would receive 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 behest payments. 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), led by former Ethics Commissioner and Civil Grand Jurors. FOE collaborated with MapLight and the Center for 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, 70% went to serving 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 the fact that Ed Lee appointed Commissioner Yvonne Lee who has long-standing ties with nonprofit organizations. "It is our 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 Americans" 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 public concerns, to join Lee against placing the ACAO on the ballot. After a 9/27/17 Chronicle article exposing the failure 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.

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Thus stymied, Ethics acquiesced to a joint meeting with the Board. But at that April 2011 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

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JUNE 2019



Tough Contract Negotiations: Unions V Disobedience to Disrupt Inequa

By Dr. Derek Kerr

On 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 wc**

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 wc 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-sharir 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 zi waiting paddy wagons.

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

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

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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 re will continue until 2021, with ongoing community surveys and engagement with POPS. 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, 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: 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. "the impact of the transit-only lanes on merchants and residents is fully explored." In addition,

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James Madison Freedom of Information Award
Society of Professional Journalists, NorCal Chapter

by Dr. Derek Kerr

Nine 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 articles. When it would be time, we thought, to confer with Adachi, a former WSO contributor and St. Fra

““

...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 Hennessey about the San Francisco jails and ongoing and repeated misconduct by SFSO deputies." Adachi were "fearful of retaliation for coming forward with their complaints" but were willing to



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Favorite of Professional Journalists, N.C. Society of Professional Journalists



Attached were reports by 16 female inmates alleging that some were strip searched in 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 police. There were injuries from fists and kicks as well as being dragged by handcuffs. In all, six 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 manipulate

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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: "I treat everyone as human takes too much energy...I focus on proving I won't back down." 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 Sun: 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 constantly unsettled 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 needle-poked McCowin's 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 "my 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. They would normally disavow. Too often, "rogue" actors are blamed instead of the pathologic system, its cultures, role expectations, and unchecked power.

At a March 7 hearing before the Government Audits and Oversight Committee, Supervisor James Madison will oversee the Sheriff's handling of jail complaints. He insisted that the Sheriff's Office cannot be held responsible for the actions of individual guards without expressed consent.

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where discipline is determined solely by the Sheriff. Sheriff Hennessy defended herself 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 agencies 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 suspect. 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 "exceptional

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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 case is otherwise resolved.

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. The suspect is dead or incarcerated, when the District Attorney declines to prosecute, or when the case is otherwise resolved. 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 unget stone-walled. As Mark Fahey, one of the Reveal collaborators told us; "I talked to the department and the Media Relations office – more than a dozen times between January indicated that they did intend to respond to our request, but missed their own deadlines unresponsive..." The *Westside Observer's* own records request on 12/27/18 was ignored was acknowledged...but no response to date.

By 2021, the actual outcome of rape cases now dubiously reported as "cleared" will be when the FBI will implement its National Incident-Based Reporting System nationwide. 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 incentivized. Labeling rape cases as unfounded can make police agencies appear more reported crime rates while boosting clearance rates. Because of the Newsy/Reveal/Pro plans to add the "unfounded" category to its new reporting system. The SFPD should b

The need for reforms emerged when the Board of Supervisors' Public Safety & Neighborhood heard from sexual assault survivors and experts on 4/25/18. In emotional testimony, th empathy, respect and investigative zeal from the SFPD's Special Victims Unit. The City's Team also faced criticism. That entity includes the SFPD Special Victims Unit, the DA's

Services Division, SFPD's Rape Treatment Center, the Medical Examiner's Toxicology L

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improvements, navigating the City's sexual assault services remains a lonely, grueling effort. The City 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 Accountability.

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

So we asked the DA's Office for the number of rape/sexual assault cases it charged and law enforcement presented an average of 141 arrests/year to DA prosecutors. (The DA's Office 3 times more because it also helps victims of unreported and uncharged crimes.) On average, such as filing new criminal charges, proceeding on another case, revoking probation, or 52% of cases. But we couldn't get the actual numbers charged with or convicted of sex crimes. "The City does not presently have responsive and reliable information".

After the Hearing, Supervisor Ronen crafted Ordinance 215-18 creating the Office of Sexual 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: blaming, promote survivor-centered services and oversee all City agencies dealing with sexual assault; 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 unreported.

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 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. Ar classified.



Given HSA's 2,000 employees, occasional scandals are expected but 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 on a warrant for aggravated sexual assault of a child under 10. A stunned HSA colleague described him as a "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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March 2019

The Way We Were

by Dr. Derek Kerr

Between 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, including the 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 of the model covered 1000 square feet. The cost, \$100,000. The model was displayed at the Palace of Fine Arts 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 SF Art Institute, restored the model of San Francisco circa 1938. The goal was to make the model accessible to the public in a memorable way and promote civic engagement. The result is an exhibition on the main branch of the Public Library will display sections of the scale model corresponding to its location. The model 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 [Take Part](#)

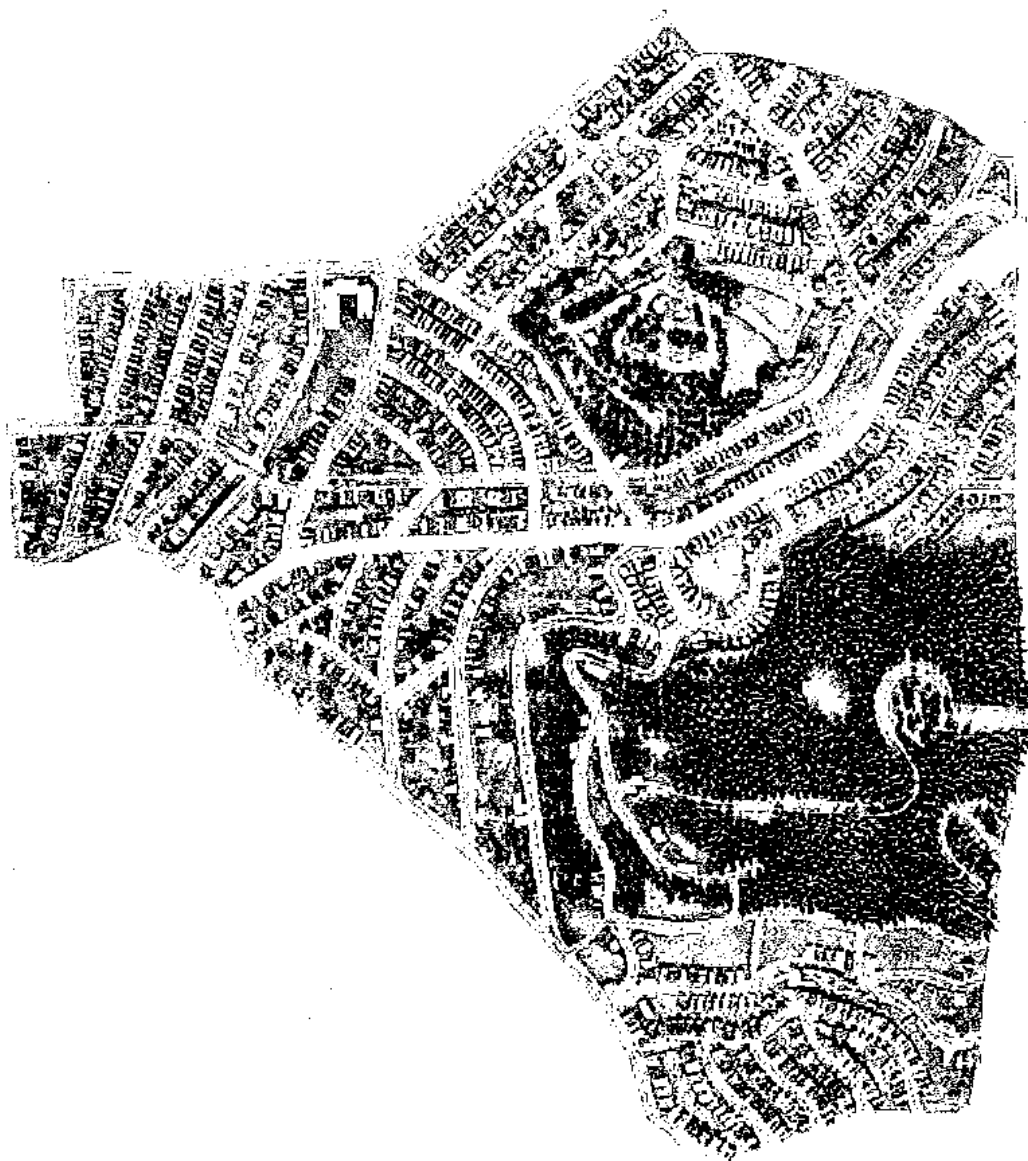
Dr. Derek Kerr was a senior physician at Laguna Honda Hospital where he repeatedly expanded the Department of Public Health. Contact: DerekOnVanNess@aol.com

LIBRARY BRANCH EVENTS

2. publicknowledge.sfmoma.org/events

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Toward a San Francisco Pub



ceremony for the WPA Scale Model of San Francisco, April 1940. Images of
eliminated by indigenous tribes protesting the Dakota Access Pipeline
paid at City Planning Records, San Francisco History Center, San Francisco
starting Rockwell water rights, local supporters lobbied for
pipelines. In March 2017, the Board of Supervisors directed City
do so. But those banks also financed private prisons, hedge funds, weed
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 bonds and loans in 2017-18. Of that amount, taxpayers owed up to \$121 million, according to Annual Financial Report. The rest was owed by ratepayers using water, transit, airport and services. Either way, bank executives, shareholders and bond holders reaped the proceeds reported \$864,000 in bank fees last year. In response to public pressure to save money our values are, City officials, like those in Oakland and Los Angeles, began exploring Public the public good.

Public input also favored divesting from Bank of America and Wells 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, Sam and Hillary Ronen, Treasurer Cisneros organized a 16-member Municipal Bank Feasibility. 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

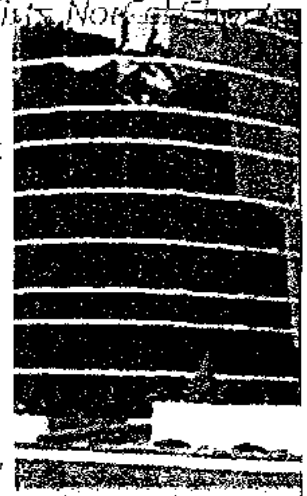
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businesses, and students would be able to get a loan. Not for profit and "will never be profitable."

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 estal 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, an State legislators. The goal would be "local control, financial empowerment, and transpa bank balance. Accordingly, the Task Force will present 3 new models: Divestment, Re-lr 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 ba

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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 Publi 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

Derek Kerr was a chief physician at Laguna Honda Hospital where he repeatedly, b
Department of Public Health. Contact: DerekOnVanNess@aol.com

Dr. Derek Kerr & Dr. Maria Rivero

February 2019

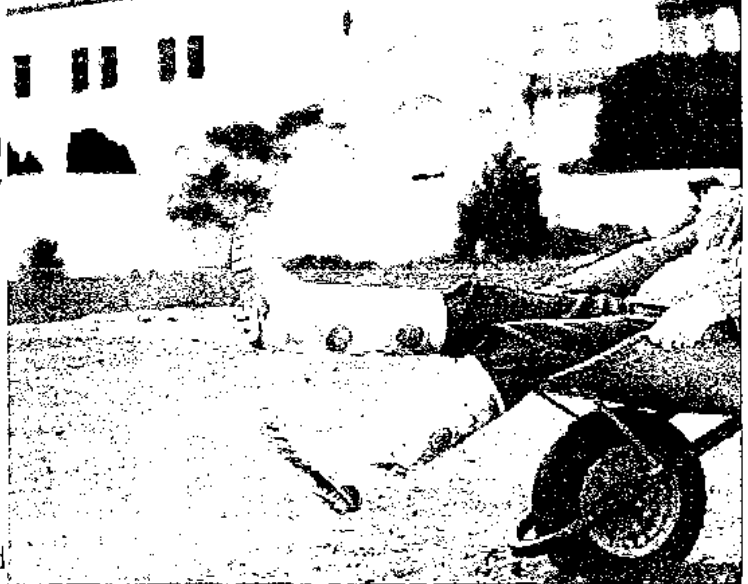
three years ago, in Exodus from Laguna Honda Hospital, The Westside Observer reporte number of LHH patients who fled the premises. Now, LHH managers are publicly acknc testing ways to reduce "unplanned discharges." Unplanned discharges refer to patients Against Medical Advice (AMA), or who simply walk 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 ar 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 by 25% by 2020.

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Society of Professional Journalists, NorCal Chapter

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. LHH incurs 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 LHH 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 20% who cited 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. If the 70% figure is correct, reducing abrupt decampments seem directed at drug users. The conflicting numbers preclude Dr. Qian from being able 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 doesn't seem to be doing much to help these sometimes challenging patients. Although LHH documents are almost always accurate, they don't always tell the whole story. For example, LHH did say that most AMA discharges were homeless. But their presence within the larger LHH system is not always 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 who are 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 doesn't seem to reduce AMA and AWOL discharges. Another 17% of runaways craved non-opioids like cocaine, methamphetamine, and benzodiazepines. These drug habits cannot be treated with methadone or buprenorphine. Support groups, and anti-depressants can help. Even so, LHH Psychiatry surveys show that mental health services have a major impact on patient flight. Wisely, LHH recently abandoned its draconian policy of punishing patients for smoking. After 3 years of harassing smokers who defied no smoking rules, and causing some to leave, LHH has 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 do more to help them.

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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 restrictive. Finally, San Francisco lacks nursing home beds, shelters and housing. The Health Department 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.com

Proposition B

December 2018

Mayor London Breed's Aversion to Sunshine

by Dr. Derek Kerr



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

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



The SOTF determined that Breed had violated the Sunshine Ordinance by blocking public records and failing to attend its hearings. This April, frustrated voters 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 conversely 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 email subject to disclosure. (In May 2018, a US District Court ruled that President Trump violated his duties from his Twitter account.)

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In a May 1st letter to DA George Gascon, SOTF Chair Bruce Wolfe explained that Breed's 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 case went 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 on the names of participants in its official meetings, Breed voiced the sole no vote. On September 1st, she deployed her unique aversion to calendar disclosures as a litmus-test for the SOTF.

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 was ignored. When the SOTF met in June 2015, it found his request was unduly broad and a Nobody from Breed's office appeared. 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 app development for the Public Library. No response. The SOTF unanimously cited Breed for failure to provide the records or 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 - that they had received the requested records from other Supervisors. Nevertheless, Breed's aides were cited for not responding 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 with Breed's calendars. They had to. By then, the Board of Supervisors had voted to disclose the calendars. 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 his account. 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.

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purposes." But by showing up at the first SOTF hearing, they saved everyone's time, read only one week's emails.

Yet, Breed's sunshine aversion persists. This August, Petrelis requested Breed's calendar right before she was sworn in as Mayor. He received a same-day response - 41 grossly- them on Google drive for all to see, then filed a sunshine complaint alleging egregious and perhaps, a subsequent request for Breed's mayoral calendars received a prompt response. behavior, and the ominous implications of Prop B, a sunshine eclipse may characterize

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October 2018

"Privacy First Policy" Threatens Sunshine



by Dr. Derek Kerr

The "Privacy First Policy" (PFP), a Charter amendment proposed to safeguard private data from abuse by tech-based companies, will be on the November ballot as Proposition 5. It is a battle between privacy and transparency. By conferring "First" place to privacy, transparency is sacrificed.

Origins of the Privacy First Policy: Drafted by Peskin's legislative aide Lee Hepner, a member of the Ordinance Task force, and Deputy City Attorney Paul Zarefsky, the PFP was initially co-sponsored by Ronen, Kim, Fewer and Sheehy. It propounds 11 privacy principles. These affirm the public's right to know what personal information is being used, how to access that information to ensure its accuracy, and the need for informed consent for the use of that information by the City or parties benefitting from it. The Ordinance is offered as guiding rather than binding City policy. In a round-about opaque way, it directs the City to devise an Ordinance implementing the policy guidelines by May 2019. Then the Supervisor will



Who decides if an amendment of the Sunshine Ordinance is "not in the public interest"? The City Attorney, according to Peskin ... Trouble is, the City Attorney represents the public and City government. When the City Attorney defends City officials."

One impetus for the upcoming Prop B is a scandal: the political data mining firm Cambridge Analytica is accused of harvesting personal information of millions of Facebook users to target ads for Donald Trump's 2016

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 records, provided that any such amendment is not inconsistent with the purpose or intent of the voter-approved ordinances."

Who decides if an amendment of the Sunshine Ordinance is "not inconsistent" with its purpose? The City Attorney, according to Peskin. City Hall would rule on voter intent – at its own intent. Trouble is, the City Attorney has dual loyalties, representing the public and the City. When the two clash, the City Attorney defends City officials. It's not a hypothetical concern. Recall Matt Dorsey told the New York Times in 2011 that the Sunshine Ordinance Task Force (SOTF) "is a jury that beats up on City departments..." As the Westside Observer has repeatedly reported, the Ethics Commission to dismiss virtually all sunshine violation referrals. Plus, the City Attorney already - as the "Supervisor of Records" to adjudicate public appeals for withheld City records - is the SOTF.

Granting the City Attorney and Supervisors Charter powers to amend the Sunshine Ordinance. It happened before. In 2014, a cabal of Supervisors (Wiener, Chiu, Farrell, Tang and Yee) amended the Ordinance to shield qualified applicants who were deemed too independent. Instead, City Hall shills were in charge of the Sunshine Ordinance to tampering by the very City officials who contend with sunshine complaints. Unlike California's Consumer Privacy Act, Prop B becomes a Trojan Horse for government laws into a bill that appears to protect consumer information. If it passes, it will lessen transparency – despite assurances to the contrary.

The current Sunshine Ordinance was voter-initiated and approved. As such, it can only be amended by the voters or the Supervisors. That's apt because sunshine complaints are all directed against City Hall and City Attorneys are regular targets. Allowing them to modify the Sunshine Ordinance is a conflict of interest. Since 1999 the Board hasn't touched the Ordinance, except to add something. In 2008 the Supervisors amended the requirement that audio and video recordings of City Hall meetings be digitally recorded, and available to the public in digital form. Under public pressure, it required City officials to make themselves and other top officials to maintain work calendars as public records, and to make meeting agendas and minutes public. These add-ons neither altered existing mandates, nor bypassed the SOTF – they were added by the Board.

Stakeholders Beware: Almost privately, PFP was composed within the confines of City Hall. No companies were consulted, the bill received a perfunctory, unnoticed introduction at the Supervisors meeting. Then came two fleeting reviews before the Rules Committee in July. No public input, save for a single sunshine concern voiced by Peter Warfield from the Libra Foundation. The bill was quickly adopted by the full Board on July 24th, with Supervisor Cohen joining as a co-sponsor. Peskin mention his intent to work with "a broader set of stakeholders on trailing legislation." The bill itself says nothing about stakeholders, apart from Supervisors and the City Administration.

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Granted, the PFP/Prop B is well-intended. We need protection from digital platforms and monetize our private data. Granted, its sponsors generally support open government, they likely wanted to facilitate updates to the Sunshine Ordinance, some of which are so. Alarmingly however, Prop B asks voters to give up power for politicians' good intentions: lurks the fox. Giving future politicians the leeway to amend the Sunshine Ordinance is to Hall could simply deem self-serving revisions as "not inconsistent" with the Sunshine O

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Sept 2018

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No Takers Yet: Laguna Honda's Aid-In-Dying

by Dr. Derek Kerr & Dr. Maria Rivero

As reported in the June 2017 *Westside Observer* (WSO), Laguna Honda Hospital (LHH) approved a medical aid-in-dying policy last May. Based on California's 2016 End of Life Options Act, it allows terminally ill patients with decision-making capacity to self-administer prescribed lethal sedatives in the hospital. While awaiting LHH's promised annual report on its aid-in-dying program, the WSO requested records showing the number of lethal prescriptions issued and the number of associated deaths. LHH's response: "zero" and "zero".

Zero takers may seem surprising in a hospital that reported 181 deaths in 2017. However, few dying patients choose this option. For example, Oregon's 20 year old "Death with Dignity" program accounted for just 144 deaths in participants, that's merely 0.4% of Oregon deaths. In California, data for the first End of Life Options program, June through December 2016, show that 191 patients received lethal prescriptions (58%) took them. That accounts for 0.06% of California deaths during that period. Data show 374 (65%) of those patients died as a result, amounting to 0.06% of California deaths.



.....
...the overwhelming majority who opted for aid-in-dying were over educated, insured cancer patients living at home with Hospice services

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This May, a legal challenge by the Life Legal Defense Foundation temporarily suspended Compassion & Choices, a group that supports assisted dying, a Riverside judge invalidated California's End of Life Options Act - on procedural rather than substantive grounds. In the *Hestrin* case, the judge ruled that the Act was wrongly passed in a special legislative session for Medi-Cal recipients. That maneuver was deemed unconstitutional as it skirted the Act. Special sessions also bypass committee reviews and potential opposition. After 3 weeks, General Xavier Becerra's motion to stay that ruling was granted by the 4th Circuit Court. Arguments to overturn that decision will be heard this July. Given the strong public support and absence of reported abuses, the Legislature could simply reenact the bill in general sessions.

Since the LHH's medical aid-in-dying program was enthusiastically introduced to the public, since controversy abounds, the reasons for zero patient participation, the program's problems have been disclosed this year.

Dr. Derek Kerr & Dr. Maria Rivero were a senior physician at Laguna Honda Hospital, they are now reporters. Contact: watchdogs@westsideobserver.com

July 2018

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Westside Car Break-Ins Subsiding - I

by Dr. Derek Kerr

Uncorrected data from the Taraval Police Station's website (www.Taraval.org) show a reported auto burglaries. The average number of auto break-ins for 2018 now shows a big improvement from the 140/month average logged in 2017, and slightly better than 2016. Still, it means 4 local car break-ins each day. While the best protection is to remove

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(computer statistics) database. Last month, WSO columnist Lou Barberini – a CPA and the SFPD's CompStat numbers as "phony statistics" because they quietly increase – so age. That's partly due to the addition of cases filed after the monthly crime reports are corrections inserted so many months later? Initially, the current crime rate is understated. update the data creates an illusion of improving crime trends by pairing current underreported numbers.

For example, car break-ins recorded in Taraval Station's monthly reports totaled 1,418 in logged into CompStat show 1,614. That discrepancy amounts to a 14% surge - from 11. Notably suspicious, the 81 auto break-ins Taraval Station recorded for December 2016 CompStat. Similarly, Taraval reported 1,680 auto break-ins in 2017, while CompStat showed instead of 140 break-ins/month, the retroactive average for 2017 was 149/month. Give thefts from autos go unreported, the true numbers are likely about 10% higher than Taraval.

Last month, SFPD Lt. Tim Paine told the West of twin Peaks Central Council that the recent and home burglaries - was tied to the arrests of 12 of 30 members of a gang targeting residential burglaries plunged to 26 this May. That looks better than the 2017 average of home burglaries had risen in early 2018, the drop in May merely kept this year's average statistics are malleable, and because burglary gangs are resilient, vigilance remains needed.

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July 2018



Taraval Merchants See Red Over Parking

by Dr. Derek Kerr

Wandering through the Parkside and Sunset neighborhoods, Taraval Street is dotted with shops. Their owners have strenuously opposed Metropolitan Transportation Agency (MTA) plan to create a commercial corridor. The latest flare-up came on Monday, May 5th. Taraval merchants painted along the entire curb of the 2200 block. Gone were the parking spaces in front of Fire Equipment, Avenues Pet Hospital, Allstate Insurance and the Zhong Shan Restaurant. forewarning. Although the MTA had promised fliers, business owners say they weren't ready. The plan deters customers and eliminates loading zones for daily deliveries of essential supplies.

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When business owners along Taraval Street arrived at work on Monday morning, they were surprised to find MTA had painted the curbs red along the entire block. Alioto then announced MTA's process at a press conference three days later.

But that doesn't rank among Vision Zero's 57 priorities. According to MTA's website, 22 people have been killed on L-Taraval trains in the last 5 years. The agency blames motorists who failed to stop at the crossing. Just 72% of drivers complied with required stops. In April 2017, a 6-month pilot project was launched to improve compliance by deploying street markings, signs and flashing lights on trains. If the commission would have continued these measures. But compliance stalled at 74%. So, 36 parking spaces were removed to install concrete boarding islands at train stops. Apparently, the 2200 block was the last straw.

Alioto's message resonated; "Neighborhood serving businesses are suffering from economic losses. With behemoth competition like Amazon on one side and city agencies like MTA on the other, our small businesses are being squeezed out of San Francisco."

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"I was at wits end," Dianna Anderson (left) of Avenues Pet Hospital said, "I had Alioto criticizing MTA's tactics recently at a mayor's forum, and it gave me so much courage. I would listen to our small businesses." Shown above is Ms. Anderson, Marcello the owner of Marcello's Restaurant and Sue Hoffman

MTA and abandoned by their Supervisor, Katy Tang. That's why Diana Anderson, co-owner of Avenues Pet Hospital, appealed to mayoral candidate Angela Alioto. On May 8th, Alioto and her team joined a 30-person Press Conference outside the Pet Hospital.



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Much discontent was directed at MTA officials, its unelected Board and Director Ed Reishus over the past 3 years, the agency "just steamrolled over any objections and refused to implement solutions we offered to address safety concerns." She's also skeptical of MTA's "disingenuous" and methodology. She doubts that cutting parking will improve safety, citing the small number of Taraval's 30,000 daily transit passengers - about one collision per 2.5 million riders. As she questioned why a 24 hour/day parking ban was imposed given the paucity of riders out of rush hours. Indeed, several nearly-vacant double buses rumbled by during the noon rally.

Mike O'Rourke, representing the Transportation Alliance of San Francisco, a grass-roots organization characterized the MTA as an "autocratic fiefdom, insulated from the public." Albert Chong, Parkside Sunset and owner of the Great Wall Hardware store joined past-president Alarico Insurance office, in decrying the many hours they wasted conveying community concerns to the MTA. They say their pleas for parking recuperation and mitigation of "highly impacts" ears. Barry Hermanson, a 40-year Sunset resident and Green Party candidate for US Congress, original presentation to the community was a fully-formed plan. They didn't come to us.

Economic and service disruptions emerged. Gene, the 20-year owner of Gene's Deli, kept his. Now, he's losing customers because nearby parking is scarce after 6 PM. Veterinarian Isha she's legally obligated to see emergency patients, while MTA prohibits emergency access when guardians of large dogs have to scrounge for parking and haul their ailing pets seeking attention. Customers are complaining and some have canceled visits for lack of parking.

.....
**Just because certain merchants are unhappy ... does not mean I have
The SFMTA Board ultimately makes final decisions ... and the Board
to my recommendations." (Supervisor Katy Tang responded)"**

These complaints are reminiscent of a prior revolt against the MTA, championed in the
Supervisor Tony Hall. Backed by the Coalition for San Francisco Neighborhoods, a mot

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Greatwall Hardware Business owner, Albert Chow, President of People of P outlines the inflexible pattern of SFMTA's responsiveness to neighborhood the kind of public interaction I would expect from a Director w almost a half-million dollars a year," Alioto responded

support. Advocates for public transit, pedestrians and bicycles won then and remain fo resistance, there may be hope. On May 15th, the Board of Supervisors, citing "frustratio certain transit decisions based on neighborhood appeals.

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Desperate merchants reached out to candidate Alioto, fearing as one merchant have to look at what happened to the businesses along the N Judah Line to see v to our Taraval businesses



None of the folks at the rally believed that MTA's goals of transit ef

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focus groups after MTA hearings devolved into shouting matches. While siding with the merchants who wanted additional study before sacrificing parking for boarding islands alterations for a year. Still, several rally participants viewed Tang as unresponsive to the oddity of District 4 merchants appealing to Angela Alioto rather than their own Supervisor

Barry Hermanson, a 40-year Sunset resident and Green Party candidate recalled; "SFMTA's original presentation to the community was a failure. It didn't come to us to help craft a solution."

While Alioto has pledged to "Fast track infrastructure projects to our most heavily traveled corridors," she also vowed to fire Ed Reiskin and audit MTA's billion dollar budget. That's why she was recruited. "Neighborhood serving businesses are suffering devastating losses. With big tech like Amazon on one side and ever more-demanding City agencies like MTA on the other, our small businesses are being squeezed out of San Francisco."

To a Westside Observer query, Supervisor Tang replied that she wasn't invited to the rally. "If a Mayoral candidate would insert herself and prey on angry merchants given that she did understand the history of the project," Tang added; "Our office has been working with SFMTA to create as much parking as possible along Taraval...creating more parking turnover by installing time-limited parking."



A small group of counter-protesters attempt to disrupt the crowd gathered to

Photos: Derek Kerr

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and trade unions largely rejected the hurried amendment to SB 827 to reduce building neighbors' pre-displacements, and add affordable units and help. None of the gubernatorial candidates, mayoral candidates, London Breed, Supervisor Jane Kim, or SF Housing Action Coalition leader Todd David, backed from big technology firms and developers.

The bill's defeat was foreshadowed by its divisiveness was exemplified, at an October 10th rally. Gathered in opposition was a diverse coalition of tenant, neighborhood, business and community groups, and by some 100 multi-ethnic and multi-generational protesters. Many were unmonetized seniors, Asian. Their message was that SB 827 would wrest control of land use from the City and its residents. Their slogan, "Say goodbye to your neighborhood." They cheered speakers from the crowd, including Supervisors Jane Kim, Aaron Peskin and Sandra Fewer as well as former Mayor Art Agon. Agon penned a comprehensive critique of SB 827 in the April *Westside Observer*, spoke for the Neighborhoods. But their messages were suppressed.

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Riling them up were YIMBY Action head Laura Clark, Bay Area Renters' Federation leader and wannabe District 6 Supervisor Sonja Trauss, and SF Housing Action Coalition director and Wiener acolyte, Todd David. Trauss even barged into the larger group twice yelling and shaking her placard... A Sheriff's deputy asked Trauss to leave that section of the rally. The YIMBY's disruption provoked angry verbal exchanges and soon a team of deputies came out to separate the clashing factions"

Shouting them down were barely 20 young, white counter-protesters. These self-described their opponents as old, wealthy, self-serving, white NIMBYs. So they were taken aback and out-represented by an unexpectedly diverse crowd, the YIMBYs stooped to drown them up were YIMBY Action head Laura Clark, Bay Area Renters' Federation leader and wannabe District 6 Supervisor Sonja Trauss, and SF Housing Action Coalition director and Wiener acolyte, Todd David. Trauss group twice yelling and shaking her placard. An offended demonstrator slipped her own placard. A Sheriff's deputy asked Trauss to leave that section of the rally. The YIMBY's disruption provoked angry verbal exchanges and soon a team of deputies came out to separate the clashing factions.

Some of the elderly demonstrators were startled and intimidated by the YIMBY's bullying. Eventually, the larger group began chanting "Shame! Shame!" and "racism" while pointing at the YIMBY contingent. True to form, Laura Clark resorted to victimology, later claiming that her box was "a trap" and were "gaslighted." The Examiner's Joe Fitzgerald-Rodriguez's provided a nuanced analysis of its fallout. Tim Redmond of 48 Hills provided additional background including the positive coalition opposing SB 827.

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May 2018

Who Owns Voting?

by Dr. Derek Kerr & Dr. Maria Rivero

San Franciscans are seeking more autonomy in some of their public-private partnerships. Alongside the movement for a Public Bank is a similar quest for a Public Voting system. There's unease when public votes are counted secretly by private corporations.

The 2000 Bush v. Gore "hanging-chad" debacle drove computerized voting. But the new technology begat glitches. In 2007, California Secretary of State Debra Bowen decertified all of the proprietary voting systems tested because of security and auditing flaws. That year, the SF Elections Commission prioritized voting systems that "provide the maximum level of security and transparency." The Department of Elections (DoE) then contracted with Sequoia Voting Systems. The upfront cost was \$9.6 million. In 2010, Dominion Voting Systems acquired Sequoia and became the DoE's vendor. Over 11 years, these contracts have totaled \$22 million. The current contract will expire in December 2018 so has been reviewing its security and transparency goals, nicely summarized at www.SFElections.org

Current Problems: Dating from the 1990s, the technology running our leased voting systems is at high risk of malfunction - and vulnerability to hacking, as shown by the breach of voting conference. Importantly, transparency is lacking since the computer codes operating the machines are guarded by copyright. Election officials cannot verify their accuracy or security, or even if the machines lack auditing functions and thus, accountability for their transactions. Although by random 1% manual tallies, today's voting machines are "black boxes" when electoral machines are "black boxes". Compounding these flaws is "vendor lock-in." Only one company can service or adjust them; adjustment requires vendor permission. And, options are limited with just 3 major vendors. Tabulations are largely controlled by contractors - not government officials.

...transparency is lacking since the computer codes operating the machines are guarded by copyright.

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accessible computer codes licensed by the Open Source Initiative. Unlike proprietary software, open source code is free for anyone to inspect, copy and improve. Because many eyes scrutinize the software, it is less likely to be corrupted or corrupted unnoticed. Though publicly visible on platforms like GitHub, the code is still not

Most super-computers use open source codes, as does the US Department of Defense. CIA Director R. James Woolsey opined in the New York Times; "To Protect Voting, Use Open Source." A federal policy requires that 20% of all new software be open source to facilitate inter-agency peer review. Personal computers also use open source software via the Firefox and Chrome and Android operating systems. Open source systems are transparent, secure, flexible and free of proprietary barriers and fees.

Plotting Progress: In 2011, the Board of Supervisors' Voting Systems Task Force recommended an open source voting system. In 2014, the Board unanimously supported such a system, along with a new Agency Formation Commission. Based on this study, the Elections Commission passed a Systems Resolution in 2015, requesting funding to "develop and certify an open source voting system." That means voters would still get paper ballots, and touch-screen votes generate a vote recounted by hand.

The plan is to advance incrementally, developing and certifying individual components. The development would rely upon consultants overseen by the DoE. Meanwhile, ground the Election Commission's Open Source Voting System Technical Advisory Committee.

Chaired by Commissioner Chris Jerdonek, PhD, its meetings are open. OSVTAC members are currently contracting for the new voting system. Cost savings are anticipated from using commercial terminals and optical scanners instead of proprietary hardware. Buying replacement parts no longer obligated to a single vendor, the DoE could hire any contractor to maintain and upgrade the system. The Elections Commission has requested \$4 million for 2018-19 to start building it.

That money awaits the approval of the Mayor's Office and the Committee on Information Technology. San Francisco's 5-Year Information & Communication Technology Plan touts an Open Source goals, Universal Broadband is a competing objective. Until a publicly-owned voting system is built, the city will spend \$2 million/year on an interim proprietary system that accommodates open source code.

However, the 2016-18 City Budget did provide \$300,000 to develop "a new voting system software." The DoE allocated \$100,000 for a salaried Project Director. But no satisfactory Director John Arntz assumed the role. In September 2017, the DoE engaged Slalom Consulting to "prepare a business case" for an open source voting system.

Risks and Challenges: Slalom's February 2018 draft report emphasizes the complexity involved in building, certifying, run and maintain an open source system. One challenge is that building entire voting systems – not individual components. Building it bit by bit or adjusting the

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through. Ominously, contractors shunned the Texas project because open source systems mentioned in the Slalom draft is the expected resistance from corporate vendors. Slalom recommend more planning.

State Support: State funding is likely because California's voting system is overdue for a model designed here could be freely copied by other counties. Secretary of State Alex Flores voting as "the ultimate in transparency and accountability." Last year, the Assembly approved California's voting machines via a 2018 Voting Modernization Bond Act. But that measure. However, Governor Brown has proposed spending \$134 million from the budget surplus.

Elections Commissioner Chris Jerdonek seeks public input and support by speaking to you. Reached at chris.jerdonek@gmail.com.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who were wrongdoings by the Department of Public Health. Contact: watchdogs@westsideobserver.com

April 2018



by Dr Derek Kerr

Parkmerced: Class Action Lawsuit Settlement, Small Change



On December 13, 2017, the City's Superior Court approved a settlement of Stewart v. Parkmerced Investors Properties. Notably, "The Settling Parties are barred from initiating any publicity of the Settlement...and without any media..." Accordingly, this report was derived from court records.

In May 2014, Danilo Stewart and his girlfriend moved to Parkmerced. They settled into a building at 405 Serrano Drive. The rent was \$2,391/month. Soon, Stewart developed nausea and headaches. He attributed these symptoms to moisture and mold caused by building an allowed water intrusion and excess humidity. Parkmerced abuts Lake Merced and sits in a fog. Its leases include a "Disclosure of the Presence of Moisture/Mold/Mildew". Parkmerced commissioned air quality testing that reportedly showed "excess dampness" and "harmful contaminants." Parkmerced responded by performing its own air quality testing. When done, Stewart claimed his symptoms persisted, leading to "severe mental and emotional distress." He deemed his apartment "not habitable" and moved out.

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\$75 late fee. On July 3rd 2014, Stewart paid \$2,550 for rent, garbage and utilities, but in total dues owed. For this minor shortfall, he was charged \$75. The next month, his rent \$75 penalty was imposed. Stewart felt that Parkmerced's flat-rate late fee was unfair. It amount owed or the length of the delay. He charged that the late fee was excessive, ge over-compensating Parkmerced for so-called "cost and damage". He alleged that tenan of outstanding dues for services and utilities, thereby increasing their risk of fines.

Further, his lease defined the late fee "as additional rent". The SF Residential Rate Stabi Ordinance doesn't allow late fees to be collected as rent. Although Parkmerced did not when it imposed a late fee, the Law Offices of Eric Lifschitz considered it an "illegal ren Action lawsuit was launched on behalf of 5,186 Parkmerced residents – expressly for t asked for "restitution of all excessive late fees."

Parkmerced moved to dismiss the suit as meritless. It denied that its late fees were rer increased the monthly rent due, merely assessed a late fee when rent wasn't timely pai administrative fee, not added rent. Parkmerced also rejected Stewart's claim for punitiv of malice or reckless disregard. However, in October 2016 Judge Ronald Quidachay alk since the lease verbiage related the late fee to a rent increase and Stewart's ill-health c

An arduous discovery process ensued during which Parkmerced showed that its late fe of 8 similar City landlords overseeing 75,000 units. Most charged \$100 with a range of testified that tailoring late fees wasn't feasible and a flat rate was both reasonable and Parkmerced's \$75 late fee undervalued its administrative costs for handling delinquenc Parkmerced assessed 2,271 late fees (some were waived) totaling \$132,825 of which \$ calculated management costs were double the sum recovered.

After a year of wrangling, mediations and conferences, a Final Settlement was approve retain its \$75 late fee, but agreed to delete the descriptive phrase "as additional rent" fr replaced. Only the late fee language can be revised on the new tenancy agreements. As Parkmerced reduced its separate fee for bounced checks from \$50 to \$25. While denyi agreed to pay \$120,000 in legal fees, and \$30,000 to Danilo Stewart for work loss, envir moving costs, plus acting as the Class representative. Parkmerced residents with conc their newly-revised leases can contact the Housing Rights Committee of San Francisco (Case #: CGC-16-551696)

Dr. Derek Kerr is an Investigative Reporter living in San Francisco

March 2018

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"Marijuana Act", ended

cannabis prohibition in November 2016. Garnering 57% of votes statewide - and 74% in San Francisco - it legalized the sale of recreational marijuana.

Medical marijuana has been legal in California since 1996. Prop 64 allows adults aged 21 and older to possess 1 ounce of marijuana, or 8 grams of

marijuana concentrates, and to cultivate 6 plants at home. To sell marijuana to adults - need both State licenses and City permits. Detailed State regulations were issued. On 1 Consumption Ordinance installed the Office of Cannabis with regulations and equity po providers.

In December 2017 the City's Department of Public Health (DPH) reported the potential of legal cannabis, focusing on youth exposure and neighborhood quality of life. The 20- "Assessment on Legalization of Adult Use Cannabis" aims to minimize health risks, your disruptions. Based on these guidelines, the DPH reviewed the scientific literature, consi surveys to come up with key findings and recommendations.



Youth Impacts



As of August 2017, there were 38 medical marijuana dispensaries i were delivery-only services. Of these, 64% were located in 4 neigh Market, Mission, outer Mission and the Financial District."

Although the new law applies to adults, youth may be affected by the legalization of rec among youth has been associated with learning difficulties, lower school performance. Recent City surveys cited by the DPH show that 17% of our high-schoolers use marijuar the national average, partly because of low use rates among Asian students. For exam Chinese students used marijuana versus 43% of African-Americans, 33.6% of Whites a LGBT students use marijuana at twice the overall rate. The DPH advises adding cannab middle and high school curricula.

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Owners of 2505 Noriega have filed in court after the Supervisors upheld an appeal by n-
 granted by the Planning Department.

young people. Back in 1991, nearly 80% of San Francisco voters approved Proposition I
 - 5 years before California legalized it. And in 2006, the Board of Supervisors passed Or
 possession of marijuana the "lowest law enforcement priority". In 2011, the SFPD repor
 misdemeanor marijuana possession – and all were secondary to other charges. Per the
 Colorado, Washington, Oregon and Alaska has not resulted in increased use among you
 could change with uncontrolled advertising and marketing.

Young people are especially susceptible to advertising, a vulnerability long-exploited by
 industries. Conversely, restricting advertising is a proven strategy for preventing drug u:
 advertising by licensed marijuana businesses, there's a loophole. Advertising agencies
 not directly sell marijuana can freely promote marijuana. That's why local vigilance play
 Transportation Agency stripped marijuana ads from buses in November. The Golden G:
 Transportation District, followed suit. The DPH recommends regulating the content and
 does with tobacco and alcohol.

Medical Impacts

Even before the legalization of recreational cannabis, "cannabis-related" hospitalization
 However, from 2011-2015 City hospitalizations and ER visits directly caused by cannab
 annually. In comparison, alcohol-driven hospital visits were around 80 times higher. The
 cases involved young people under 24 years of age. Interestingly, hospital visits attribu
 higher for African-Americans than for the overall population.

A particular concern is poisoning by edible forms of marijuana like cookies, chocolates
 cannabis poisonings between 2006-2010 and 2011-2015, ER visits increased from 133
 indicating more serious impairments, rose from 21 to 52. These are small numbers as
 unlike other drugs, marijuana has never been fatal.

Not mentioned in the DPH report is the August 2016 incident at a Quinceaniera celebra
 Nineteen people were taken to the hospital complaining of confusion, dizziness and let
 bears containing tetrahydrocannabinol or THC, the psychoactive agent in cannabis. Of

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counseling services in 2015. There's no mention of the 5-fold boost in the potency of it compared to those of past decades. That raises the risk of intoxication for those who p Drugged driving isn't mentioned. That may be because research has not yet proven that increases crash risk. Nevertheless, marijuana can impair critical driving skills. While tra marijuana became legal, recreational marijuana-linked crashes and fatalities have risen Washington.

Also missing is a Kaiser Permanente study of 35,000 pregnant women. In 2016, 6.6% t rising to 19% among those between 18 and 24 years old. Fetal development may be aff study of 5,588 women showed a 5-fold rise of pre-term births among those who contin pregnancy. Most medical marijuana dispensary physicians discourage marijuana durin history of addiction or mental illness. And because marijuana harbors bacteria and fun immune systems are advised against smoking it. Recreational purveyors won't be so ca public education campaign targeting pregnant women, youth, parents and seniors. For

Community Impacts

Like retail outlets for alcohol and tobacco, marijuana dispensaries gravitate toward low communities of color. As of August 2017, there were 38 medical marijuana dispensarie delivery-only services. Of these, 64% were located in 4 neighborhoods: South of Market Financial District. Commercial zoning laws and community participation in the approva distribution. The Westside's sole approved retailer is Barbary Coast Collective due to o Check WeedMaps.com for dispensary locations.

Because alcohol and tobacco outlets are associated with increased youth exposure as traffic, vehicle accidents, and crime, the DPH is concerned about the impact of marijuai sparse, most community complaints mention malodorous marijuana smoke. The risk o cannabis retailers are cash-only enterprises with lots of it at hand. Cannabis tourism m retailers may be adversely affected. Importantly, the DPH reports that; "...none of the st organizations serving communities of color, or living in these communities, believed ca benefit communities of color, and instead would have a negative impact...". While the DI outlets in neighborhoods burdened by drug abuse, it doesn't address the opposition fro community where cannabis use is very low.

The DPH promotes a "measured approach" that mitigates disparities - and fears - by ur especially in lower-income, higher-crime neighborhoods. Health and safety inspections the Office of Cannabis, Fire Department and Department of Building Inspections. Comp 311.

Dr. Maria Rivera and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital wh

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The Posse Comitatus Act generally bars the use of soldiers in domestic policing. Soldiers are trained to kill and destroy while cops serve to keep the peace. This distinction has faded with the militarization of police in the War on Drugs and the War on Terror. A warrior mindset has seeped into routine policing as reported by criminologist Peter Kraska, the ACLU in War Comes Home, and journalist Radley Balko's Rise of the Warrior Cop. Back in 1998, the Bay Guardian covered an SFPD drug raid in War on Crime, warning that when cops become soldiers, the community becomes the enemy.



Militarized policing started in the late 1960s when the LAPD introduced SWAT (Special to quell riots and violent emergencies). Initially driven by fears of civil unrest and armed acceptance. For politicians, SWAT teams confirmed tough-on-crime credentials. For cops But money drove mission creep because SWAT teams generated revenues. Incentivized gear for the War on Drugs as well as civil asset-forfeiture laws, police forces eventually deployments to drug searches and non-violent crimes, versus 7% for emergencies like situations.



President Obama issued an Executive Order limiting and banning tl field staples like tracked armored vehicles, large-caliber weapons, bayonets and grenade-launchers."

Then came massive donations of excess military equipment from the Department of Defense National Defense Authorization Act (NDAA). The 1989 NDAA authorized the transfer of and State agencies engaged in the War on Drugs. The 1996 NDAA created the "1033 Program" for deliveries to local law enforcement for counter-terrorism as well as counter-narcotics purposes. Gear must be returned if not used within a year, its deployment is abetted. Loosely over Emergency Services, the 1033 Program is administered by the Defense Logistics Agency Office whose motto is "From Warfighter to Crimefighter". September 11, 2001 spawned Department of Homeland Security (DHS), and the ongoing national State of Emergency departments with grants to address terrorism and disasters – emphasizing national security. And, given the rarity of terrorism and disasters, DHS offerings trickled into everyday police.

The deployment of war equipment to quell civil uprisings raised constitutional concerns: protests and riots in Ferguson, Missouri. Transparency and accountability concerns are

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So far, the SFPD has been judicious in procuring castoff militaria. Unlike other Bay Area hasn't sought combat equipment. DOD records show that between April 2008 and May surplus items valued at \$447,535. This represents the "acquisition cost" to the DOD rat surplus equipment, 36% of which is unused. The SFPD gets the gear for free, but pays s costs. The big-ticket items were mobile remote-controlled robots, namely an MK3MODI Packbot 510s valued at \$77,000 each. These machines can probe hazardous sites and remaining items were vision-enhancing devices like thermal and reflex sights, night visi illuminators for surveillance and reconnaissance.

So the SFPD upgraded its arsenal with cost savings. Of course, with a budget of \$583 r weaponry from private vendors. Or, it can accept gear transferred from other 1033 Prog Francisco's FBI office, its Joint Terrorism Task Force partner. The SFPD acknowledged "Neutralization robots" from "another law enforcement agency" in this way.

Incidentally, the City's FBI office is the major local recipient of DOD military surplus. Rec least 1,850 items valued at over \$10.9 million since 1996. Major acquisitions include 1 valued at \$6.7 million, 2 "Reconnaissance Camera Systems" valued at \$167,000 and 3 i \$195,000. Much of the equipment is quotidian; computers, cameras, flashlights, rescue coffee maker" and "exercise bicycles". The military-grade equipment falls into 3 catego Disposal like robots, Hazardous Material Disposal including gas detectors, electric blow machines, and Reconnaissance gear including night-vision goggles, gun sights, rifle sco and thermal signals. None of it is offensive combat gear.

Very little of the DOD surplus acquired by the SFPD is reported publicly. A search of the Program" revealed just 2 entries; 3 mobile decontamination trailers requested in 2002 a reports indicated that 2 helicopters were acquired in 1998. None of the military items ic in Police Commission meeting minutes. Neither are goods transferred from other 1033 obscure is the impact on SFPD practices of \$28.8 million in grants received from 2003 million annually) from the Department of Homeland Security. Although these grants do provide military-style equipment and training. Military paradigms legitimize violence an. The SFPD's use of force showed "significant deficiencies" per the Justice Department's Initiative". Its lack of transparency was the theme of the 2015 Civil Grand Jury report "Ir

Now that weapons of war are again readily obtainable – without Pentagon reporting rei transparency about its acquisitions is indicated. The frequency and purpose of SWAT ti publicly reported. And, the Police Commission should re-examine the impact of federal and community engagement. The threatened cuts of law enforcement grants to sanctu lining; shifting resources away from militarization and toward community policing and

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital wh

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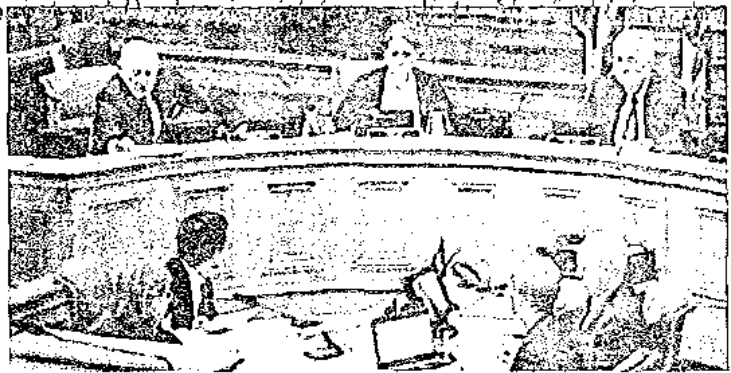
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Maria Rivero

The Ethics Commission "recklessly" disregarded the Brown

Act and the Sunshine Ordinance when it "brazenly voted to send a letter without proper public notice." The commissioners must "immediately resign" or face

suspension. Either way, an appeal to "criminally prosecute" them for "official misconduct" warned a 5/2/17 complaint to the Sunshine Ordinance Task Force (SOTF), the District / appoint said Commissioners. It came from "outraged" pro-housing activists Laura Clark Back Yard") Action, Sonja Trauss, founder of SFBARF (Bay Area Renters Federation) and oblique strike in a war against perceived barriers to housing development. Recall the gut in trying to take over the Sierra Club. This time, their anger was displaced onto a revitali tackles corruption.



Johnson acknowledged a conflict. She resolved it by contortion, vo policy decisions at SPUR while continuing to vote on housing polic Commissioner. Although she had told Mayor Lee she wanted to res SPUR."

At the March 27 Ethics meeting, clean-government advocates with "Friends of Ethics" n Quentin Kopp of a potential conflict of interest. It involved Planning Commissioner Chri been dubbed Director of SPUR's San Francisco chapter following a term on SPUR's Boa Area Planning and Urban Research Association) is a member-funded "non-partisan" thi advocacy. Its income for 2016-17 was \$7.1 million, of which 34% came from some 6,00 corporations, developers, realtors, as well as trade unions and public institutions. Anoth mostly private. Noted for past "urban renewal" fiascos, SPUR promotes development th contributors, among others. Kopp included Johnson's alleged conflict among 10 sugge Ethics' work on an Anti-Corruption Ordinance - and future meeting agendas.

But the Johnson matter didn't get on the April 1 Friends of Ethics co-founder Larry Bush warne Commission would review 2 competing Includi **Ordinances that assigned different percentage**

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Professor Johnson was recognized for her work as Johnson SPUR's salaried advocate and for reversing her vote to tighten Airbnb regulations Mayor's Office.

Commission President Peter Keane

So Ethics had to decide: address an

imminent vote potentially tainted by a conflict of interests, or wait until the matter could be agendaized. By then, Planning would have voted. The Brown Act and the Sunshine Ordinance require that government meeting agendas be publicly posted 72 hours beforehand to allow public participation. But both allow action on non-agendaized items if all commissioners present deem immediate action necessary to avoid "serious injury to the public interest" and if the need for action arose after the agenda was posted. Commissioner Kopp moved to take action on Johnson's perceived conflict. Deputy City attorney (DCA) Andrew Shen, who is assigned to the Ethics Commission, cautioned against further discussion as the matter wasn't on the agenda, as did Ethics Director LeeAnn Pelham. Ethics Chair Peter Keane ruled that the matter was urgent, important and in order. A required roll-call vote on this decision wasn't taken but in agreement.

What ensued was a one-hour open discussion punctuated by DCA Shen's defensive refusal to address a potential conflict. Larry Bush shared e-mails showing that the Mayor's staff had called Johnson and Johnson about, "having to recuse herself from items at the Planning Commission... Administration." This Shen did not disclose. Nor would he share that he told Johnson she had "attorney-client privilege." He wouldn't reveal if his advice was written or verbal. He even mentioned points of law related to conflicts of interest. Not once did he mention that the Brown Act allows for non-agendaized matters. Awkwardly, Shen was caught in his own conflict of interests - his own differing views. Worse, Ethics was rejecting the "no-conflict" pass he had granted to Johnson. In his discussion, and suggested that one Commissioner send a personal letter to Johnson. In his comments, Ethics voted 4-0 to send a letter advising Planning Commissioner Johnson that her position was "incompatible" and to recuse herself from acting on "housing or other development projects."

Ethics made a good-faith effort to fulfill its duty and met the immediate requirements allowed by the Brown Act. YIMBYs desiring fairness can report to Ethics any conflicts enveloping other Planning Commissioners. And Ethics should address its conflict-bound City attorney with independent counsel."

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Ethics warning without the opportunity of a professional review or criminal prosecution - as did the YIMBY complaint against the Ethics Commissioners.

Johnson acknowledged a conflict. She resolved it by contortion, vowing to avoid housing while continuing to vote on housing policy matters as a Planning Commissioner. Although she wanted to resign once hired by SPUR, Lee asked her to stay until he appointed another - another 7 months. She walked out during public comments that overwhelmingly favored her. However, she did support one amendment that favored low-income residents. Tensions flared when Jane Kim arrived to announce that the dueling proposals would be melded into a "consensus" proposal. A YIMBY grievance against Ethics proceeded.

On 9/6/17, before the full Sunshine Task Force, Ms. Clark and a handful of YIMBY supporters Commissioners Keane and Kopp and their allies. Intriguingly, the YIMBYs' fervor for sunshine advocates like Bruce Brugmann, Rick Knee and Bob Plantholm. The all-white YIMBYs injected victimology and identity politics into their narrative. They lamented that "I had my character thrown under the bus." Previously, she had argued it was "Johnson" through the mud." She labeled Ethics "a rogue agency...filled with politically-motivated people using the hammer on whoever they deem a political opponent." Housing Action Coalition CEC about old white men not liking Christine Johnson." Dismissing conflict of interest concerns for "a political witch-hunt for a minority female woman," "a political vendetta", "selective enforcement" and "new levels of hypocrisy." They also maintained that the Ethics letter didn't address the fact that she had received tips about Johnson's conflict weeks before and she had previously voted almost worked. A motion to find that Ethics had violated the Sunshine Ordinance died at the 6-vote threshold needed to pass. Commissioner Johnson wasn't there to back her supporters. Shen.

In sum, Ethics made a good-faith effort to fulfill its duty and met the immediacy exemption. YIMBYs desiring fairness can report to Ethics the alleged conflicts enveloping other Planning Commissioners. Ethics should replace its conflict-bound City attorney with independent counsel.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who were involved in the wrongdoing. Both are local San Francisco residents. [Contact Derek](#)

October 2017



Safe Injection Sites: Neither Drug Denial nor Recovery

by Dr. Derek Kerr and Dr. Maria Rivero

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City's HIV cases and 70% of all deaths from the Department of Public Health (DPH). In 2015, 179 people died of drug overdoses, about 100 by injection, primarily heroin and methamphetamine, mostly hidden in Tenderloin and South of Market hotels. Drugs drive thousands of ambulance runs and hospital visits for infections, overdoses, falls and other complications yearly, not to mention crimes and arrests.



The Bill passed the Assembly 41 to 33 and awaits a Senate vote. O Police Chiefs Association, District Attorneys Association, Sheriffs' Narcotic Officers' Association ... Nonetheless, SISs offer hope amid fentanyl-spiked overdoses despite the fierce policing and mass incarceration on Drugs."

Drug addiction is viewed by experts as an illness - *substance use disorder*. To tackle its Board of Supervisors passed Resolution 123-17 in April. It urged the DPH to convene a Services Task Force to assess setting up sites where people can legally inject their own under medical supervision, and connect with health, drug treatment and social services meetings, the Task Force will send recommendations to the Mayor. In June 2016, Mayor injection site at a homeless Navigation Center, declaring his "vigorous disagreement over heroin and meth, to literally destroy their bodies and their minds, in a City-funded shelter. Director Barbara Garcia endorsed injection facilities in December.

Safe Injection Sites (SIS) originated in Switzerland in 1983 then spread to 100 cities in Canada, Denmark, Germany, and Spain. Two of these incorporated scientific evaluation Supervised Injecting Centre set up in Sydney Australia in 2001, and the Insite program established in 2003. Their research shows that SISs attract hard-to-reach, high-risk drug and long-time addicts, many with no prior drug treatment experience. SISs promote safety likely reduce overdose deaths and infections as well as public injecting and litter. They treatment, social and health services without increasing local drug use, trafficking or crime. Supreme Court of Canada blocked government efforts to shut down Insite in 2011. Des US, health officials in Seattle have authorized 2 SISs and San Francisco aims to follow.

Here, SISs would extend the DPH's Harm Reduction approach to drug addiction; distribute syringes annually, providing methadone or buprenorphine treatment for heroin addiction.

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Critics who analyzed the data from the Sydney and Vancouver SISs challenged their effort. Just 31% of Vancouver public injectors said they would use SISs because registration is injections nor drug sharing are allowed. Acceptability dropped to 20% with police presence. SISs, do so for less than 20% of their injections on average. Canada's Expert Advisory Committee's thousands of visits represented barely 5% of overall community injections. Such potential and sometimes elusive benefits. The Sydney SIS could not demonstrate reduced infections, hepatitis or HIV. Although Vancouver's Insite reported improvements in all, it saw no direct evidence. While neither program reported overdose deaths in-house, their those reported in the community. Apparently, some SIS clients feel emboldened to expect drug cocktails while safely supervised.

SIS referrals to drug treatment programs are widely touted, but only 14% of Sydney clients majority did not attend until recently, with added funding and follow-up. In Vancouver, just drug treatment. In San Francisco, merely 14% of drug users surveyed wanted drug treatment wanted food and showers. Denial of disability is a symptom of addiction, but some taxpayers returns on investments. However, both the Vancouver and Sydney programs reported complaints businesses and residents complained about loitering and drug dealing. While no increase detected, cops had boosted patrols around both SISs – a hidden cost.

SIS critics complain that "partisan sympathizers" cherry-pick data to highlight successes. Diversity of DPH's Task Force was revealed when its members were ruffled into admitting SISs. On 8/10/17 the Task Force proffered 6 City SISs rather than a pilot program. Other equity whereby every City District would do its fair share. Unaddressed are drug users' acceptability barriers and the allure of the street scene. Ideological opponents fear that behaviors. They call for more robust treatment programs as well as pre-arrest diversion mandate treatment.

The SIS movement is stymied by federal and state Controlled Substance Laws that prohibit drugs and paraphernalia. Even building owners and operators may be held liable. This March Sessions directed federal prosecutors to seek "the most serious, readily provable" penalties. A work-around is California Assembly Bill 186 for a "Safe Drug Consumption Program." It approved injection sites. The Bill passed the Assembly 41 to 33 and awaits a Senate vote. Police Chiefs Association, District Attorneys Association, Sheriffs' Association and Narcotics They worry about conflicts with federal laws, congregating drug-related criminality, and "dens" that don't require treatment. Nonetheless, SISs offer hope amidst an Opioid Crisis overdoses despite the fierce policing and mass incarceration of the War on Drugs.

Like other municipal efforts to combat national plagues, SISs may relieve a fraction of the it overall. Since modest results fit the Harm Reduction paradigm, the Task Force will support

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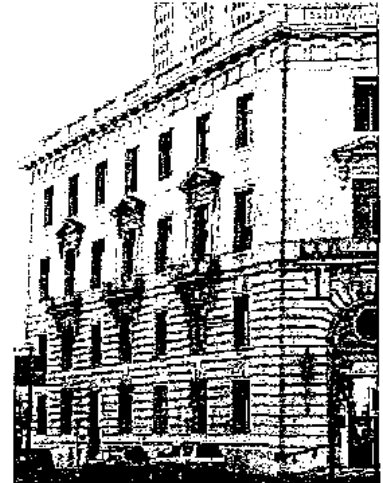
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Society of Professional Journalists, NorCal Chapter
September 2017

***** FBI Probe Plunged DPH into Turmoil,

by Dr. Derek Kerr & Dr. Maria Rivero

The March 2017 *Westside Observer* reported on the FBI probe of a pay-to-work s Department of Public Health (DPH). Payments had allegedly been solicited in e questions, promotions and shift assignments. Since then, new sources and doc investigation dug longer and deeper than initially reported, miring the DPH in recriminat

Starting in 2011, DPH janitors were questioned by the FBI and City Attorneys about payments for jobs and the hiring of janitors with unverified qualifications from China. Who notified the FBI is unclear. According to confidential DPH sources, a janitor who reportedly paid \$5,000 for a position that didn't materialize demanded a refund then complained after receiving just \$4,000. Another janitor allegedly paid \$10,000 for a position. No legal action ensued as the victims declined to testify. However, the DPH introduced multiple-choice exams for hiring janitors. The FBI kept watching for potential human trafficking.



Hostile Work Environment: In 2011-12, the DPH launched 3 investigations targeting its General Services manager, Willie Crawford, other facility services. Several of his subordinates had complained about his "harassment reduced responsibilities. Crawford, a 35-year DPH employee who is African American for employees had issued "false allegations" resulting in a "hostile work environment" that His 2011 complaint to the DPH Equal Employment Opportunity office was rebuffed. So, California Department of Fair Employment and Housing (DFEH), adding retaliation to hi

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Adding to the impression that dirt was being hidden was a series of and thefts from DPH executive offices at 101 Grove Street. The DP activating or installing security cameras. Key documents, including vanished."

To calm tensions, Crawford was assigned new supervisors. One was Ron Weigelt, hired Resources chief in May 2013. Crawford says his mistreatment continued - including the

emails from DPH servers. So he filed a retaliation claim with the City's Civil Service Commission.
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for threatening behavior. *Society of Professional Journalists, NorCal Chapter*

Investigative Zeal: Remarkably, the Whistleblower Program and the City Attorney pounce on witnesses from August to December 2015. Crawford's deputy and "right hand woman", and sought reassignment. In October 2015, Crawford was placed on Administrative Leave. His replacement, a Payroll manager with no janitorial experience, was David Palma. Palma had Amanda He as his deputy. That move was reportedly opposed by DPH Director Barbara Weigelt, staff who longed for change. But Weigelt, who protected informants, supported it and purged half a dozen employees and supervisors, including witnesses to ongoing intrigues and outcries over retaliation and discrimination.

The City's investigation stated that Crawford had "accepted money from a subordinate" and "threatened bodily harm". Labeled an "administrative retaliation ploy" by Crawford, it resulted in a notice on 12/18/15. Crawford had been taken aback by a grilling on his personal finances and even his Chinese-American wife's business. Moreover, he had been ordered to undergo a psychiatric evaluation, with an attorney present, and to attend a disciplinary hearing while on Medical Leave – a breach of the City's policies. The City Attorney was investigating Crawford - while defending the DPH against Crawford's attorney protested "a biased investigation designed to terminate him" and successfully got Crawford's attorney removed from the case. That's why Louise Renne's Public Law Group began defending Crawford, thereby collecting \$187,158.

FBI Behind the Scene: The City's investigation wasn't autonomous. By November 2015, the FBI wanted to interview janitors it wanted to interview. FBI agents also interviewed DPH Human Resources Director Micki Callahan. The DPH scrambled to review complaints janitors had filed since Crawford's arrival. Weigelt crafted a memo encouraging janitors to cooperate with the FBI and promising information. This memo sparked contention between Weigelt and cagier City Attorneys. DPH managers suspected in the pay-to-work scheme. The FBI asked to search Crawford's office. The City Attorney demanded a warrant. The FBI argued that it simply needed DPH's permission since the City Attorneys held FBI agents at arm's length. The FBI did not force the issue, but agents were frustrated by lack of cooperation.

Instead of an FBI search, the DPH's Weigelt directed a search of Crawford's office and the City Attorney's investigation reportedly bypassed the As Needed janitors who were more likely to be under pressures. Adding to the impression that dirt was being hidden, was a series of break-ins at DPH executive offices at 101 Grove Street. The DPH reportedly stalled on activating or releasing documents, including promissory notes allegedly showing that janitors had signed over their rights. Months of Crawford's emails also disappeared.

Concurrent investigations by the FBI, the Whistleblower Program, the City Attorney, and the Whistleblower Program control, paranoia and intrigue. Coworkers suspected each other of being FBI informants.

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 appraising the city's anti-communism *League of Professional Journalists, NorCal Chapter*
 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.com

Laguna Honda to Offer Medical Aid-In-

by Dr. Derek Kerr & Dr. Maria Rivero

On May 9, 2017, Laguna Honda Hospital (LHH) pivoted to offering terminally ill patients the option of taking a lethal drug cocktail on its premises. This Medical Aid-In-Dying (MAID) policy is based on the June 2016 California End of Life Option Act and a related Department of Public Health (DPH) policy approved this February. Since the California Act prohibits MAID in a "public place" – and public hospitals are public places – it was assumed that patients would self-administer the pre patients without homes or caregivers, the DPH initially planned to "facilitate placement setting." But there are few community settings where MAID can be safely conducted – c the right to choose the timing, place and manner of their own deaths, LHH devised an c need skilled nursing services, patients may be admitted to LHH for MAID.



Patients must personally request MAID from their physician. No on behalf. They must understand and communicate the nature and co The physician assesses the patient's eligibility and offers alternate Care, palliative sedation, ending life-prolonging treatment, or volun drink."

Since Oregon's 1997 Death with Dignity Act, Washington, Montana, Vermont, California, similar laws. Oregon data shows that 1,749 terminally-ill patients were prescribed letha deaths. In other words, one-third decided not to use the drugs. Last year, just 0.37% of MAID. Overwhelmingly, they were over 65, white, college-educated cancer patients with 5% took MAID in long-term care facilities like LHH. The prime reasons for seeking aid-in control, unbearable quality of life, and loss of dignity. In 19 years, no complaints of MAI The MAID advocacy group Compassion and Choices describes the experience in a vide To qualify for MAID, patients must be California residents, at least 18 years old, and ten months to live. They must have the capacity to make informed medical decisions – and drug. Because patients in Skilled Nursing Facilities are vulnerable to coercion and desp that MAID requests are voluntary and rational. Patients must personally request MAID i can do so on their behalf. They must understand and communicate the nature and con

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Concerns about a patient's mental state or judgment require evaluation and clearance by a Psychologist. The review takes 3 weeks at minimum, and likely twice as long. In Oregon a decision can be rescinded at any time.

Days after the written attestation, a prescription is made out for 10 grams (100 capsules) along with pills to prevent vomiting. The medications are provided 48 hours before the patient must self-administer the drugs and is reminded that it's OK not to take them. To mask the taste, the pills are emptied into half a cup of juice or apple sauce then swallowed within 2 minutes. In Oregon, patients are out after 5 minutes but a few stayed awake for an hour. Most died within an hour, though some took a few days. The cocktail can be modified to speed up the effect. A physician fills out the death certificate, listing the underlying terminal illness as the cause of death. By law, MAID is not suicide and does not require a mental health evaluation.

All MAID prescriptions and related deaths are reviewed by the State Department of Justice and the Department of Health (CDPH), respectively. Annually, the CDPH will publicly report the number of prescriptions and demographic data, keeping patient identities confidential.

MAID is controversial and emotive. Catholic doctrine opposes it, as does the Hippocratic Oath. The American Medical Association though the California Medical Association takes a "neutral" stance, believing that MAID reflects a fear of disability, thereby devaluing the lives of disabled people. Some believe that the quality of life may be due to poor quality of care. Traditionally, Hospice care neither promotes nor discourages the process. Accordingly, the Act allows health care providers and hospitals to opt out. Catholic hospitals like St. Francis prohibit MAID. So does the VA hospital system. The Vitas Hospice chain does not prescribe MAID.

Commendably, LHH conducted a staff survey before introducing its MAID policy. Only 5% of physicians agreed to participate. Support seems spotty among nurses, most of whom did not disclose how many staff refused to participate. Or how many declined to be surveyed. LHH acknowledged "challenges that needed to be addressed for conscientious objection." Staff who oppose MAID on ethical, cultural or religious grounds are free to be offered Monday through Friday during the daytime when enough supportive staff are available. Patients are afforded a private room on the Palliative Care Service which is accustomed to caring for LHH patients, who are largely poor and non-white, were not surveyed. Neither were DPH patients. The demand for MAID. A UC Berkeley poll showed that 76% of California voters support MAID. No one has polled terminally ill patients. Offering MAID without proper oversight will be a challenge.

Apart from those who request MAID, who benefits? The DPH Flow Project rushes non-palliative patients to relieve crowding and cut costs. In October 2012, DPH Director Barbara Garcia listed "patient flow" as a priority. In a May 2014 "Patient Flow" presentation, LHH reaffirmed its commitment to "improve patient flow by increasing discharges, reducing lengths of stay and favoring short-term care."

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where they repeatedly exposed wrongdoing by the Depa
Contact: DerekOnVanNess@aol.com



June 2017

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A Public Bank for San Francisco

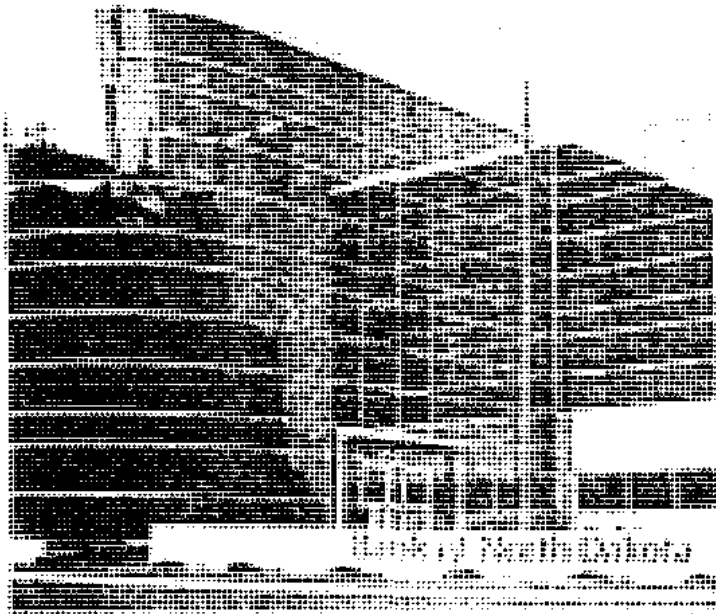
by Dr. Derek Kerr and Dr. Maria Rivero



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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 and 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) Mill and Elevator Association. BND opened July 28, 1919 with \$2 million of capital.



Where does money come from? It's created from nothing - by banks. Because banks can lend \$10 for every dollar they hold. By charging interest on this far much more than they lend. Since loans are marked as deposits, they can allow governments collect taxes and deposit them in big banks. By serving as intermediaries this money or lending it. Instead of fostering community development, most bank loans institutions, insurance and real estate companies, hedge funds and corporate raiders. Community urban development grants have locked cities into the private banking system. Averse to budgets, cities obtain private credit via municipal bonds or public-private deals that raise the costs of public projects. Private banks monopolize a wealth-transfer mechanism through shareholders at taxpayer expense.

The deregulation-enabled and fraud-driven banking crash of 2008, the \$700 billion public

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(Liberty), the world's benchmark for professional journalism, due to its exposure of auctions. These and a host of other violations yielded billions in pilfered profits despite settlements.

Supervisor Sandra Lee Fewer directed the Budget Analyst to re-assess the city-owned bank. Treasurer Cisneros will also have an opportunity to address the ongoing risks and predations of private banks, threats of revenue losses from denying bank services to the community, and the need for a public banking option is needed."

One antidote for these abuses is to establish public banks. Their purpose is public interest, not profit. Public utilities under public oversight, they take tax receipts deposited by governments, projects and local businesses and return profits to General Funds. Run by salaried civil servants, not commissions for boosting loans or pursuing speculation. This alternate paradigm work (BND), the nation's only public bank. Founded in 1919 to support farmers who couldn't get loans from private banks, it now finances infrastructure projects, and provides low-interest loans for student services. BND partners with local banks that lend to homeowners and small businesses; in 2010, it pumped some \$300 million back into State coffers – one reason North Dakota was unscathed by the financial crisis. In 2015, the BND's Infrastructure Loan Fund offered 30-year loans - at 2% interest. Banks are publicly-owned. Among US cities considering public banks are Oakland, San Francisco, and San Jose. San Francisco already has a template for public banking. In 2009, then-Supervisor John Ahn, a Sociologist Karl Beitel, who went on to publish a monograph, "Municipal Banking: An Opportunity for Public Banks." A public bank could recapture \$68 million annually by purchasing the City's short-term bonds, reducing foreclosures and housing costs that displaced City residents, as well as the Occupy Wall Street movements, in 2011 Avalos asked the City's Budget and Legislative Analyst to research the issue. Rose's September 2011 report identified a major barrier: State law. Government Code section 54800 shall not, in any manner, give or loan its credit to or in aid of any person or corporation." Attorney opinion concluded that as a charter city, San Francisco could establish its own public bank. Bills to create public banks (AB750 in 2011 and AB2500 in 2012) were vetoed or buried after opposition from the Bankers Association, and the State Treasurer.

City Treasurer Jose Cisneros was guarded while testifying before the City Operations and Finance Committee on 10/24/11. He admitted that the City deposited its funds with Bank of America at a cost of \$2.7 million/year. He emphasized his legal obligation to prioritize security over order, for City investments. There was no assessment of the security of City funds placed in a bank that co-mingles its \$1 trillion in deposits with \$70 trillion in derivatives. When such banks fail,

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... Hoeper had offered to settle for \$1,895,000 while Herrera countered with \$355,000. Now, taxpayers face bills surpassing \$3 million for Herrera's attorneys, plus \$2 million for Jo Hoeper and around \$2.5 million for her attorneys."

Sewer and tree-related claims were soaring. In 2002, 202 claims totaled \$1.1 million. By 2010, they had reached \$4.6 million. The 10-year total was \$24 million, including legitimate types of sewer and tree damage. The City didn't pay for sewers infiltrated by city-owned trees because roots rarely break sewers. And most can be cleared by root cutting for a few hundred dollars rather than spending to replace entire lines. That's why Oakland, with a comparable number of city trees, paid \$1 million for sewer repairs. Meanwhile, one SF contractor collected \$600,000 over 2 years solely from City claims. If the City did replace sewers, it paid 50% to account for depreciation. SF paid full freight for branches that dubious payouts had cost taxpayers \$10 million.

Most of the claims were for private sewer lines that run from homes to the sidewalk. By 2010, the City was providing capital improvements for property owners and big payouts to contractors. According to the Government Claims Act, cities are only liable for public sewer damage. And City codes require the Department of Public Works (DPW) to fix street sewers through private property. However, the Claims Bureau paid

for some street sewer jobs. These irregularities were tolerated as "a conspiracy of expedite repairs. Hoeper saw false claims and suspected corruption.



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Herrera supported Hoyer's investigation - until her findings triggered blow-back. Matti connected Herrera ally who heads the Claims Bureau, was rattled. He told Hoyer, "You be sorry." Also upset were PUC Manager Ed Harrington and DPW Director Mohammed I Bureau for mismanagement. Wagon-circling ensued - another conspiracy of expediency. Deputy Attorney, Therese Stewart, to defuse tensions and wrap up Hoyer's investigation. Rothschild and his staff, without notifying Hoyer's investigative team of her back-channel fended off Harrington's accusations, declaring, "Everybody has a hand in this...no need." 2012, Nuru and Harrington barred the "pre-approval" of claims by the Claims Bureau. Troubled by Hoyer's ongoing search for "something nefarious," Stewart demanded a "blow by blow summary" of Hoyer's findings. Instead, Hoyer delivered a 27-page draft recommending a "top to bottom" audit of the Claims Bureau. One week later, Herrera to the DA's Office for 18 months, then be released with full retirement benefits. It was a landing, removing a threat rather than demoting an under-performer. Plus, Herrera's time Rothschild, a target of the sewer investigation, knew of Hoyer's sacking a week before Herrera would reconsider, Hoyer accepted the transfer and a \$120,000 severance but her release from the DA's Office, she filed a wrongful termination claim in June 2014.



Attorney John Keker

Herrera testified that he had "lost confidence" in Hoyer and resolved to replace her in find the right person. He described a desultory recruitment effort that stretched over 2 run for Mayor. He couldn't prove he interviewed candidates because he didn't keep notes.

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termination, arguing that she wasn't too emotionally devastated to take vacations or outlets. He exhorted, "Press contact is not distress, it's a sign of wanting to win." As if to attract attention. Kekker asked why she accepted a transfer to the DA. Answer: "I needed a job." transfer? "I was unsure if I wanted to do it." Why did she finally decide to sue? "Because City Attorney's Office if I didn't and it came out some other way."

Therese Stewart, now a judge, testified: "There was always some friction" between Herrera and her. "He was not doing a good enough job," underestimating liability, withholding information, scrambling from "cover" rather than settling – and making a paralegal cry. She cited key examples of said flaws. Herrera decided to fire Hoeper. They wobbled like pretexts under cross-examination by Fickes, and were refuted by several witnesses. Something more than Hoeper's tempera about "over-investigating" the sewer deals. As to why it took 2.5 years to recruit Cheryl, Stewart glibbed, "no one thought of her" – even though Adams had sought the job while

Ironically, Herrera manifested the flaws he attributed to Hoeper, i.e., bungling a crisis, doing a good job, withholding information, and running up costs by over-litigating. Records show that Hoeper's attorneys billed \$1,895,000 while Herrera countered with \$355,000. Now, taxpayers face bills surpassing Hoeper's attorneys, plus \$2 million for Jo Hoeper and around \$2.5 million for her attorneys.



Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at the University of California, San Francisco, where they repeatedly exposed wrongdoing by the Department of Public Health. They can be reached at watchdogs@westsideobserver.com.

FBI Probe of DPH Bribery Scheme

by Drs. Derek Kerr and Maria Rivero

Recall when the FBI exposed "pay to play" schemes involving State Senator Lela Gaddis, San Francisco Commissioner Nazly Mohajer and staffer Zula Jones, as well as political consultant Keith Jackson? Less well known is the FBI probe of "pay to work" at the Department of Public Health (DPH).



...employees - who requested anonymity for fear of retaliation, told us that bribery work schemes exist in many departments but mostly the DPH – the largest with some 7,370 positions ... gifts can yield access to exam questions, locations, or promotions."

In December 2015, DPH janitors who are called porters, received a memo stating: "The

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Ron Weigelt, DPH Human Resources Director

in exchange for jobs, promotions, or assignments." It came from DPH's Human Resources Director, Ron Weigelt. In a letter, written in both Chinese and English, it explained, "if you give truthful information to the FBI about us, we will use that information to seek discipline against you." Immigrant porters are more vulnerable to their limited English proficiency and knowledge of laws. Some complained about the pro quo culture, according to DPH sources. But the mostly Chinese-speaking porters were promised immunity from reprisals. None were willing to testify and the FBI probe collapsed.

Janitors maintain safe, clean, functional environments for every City department. Those called porters. Those working in non-clinical departments are called custodians. Paying for these entry-level jobs attract immigrants and minorities with basic manual and language skills. "Pathways to Entry Level Positions" training to help candidates with applications, exams, and interviews. Last year, 959 janitors worked for the City. Meanwhile, there were 812 applicants for a single position. There's plenty of competition.

Applicants must have 6 months experience in commercial janitorial work, or complete a 6-month training program. To get hired, they must pass a 2 hour test with 75 multiple-choice questions. After being hired, they can apply for a permanent Civil Service position with benefits, rather than being hired provisionally or on a temporary basis. Competition for job locations, shifts, and promotions. Each of these decision points can be a source of kickbacks and extortion. Current and former City employees - who requested anonymity with WSO that pay to work schemes exist in many departments but mostly the DPH - the Civil Service positions. Allegedly, sums up to \$5,000 or expensive gifts can yield access to exam questions, job locations, or promotions.

For some, these are good deals. Others, who earn their jobs and assignments, resent them when less-qualified workers can buy a job. Pervasive corruption can be subtle when bribes are rather than demanded. Some who refused to pay tribute were reportedly bullied or given threats.

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and according to Callahan; "their assessment was that these were historical claims," the

At the October 3 Commission meeting, Callahan whittled the narrative down to "one all individual who...was terminated". Nonetheless, she was launching a training program to rights. Commissioner Kate Favetti emphasized that the City has reduced the number of vulnerably in provisional and "as needed" positions. Commission Executive Director Mic characterized the bribery claims as a "new thing" then acknowledged that investigation "those people that are affected are not coming forward." On that point everyone agrees

There is disagreement on the scope of the problem and how to proceed. Officialdom de while our sources say that 3 DPH employees have been fired. DHR records show that in members e-mailed the Mayor, Board of Supervisors and department brass to report the for surveys and policies to counter workplace favoritism, bribery and the resulting confi Promptly, DPH Director Barbara Garcia and Ron Weigelt conferred with a City Attorney & use of DPH e-mail during work hours. Then DHR Director Callahan notified Louise Renn FBI probe.

One month later, DHR Policy Director Susan Gard responded officially that additional lay "a problem being caused by people who are willing to break the law and disregard City "rooting these people out of the system is the most effective way to eliminate this type because victims aren't willing to testify. Also, the anti-corruption efforts of Management different political expectations.

Records show that the two sides agreed on training janitors about workplace rights, and how to get help if violations occur. We asked the DHR for any notices or policies related extortion developed since the issue arose in 2016. On 1/27/17 there were "no responsi agencies will likely be more adversarial toward San Francisco in coming years. Better to before the feds step in.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

March 2017

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Will Honesty and Sanity Save Laguna

By Dr. Maria Rivero and Dr. Derek Kerr

n 1/10/17 Laguna Honda Hospital (LHH) CEO Mivic Hirose disclosed a State citation al accidental death of a patient. It was 85 year old Eugene Jeandeville, "Gene" had lived a

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Eugene Jeandeville



since our "Requiem for an Old Friend" reported on April 2015.

Commendably, LHH disclosed the State investigation of the accident, the penalties the hospital has taken – before the CDPH issued its Press Release on media about Class AA citations, the most severe, whose fines range from \$25,000 to \$50,000. LHH's own revelation occurred at its public Joint Conference Committee meeting – a forum where lapses, spin controversies and celebrate trivia. It took 2 years, partly due to a backlog in the Office, the bureaucratic pace of State regulators and the gravity of the case. Still, LHH's notch toward honest accountability. Adverse outcomes, though rare, occur in all hospitals and are dreaded and difficult. Doing so shows professional integrity and respect for the community. At the same meeting, LHH quietly reversed a bizarre feature of its Admissions Policy. A Medical Director has been restored as "the ultimate authority over admissions." Sane as it may be, it could be uneasy for recently-appointed Medical Director Dr. Michael McShane.

During the notorious Flow Project of 2004, a reckless political decision was made regarding patient admissions. Former LHH Medical Director Dr. Terrence

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diagnosis nurse turned administrator *Dr. Maria Rivero* succeeded in retaining final say over potential harms and liabilities involved, that Admissions Policy degraded professional hospital that aspires to be more than a Nursing Home.

Perhaps these steps toward honesty and sanity were spurred by external pressures from. Nevertheless, they are encouraging signs for the New Year.

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.com

February 2017

City Hall Watchdogs

Show-Down on Cronyism and Conflicts

By Dr. Maria Rivero and Dr. Derek Kerr

The Civil Service Commission (CSC) convened on 9/19/16 to respond to charges of "cronyism" in City hiring and promotion. These complaints, mostly from Human Resources Department of Public Health workers, rattled the CSC last November. (see WSC

CSC Executive Director Michael Brown reported that of the 27 complaints, one was valid outside the Commission's purview, and 17 showed no violation of existing rules. Non-violations were based on the "broad discretion" granted to appointing officers since "Civil Service Reform" in 2001. Chair Gina Rockanova identified an "unfair hiring process" as "the elephant in the room." She asserted that "managers do whatever they want" including secret promotions, stacking the deck, and black-listing dissidents. While all City jobs require minimum qualifications, indignation was expressed that "not given a fair opportunity to compete" because non-merit factors like relationships and nepotism influenced appointments.



appearances matter. Perceived high-profile entanglements fuel claims that they erode the sense of organizational integrity that keeps employees loyal.

Representatives from the most-blamed departments were summoned to the Commission. Director Ron Weigelt indirectly acknowledged a diversity "breakdown" within Laguna Honda Hospital, which is disproportionately Filipino. However, he didn't explain why it happened or if anything was being done about it. He vowed to extend outreach and recruitment efforts to under-represented communities. In the meantime, hiring managers and interviewers have been required to study "implicit bias" and sign a

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The Commission announced a forthcoming Relationship Policy to deal with romantic relationships between job applicants, employees and appointing officers. Currently, employees are prohibited from hiring of family members or supervising them directly. However, both the DPH and HSA have shown favoritism and conflicts of interest involving contractors as well as employees. The problem is partly due to controversy swirling around Antonio (Tony) Lugo, HSA's Welfare to Work Program Director since 1999. His base salary was \$169,080 in 2015.

Lugo is a Program Manager, but is also listed as a Deputy Director. Deputy Directors, according to the Governmental Conduct Code; "...shall disclose income (including gifts) from any stock investments, and all business positions..." In his capacity as a Program Manager within the "no reportable interests" in his Statements of Economic Interest from 2012 through 2015, he has not reported them previously, HSA told us. HSA's Statement of Incompatible Activities, a guide to avoid conflicts of interest, states: "No officer or employee may knowingly provide selective assistance (i.e. assistance that gives an unfair advantage to all competitors) to individuals or entities in a manner that confers a competitive advantage on who is bidding on a City contract." Problem: Public records suggest a possible conflict of interest with Dalila Ahumada. She's the Director of Arriba Juntos, a venerable, major non-profit provider of social services to HSA's Welfare to Work Program – a program headed by Lugo. Ahumada earned \$100,000 in 2015 at Arriba Juntos, and previously served on Grievance and Oversight committees in the CalWORKS program. Alameda County property records show that since September 2002, Antonio Lugo and Dalila Ahumada own a rental condo in Albany. Their mailing address for property taxes is a house in San Pablo. The County Controller's records show that Arriba Juntos has received some \$44 million since 2006. About 25% of the grants came directly from City funds, the rest from federal grants administered by the State. For 2014-15 show that half of Arriba Juntos revenues - \$5.3 million - were government grants.

There's more. An 8/24/16 Controller's independent audit identified significant lapses; both in the quality of Arriba Juntos' delivery of services. Although Arriba Juntos is inspected annually by the Monitoring Program, HSA representatives are closely involved in these inspections. The audit found: "Monitors; "...your first resource should be your supervisor and/or your department's Steering Committee representative."

The big question is whether an outside relationship between Tony Lugo and Dalila Ahumada gives Arriba Juntos an advantage in securing HSA grants. Typically, HSA solicits bids via a public Request for Proposals. Applicants submit proposals and bids, and they are interviewed by a Review Panel who asks a set of standardized questions. Scores are assigned to each response and tabulated to determine the highest average score. Tips from an HSA insider can give a favored bidder a competitive edge.

While grants are approved by the Human Services Commission, CEO Trent Rhorer, and the Board of Supervisors, actual selection occurs when competing bids are reviewed. That process is approved by the Board of Supervisors, among others. For example, on 6/19/15 Arriba Juntos won a \$495,000 HSA grant for the 2015-16 fiscal year.

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this", and it "must be vetted by upper management." Still, Lugo's key position and his ap-
kept staffers buzzing. It's not the first time. Between 2007 and March 2016, Lugo co-ov
Terri Austin. Austin rose to Principal Administrative Analyst in Lugo's Workforce Develo
when she became HSA's Integration Coordinator.

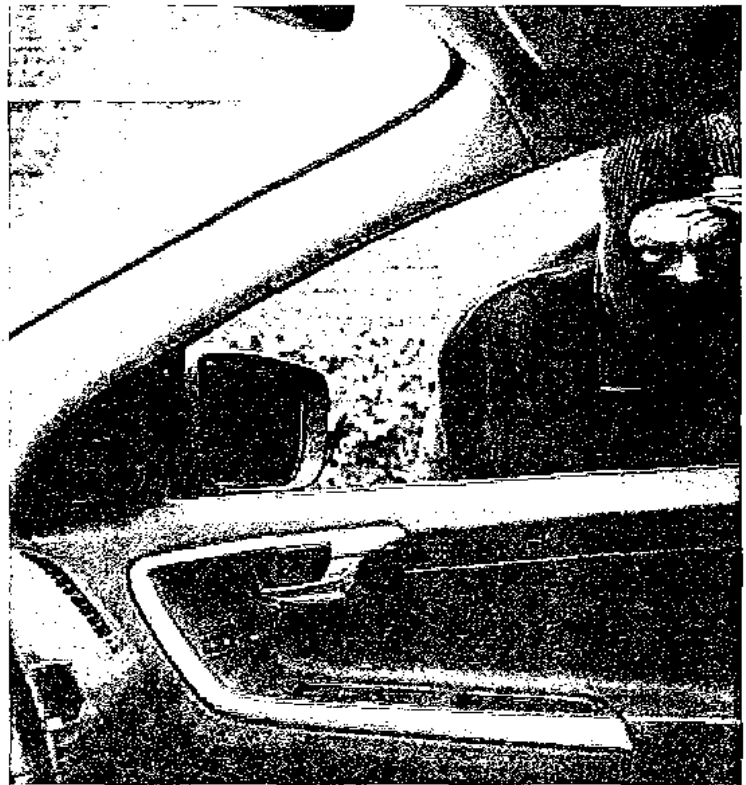
Potential conflicts of interest can be averted by segregating the involved individuals fro
disposing of assets that create the conflict, or obtaining an Advance Written Determina
no conflict exists. We asked HSA, CEO Trent Rhorer and Tony Lugo if such steps were t
real estate holdings with a former subordinate (Austin) and a veridor (Ahumada). HSA f
(or) explanatory statements of administrative action surrounding potential conflicts of
appearances matter. Perceived high-profile entanglements fuel claims of "favoritism" a
organizational integrity that keeps employees loyal and motivated.

*Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital wh
wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com*

December 2016 / January 2017

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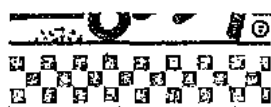
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the costs of repairing damaged vehicles, only 1.9% of the perpetrators were convicted. With such long odds for recovery, prevention is key.

What Drives Auto Burglaries:

There's a tendency to blame the homeless, drug addicts and juvenile delinquents. That connection is minor; some 70% of auto burglaries are committed by criminal street gangs. Overwhelmingly, perpetrators are young, unemployed, with no criminal records. Skilled and organized, they stake out lucrative targets (tourist sites, Costco, Starbucks), steal cell-phones, flashlights, glass-breaking tools, look-outs, getaway drivers and fences across the city. They are proficient at counter-surveillance and evading capture. Some are tech-savvy, opening cars to mimic or remotely activate your key-fob signal. More than just a crime of opportunity, it's a way of life, a livelihood with a self-reinforcing thrill.

Accounting for crime trends is notoriously difficult. Simply stated, crimes flourish when the economy is down and the police budget is low. The influx of monied newcomers and tourists leaving valuables in cars makes the city a destination for thieves. Many residents can't distinguish their neighbors from suspicious strangers. Streets as garages fill with stuff or tenants. Much has been made of the November 2019 reclassified "non-serious, non-violent" felonies, like car break-ins yielding less than \$950. research shows that many States have lowered theft felonies to misdemeanors, and not all are crimes.

Putting away car burglars is tough: it requires an eye-witness or video evidence. The rare suspect who gets arrested must be charged or released within 48 hours. So, cops scramble to compile evidence that meets the "beyond a reasonable doubt" standard. Then can the DA press charges in court."

More important, per the Civil Grand Jury, was the SFPD's 2009 pivot toward Community Policing and Chief Heather Fong. Until then, investigative units like the Serial Crimes Unit had been centralized at Headquarters. That allowed inter-unit collaboration and cross-precinct responses to serve neighborhoods. To fight crime, the SFPD dispersed investigators to local precincts, including disbanding the Serial Crimes Unit, favored criminal outfits operating across precincts.

BURGLARIES IN 2016					
	January	February	March	April	May
Auto	200	157	154	117	112
House	35	47	73	29	40

Putting away car burglars is tough: it requires an eye-witness or video evidence. The rare suspect who gets arrested must be charged or released within 48 hours. So, cops scramble to compile evidence that meets the "beyond a reasonable doubt" standard. Then can the DA press charges in court."

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Crimes Unit. It pioneered the "bundling" of multiple incidents into one prosecution by the *Society of Professional Journalists, NorCal Chapter* they commit serial break-ins, until enough evidence is gathered to convict. Along with investigation, it specializes in post-arrest evidence collection. Videos, victim statement of stolen property are presented to the DA within 48 hours. These developments align with recommendation to restore the Serial Crimes Unit.

The DA's "Crime Strategies Unit" also functions as a Serial Crimes Unit, collaborating with the Property Crimes Unit. Formed in 2014 - the first in California, its prosecutors are assigned to neighborhood patrol and local intelligence to thwart recurrent crimes. It has mapped a network of security camera evidence. Security camera owners can register theirs online at sfdistrictattorney.org. From 63% in 2014 to 80% in 2015.

Westside Communities Mobilize: The spikes in auto and residential burglaries mobilized Westside communities as reported by Tom Pendergast in the April 2016 WS Observer. Captain Denise Flaherty announced that uniformed and plainclothes officers had been showing where and when most break-ins occurred. Follow-up investigations were initiated. Volunteers on the Community Advisory Police Board, a gem of the 2009 Community Policing initiative, shared community concerns and ideas with police brass, then created and distributed the early neighborhood hot-spots. Supervisor Norman Yee began crafting legislation requiring residents to tell tourists about break-ins and how to prevent them. On 10/18/16 the Board voted 7 to 4, creating the "Property Crimes Unit" ordinance. Mayor Lee vetoed the Ordinance on 10/26/16. It would have created a Property Crimes unit in each precinct with the flexibility to address unique local crime patterns, versus the centralized Patrol Bureau Task Force.

Car break-ins steadily subsided – until September. At a 10/18/16 Community Forum, Supervisor Scott Wiener asked precinct residents that burglaries are prioritized with "more effort" applied to monitoring evidence, "working every lead" – and making arrests. Taraval Station's exemplary weekly monthly analyses of auto and house burglaries:

Prop R – Safe Neighborhoods Ordinance: Reacting to rising property crimes, Supervisor Scott Wiener authored Proposition R to create a "Neighborhood Policing" unit in the SFPD. It aims "to make neighborhoods safer and improve quality of life" – as did the 2009 Community Policing initiative. Instead, Prop R re-centralizes various crime units into a single command structure. Currently, the growing Patrol Bureau Task Force constitutes 1.1% of SFPD's 1,700 sworn officers, in effect only when the SFPD roster reaches 1,941 sworn officers, as mandated by the Charter. Civilians should guide policing, and Prop R resonates with frustrated voters. How to implement it is the solution, something that the SFPD, working with the DA and the Department of Homelessness and Supportive Housing, is already implementing, and can modify as crime trends shift.

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Society of Professional Journalists, North Chapter

By Dr. Maria Rivero and Dr. Derek Kerr

The whopping \$190,903 forfeiture imposed on Supervisor Mark Farrell by the Ethics Commission is the most controversial in the City's history of campaign law violations¹. Now Farrell is not alone. In the era of Citizens United, money as speech lurks beneath their Supervisors' shoulders. In the era of the Ethics Commission's bold response to a Fair Political Practices Commission (FPPC) finding that Supervisorial campaign unlawfully coordinated with an "independent" expenditure comi



Supervisor Mark Farrell

The FPPC Investigation:

The 2010 campaign was elongated by months of inactivity by
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planning of CSV and thereby "caused it to become a controlled committee of Mark Farrell. Act, a controlled committee is one that is directly or indirectly controlled by a candidate acts jointly with the candidate in making expenditures. Since Farrell denied cheating an asserted otherwise, the FPPC added, "The evidence supports the finding that Mark Farrell Respondent Lee, as an agent of the Farrell Committee, to coordinate with Respondent (Farrell's responsibility for his agent's actions, but voted 3 to 1 finding Lee "most responsible for enabling CSV "to send out hit-pieces on opponents without disclosing its association

Ethics Commission Asserts Itself: As a State agency, the FPPC couldn't address the City contributions. Its \$14,500 fine for influencing \$221,500 in "independent" expenditures - was hardly a deterrent. After inertly participating in the 4-year FPPC probe, former Ethics notified Farrell on 12/9/14 that CSV expenditures beyond \$500 were considered donations. He reported spending \$43,399 supporting Farrell and \$148,004 opposing Reilly, Farrell had exceeding the \$500 limit. When Reilly's attorney, Charles Bell, demanded additional penalties for "abuse" of City campaign laws, it sparked a duel with Farrell's attorney Jim Sutton.

Two weeks before the scheduled Superior Court hearing - a settlement Farrell offered to pay \$25,000"

In a series of meetings before skeptical Ethics Commissioners, Sutton insisted his client was "exonerated" by the FPPC, and that the 4-year statute of limitations for City campaign law violations portrayed Farrell as a novice, reliant on his consultant, and unaware of campaign law violations. He portrayed Farrell as a novice, reliant on his consultant, and unaware of campaign law violations. Sutton deemed the forfeiture demand unprecedented and inapt because CSV had no money that CSV collected. Further, Farrell had cooperated with the FPPC - in full view of the public - to take timely action. Bell countered that Farrell was liable for his agent Lee's violations, and that his "concealment" of his wrongdoing extended the deadline for legal action. For example, Farrell had failed to file campaign reports to show that CSV was controlled by his campaign. And since CSV was his campaign, it was his money.

Then came a schism between the Ethics Commission, its Executive Director and the City. In several scenes, the City Attorney declined to pursue a civil claim against Farrell, citing the statute of limitations. The commissioners forged ahead with their forfeiture demand. Then St. Croix caved, dropping the claim, citing "statute of limitations concerns." On 4/27/15 the commissioners decided that they would say on the waiver. The Deputy City Attorney assigned to Ethics cautioned he was "unaware" of the Commission to "adjudicate" its Director's waivers. The City Attorney had long sought to avoid setting policies while letting department heads implement them. Per Administrative Code, the department head shall be immediately responsible for the administration of his or her department.

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the waiver. Commissioner Keane asked, "If Farrell is imploring waiver, why has he not could waive the statute of limitations and defend his integrity at a Hearing." None of the Farrell was clueless about CSV's machinations in his behalf. As summarized by Keane, solicit \$191,000 without Farrell's involvement isn't credible." They held Farrell accountable because Lee acted within Farrell's agency as his campaign consultant. Sutton decried interpreting the Campaign & Gov't Conduct Code: 1.168(c)(4) as "solely" authorizing the forfeitures. Ethics Chair Paul Renne asserted the Commission's "inherent" right to overrule as a Commission, are just a bunch of supernumeraries," Keane added.

The forfeiture demand was referred to the Treasurer's Bureau of Delinquent Revenue for 11/4/15, then rebuffed it because the FPPC "concluded that Supervisor Farrell Treasurer sought guidance on the impasse. On 4/25/16 a frustrated Commissioner Keane campaign "took illegal contributions and laundered them" through CSV. After closed session decided to sue Farrell. Four days later, Farrell sued Ethics. On 5/23/16, Ethics instructed cross complaint" to recover the \$190,093.

Farrell's Money as Speech Defense

Farrell's lawsuit emphasizes the statute of limitations expiration, the FPPC stipulation that forfeiting funds he never held, and the denial of due process without a formal Ethics hearing. The complaint alleges that Farrell engaged in "concealment" and was "personally involved in" was aware of Lee's activities in this regard." Since Farrell blamed Lee for going "rogue," explained Lee's motivation for acting in such an allegedly unauthorized manner," and will be held responsible for the actions of all persons working for his campaign."

In a First Amendment twist, Sutton fired off a "Special Motion to Strike" the City's cross-complaint. His tightly-woven 7/18/16 plea contends that the City's case is unjustly victimized "because he exercised his constitutional rights to run and campaign for office." He defended its enforcement of contribution limits, adding that campaign law violations applied. He replied that since the City's allegations are unproven and Farrell "vehemently denies" the City's case against Farrell for "raising and spending funds to be used to communicate with voters about political qualifications for office." Two weeks before the scheduled 10/3/16 Superior Court hearing, Farrell offered to pay \$25,000.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who were wrongdoings by the Department of Public Health. Contact: watchdogs@westsideobserver.com

1. Case # CGC16551745

2. Westside Observer, July '16-

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Society of Professional Journalists, Non-Profit Organization



Sewergate:

Gushing Costs and Profits in City's War on Whistleblowers

By Dr. Maria Rivero and Dr. Derek Kerr

The fate of high-level City whistleblowers is retaliation. Then immiseration, as in to dead ends, notably Human Resources departments that are harnessed to the Commission that hasn't sustained a retaliation claim since its founding. Whistleblowers must either seek validation externally from courts or the media—at a cost.



Herrera's Chief Trial Attorney Joanne Hoeper

Take Sewergate—the dispute between City Attorney Dennis Herrera and his former Chief whistleblower, Joanne Hoeper. Her lawsuit alleges that the City Attorney's Office enable a replacement scheme that drained \$2 million in taxpayer dollars annually, and that Herrera

Herrera maintains he fired Hoeper for "sub-par performance" and "making reckless and irresponsible statements." © 2020 Westside San Francisco Media. No portion of the articles or artwork may be reproduced without expressed consent.

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between October 8, 2015 and July 27, 2016, Keke & Van Nest collected 22 checks totaling \$2.2 million in taxpayer funds. Even at its top billing rate of \$291/hour, the costs would have been one-third of almost \$2.2 million in taxpayer funds. The City Attorney's Office held 10 other sole-source contracts in 2015-16. Unlike the open-ended Keke & Van Nest deal, their pay-outs were capped. The Van Nest outlay. All 10 totaled \$1,895,000.

According to City Charter section 6.102, the main reason to retain outside counsel is to example, when Hoeper filed her initial retaliation claim against the City Attorney's Office Clara County Counsel for independent evaluation since Herrera was the respondent, an outside counsel may also be appropriate for unusual or specialized cases, internal workplace distractions. However, the Charter requires that City officials; "shall give preference to a City attorney's office, a County counsel's office or other public entity law office..."

Had the City Attorney's Office taken this case, even at its top billing costs would be one-third of almost \$2.2 million in taxpayer funds."

Keker & Van Nest

How did Herrera come to hire Keker & Van Nest – a private and pricey powerhouse that occasionally does pro bono work? Granted, the lead defense attorneys, John Keker and Susan Harrison, served on the Police and Ethics Commissions, respectively. But according to The California Lawyer, Keker is "the lawyer other attorneys would turn to when they are in trouble." We asked the City Attorney's Office for policies or legal opinions that justified the sole-source contract with Keker & Van Nest, as well as records showing that public entity attorneys had been solicited to take the case. There were none. As to our query; "Who approves the City Attorney's decision to hire outside counsel?" we were told; "Given that the lawsuit is an active litigation matter, we are disinclined to respond to your questions about it at this time."

Campaign Donations

Pre-trial litigation costs are exploding due to Keker & Van Nest's stratospheric fees and hours. Calculated at \$850/hour, payouts through July 2016 amount to 2,564 hours - equivalent to one attorney working 40 hours a week non-stop for 16 months. The retainer agreement identifies 3 attorneys, but doesn't limit the number Keker & Van Nest can bill. In July, the contract hasn't been amended. Further, it's unlikely that the firm's billing and costs will be reduced.

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was expected to be thrown out of court. Instead, on June 2, 2016 Superior Court Judge Herrera's arguments that Hoeper relied on privileged information she obtained as an at of limitations, and failed to tie her termination to her sewer investigation. Ulmer denied judgment and granted Hoeper a July 5th trial.

Team Herrera appealed to block the trial, arguing that it would cause "irreparable harm" "privileged information and attorney work-product." This despite the Court's agreeing to confidential. Herrera's petition was cast as upholding a "public interest", namely, preserve attorney-client privilege." No mention of a public interest in the City Attorney's handling claims, or of the private interest served by prolonging litigation at tax-payer expense.


Appeal Denied — Herrera Moves to a Higher Court

The Appeals Court denied Herrera's petition, but another appeal was filed with the California Supreme Court on August 12th. Borrowing the tone of Herrera's 2014 portrayal of Hoeper as angling to "shake-down tax-payers," one might ask whether he's doubling as a "rain-maker" for Keeler & Van Nest. The City was granted a temporary stay until October 12, 2016. By then, legal fees will be surging toward \$3 million. A Public Advocate audit, and oversight of whistleblower protections, are needed.

1. Westside Observer: Sept. & Nov. 2014, Feb. 2015.

Dr. Maria Rivero and Dr. Derek Kerr repeatedly expose wrongdoing. Contact: watchdogs@westsideobserver.com

September 2016

 Going Negative:

Supervisor Mark Farrell v. Ethics Commission

Dr. Maria Rivero & Dr. Derek Kerr

ot once did Supervisor Mark Farrell stand before the Ethics Commission to answer questions over 18 months. Whether indignant, insecure or entitled, he couldn't access the humility of a candidate, or the comity befitting a twice-elected official. Instead, he deployed proxies; City Hall, and crisis manager Nathan Ballard to spin the media. Ballard declared an Ethics Commission 2010 supervisory campaign "was no reason for Farrell to waste his time."

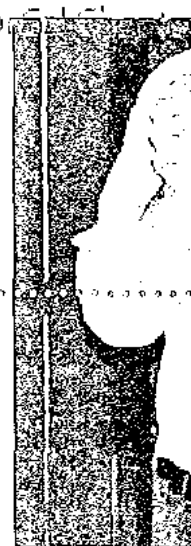
Farrell had already cooperated with the State's Fair Political Practices Commission (FPPC) investigation. It found that his campaign consultant, Chris Lee, had illegally coordinated with an Independent

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has been a battleground with Farrell refusing to pay, Reilly pressing for more penalties, the City Attorney declining to pursue Farrell, Ethics Executive Director John St. Croix waiving the forfeiture, the commissioners overruling St. Croix, and St. Croix resigning. Perceiving "egregious violations", the commissioners had questions for Farrell but got Sutton's answers instead.



Since then, Ethics has been a battleground with Farrell refusing to pay, Reilly pressing for more penalties, the City Attorney declining to pursue Farrell, Ethics Executive Director John St. Croix waiving the forfeiture, the commissioners overruling St. Croix, and St. Croix resigning."

Political optics were at play. It looked like big money had swung an election illegally. The pass. His underling was flamed. Also, Ethics was seeking a budget boost while scrutinizing City's Budget and Finance Committee. Still smarting under its "Sleeping Watchdog" tag, "genuflecting before an instrument of power" as Commissioner Keane put it. And, Farrell suggested hubris or guilt. On 4/25/16 the Commissioners voted 5 to 0 to sue Farrell to contributions. Four days later, Farrell sued the City to block the forfeiture, recoup attorney further relief." On 5/23/16 Ethics Chair Paul Rene vowed to "vigorously" respond with a

Next came echoes of the negative campaign that launched Farrell into City Hall. Much like his rival in 2010, surrogates were now bashing the Ethics Commission. Sutton portrayed completely innocent" victim of a "witch-hunt". Ethics was "guilty of a gross violation" and resulting in an "outrageous" and "utterly frivolous" forfeiture demand. Ballard painted Farrell commissioners and sore losers. Behind it all, the pursuit of power.

The 2010 Battle for District 2: By November 2010, the Marina, Pacific Heights had weathered a 2-week blitz of anti-Reilly attack ads from an IEC called "Common Sense". Farrell squeaked past his rival by 258 votes. Reilly had 196 more first-choice votes, but votes. His margin was less than 1% of the 28,911 votes cast. Swaying 129 potential Reilly could have done it. Reilly attributed her loss to CSV's mud-slinging, coordinated by Super Farrell's campaign. She reported violations of the Political Reform Act to Ethics and the Commission (FPPC).

The feud originated in 2008 when City Attorney Dennis Herrera decided Alioto-Pier could an open field. Farrell and Reilly launched their campaigns. Janet Reilly, a former journal

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existing campaigns. So, Alioto-Pier's office of Finance Committee for Cal Chapter

By then Reilly was ahead in endorsements, polls and contributions; eventually receiving \$265,198. Farrell's team had to chop her lead. Enter attack ads. Because going negative or a win-at-any-cost ferocity, trailing candidates welcome third parties that malign rivals unlimited funds, whereas candidate committees are limited to \$500 contributions and IECs cannot coordinate with candidate committees, must identify major donor income and expenses to the Ethics Commission.

FPPC records indicate that Farrell's camp concocted "Common Sense Voters" (CSV) in Pier decided to endorse Farrell's "common sense values." She encouraged her aides and Richard Schlackman to help, gave Farrell her donor list, and boosted CSV. Nominally, CSV a San Mateo corporate attorney. Formerly a law-firm colleague of Farrell's, Helfand served Finance Committee - until he quit to start CSV. He hired Farrell's campaign treasurer as campaign consultant Chris Lee gave Helfand set-up advice, pegged Rich Schlackman to consultant on board that you will need to meet...", and sent him Farrell's campaign donors "who were sort of outside San Francisco," initially raising \$30,500 from 5 venture capitalists registered as "primarily formed" to support Farrell - rather than oppose Reilly. Farrell to CSV "through public filings."

Meanwhile Alioto-Pier lobbied socialite-philanthropist Dede Wilsey and Republican real fund CSV, something Schlackman wanted kept secret "because of politics." Farrell was spent two hours with Dede Wilsey - to solicit a \$500 campaign contribution. Wilsey paid later. Per FPPC records Farrell was "only interested in Coates hosting a fundraising event to help out his campaign." Three days after hosting said house-party, Coates pumped \$41,000 the next week. Regarding her energetic fundraising, Alioto-Pier explained to the Farrell."

In the two weeks before the election, CSV disbursed the \$191,000 bestowed by Coates (chest) to depict Reilly as a covert purveyor of "radical politics" and a puppet of the "ultra" mailers cited her \$500 donation to Peskin's 2000 campaign. Her husband Clint Reilly's 2008 SF Clean Energy initiative became her "risking public safety." Other ads featured S wizard behind Janet Reilly's agenda." The ads didn't identify Coates and Wilsey as the n sound, such attack ads work subliminally - and effectively, to plant doubts and kindle fear. Newsom, Frank Jordan, Louise Renne, and Diane Feinstein denounced the smears as d ridiculous. Amidst this chorus, Farrell stayed mum. In his victory speech, he pledged to Hall."

Common Sense Voters' attack ads overwhelmed all other third party expenditures. Sou

CSV reported spending \$148,004 against Reilly

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of \$221,000 targeted *Society of Professional Journalists* Chapter comparison, outside spending against Farrell

was minor; \$12,912 by the Bay Area Firefighters PAC and \$7,244 from the Democratic C

As for going negative, Farrell finally spoke out in May 2016 while running for the Democratic Committee. In a memo to constituents, he acknowledged that his 2010 campaign had "because the Reillys "spent hundreds of thousands of dollars on personal attacks against tearing others down." Why this 180 degree spin? As the *Chronicle* reported, during the C \$20,000 on ads mocking Farrell's "failed ethics" since he "cheats to win" then sues to "a when Farrell condemned as "disgusting tactics" the type of ads that propelled his political

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

July 2016

Loss of Trust: The Human Services Agency

By Dr. Maria Rivero & Dr. Derek Kerr

Last month's *Westside Observer* covered employee protests against "favoritism, cronyism and nepotism" within the Human Services Agency (HSA). These complaints have rocked the Civil Service Commission since November 2015. To its credit, the HSA expedited an All Staff Survey in mid-2015, right before simmering tensions erupted publicly.

HSA's All Staff Survey: An impressive 82% of 1,986 active employees responded, almost half being direct client service providers. Most employees embraced HSA's mission and values. However, according to Director Trent Rhorer, two shortcomings emerged: communication throughout the agency is poor, and employee trust. The survey also indicated; "There appears to be a mistrust of management, especially a respond to more sensitive questions in the survey (i.e. trust in executive staff management confidentiality of their responses, 13% declined to identify their programs. Overall, just a trust and confidence" in Rhorer and his deputies. But among direct client service providers executives.



HSA executives should ponder whether discretionary hiring and "fl

cohorting merit-based competition. Why are dedicated employees

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Nevertheless, the report noted ~~as with previous surveys, many employees felt that~~ With no opportunities to be promoted, some employees felt less motivated to excel. So that programs were not hiring internally and new employees were unqualified or lacked recommended; "a succession plan that seeks to develop staff and promote from within time and cost...in hiring and inducting new candidates." HSA data support this idea, as grievances behind it. Before the Civil Service Reforms of 2005, promotions from within appointments. Since then, they've fallen to 50%. Meanwhile, new hires swelled from 26%

Despite staff discontent, managers are happy. For example, 86% of managers reported compared to 37% of line staff. Being recognized for good work garnered 86% from managers. And, 92% of managers felt their opinions counted versus just 40% of workers. While top executives, merely 37% of line staff did so. According to 95% of managers, their practices, but only 57% of line staff agreed. Similarly, 94% of managers believed that client 68% of direct service workers.

The survey confirmed that the "Service Center Model" programs, namely the merger of stamps), and the redesigned CalWORKS (welfare-to-work), are troubled. Only 35% of 36 workers rated their workload as manageable. Their trust ratings for HSA executives were and minimally higher for their program managers. At CalWORKS, trust ratings were 43% program managers. While undergoing taxing reorganizations, these programs rated below decision-making.

HSA's Response: Records show that executives carefully studied survey responses and address the negative feedback before releasing the survey results. Deputy Directors met what the survey means for their programs." Attention was directed to the ailing Service again, HSA's Innovation Office was mustered to "break out ideas for improvement." Dub Improvement Plan 2.0, it aimed at "helping each other rather than blaming" – a positive mute legitimate criticism while herding workers down designated paths. Indeed, in 201 defined itself "to meet the vision of our HSA Executive Director Trent Rhorer...and...to add values."

Rhorer heeded the survey's recommendations, particularly the call to "develop a communication agency's messaging is consistent and is reaching employees while also valuing their input promised more "leading and managing by walking around." To his Executive Committee need to focus on "communication, employee morale, physical space and hiring and promotion to start this year on communication ... because it relates to all other areas."

True, but poor communication had surfaced in every Staff Survey, Strategic Review, and tenure. Importantly, it doesn't explain the recent outcry against cronyism, or the chasm and devalued workers. Confidence in management has stagnated around 42% since HSA

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exclude employee relations. Discretionary hiring practices are a major concern for employees and the public trust as a core value. The casualties are employee morale, loyalty, and productivity.

HSA executives should ponder whether discretionary hiring and "flexible staffing" are so competition. Why are dedicated employees outraged over nepotism, cronyism, and favor practices devaluing the very workers who are expected to serve challenging clients with Building trust requires introspection – then, honest communication. The recommended enhance trust if used as a mechanism to preserve privileges and push agendas. Instead, top-down communication – like performance appraisals of managers by employees, and still unfair hiring and promotion. Meanwhile, communication is precarious. Complainants' concerns aren't aired before HSA's own Commission. HSA executives haven't talked to Mayor Ed Lee's Civil Service Commission assesses whether its mission is being subverted.

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

June 2016

Discretionary Hiring Fuels Mistrust

The Human Services Agency

By Dr. Maria Rivero and Dr. Derek Kerr

The human instinct to favor one's friends and relatives can undermine government. Cronyism and nepotism split workforces into insiders and outsiders – an important management. Cronyism begets more cronies who protect each other by excusing ethical lapses. Plagued by patronage, in 1900 San Francisco created a Civil Service Commission to ensure competitive, merit-based hiring.



...some 30 disheartened City employees - most from the Human Services Agency - put their jobs on the line to denounce "favoritism, nepotism and cronyism."

A century later, the Civil Service system was widely assailed as being too cumbersome for efficient service delivery. Enter Civil Service Reform; the Newsom administration's 2005 plan to reform the system. Hiring was deregulated to "improve the quality of the candidate pool". Promotions and appraisals. Managers were empowered to use their "expertise" and "business needs" to hire candidates, rather than relying on "rigid" test scores, minimum qualifications, and seniority.

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test schedules and scores, interview panels, as well as the subsequent ranking and selection. Irregularities that seem to favor or deter certain candidates are covert, or cloaked in "co (unnamed to avoid retribution) assert that some new hires are "pre-selected" and fast-track executive decision" while qualified applicants without patrons trudge through a dead-end theme is the "back-door hiring" of friends, relatives, even lovers, often as "temporary exempt require the civil service screenings that ensure qualifications and experience.

Temporary exempt (TEX) positions were designed to quickly hire workers for time-limited as subs for civil service workers on leave. Without civil service benefits and safeguards allow managers to hire and fire at will. However, some workers insist that discretion in violation of equal opportunity employment. They say that after a year of paid, on-the-job favored TEX recruits are deemed eligible to take civil service exams. Allegedly, they are benefited civil service positions, handed dubious "added duties" then granted undue promotion leapfrog, and even supervise, more experienced civil service employees. Reportedly, so and service delivery authority without demonstrated experience. Among HSA line staff, favored employees or the managers who install them.

Along with mistrust, distraught HSA workers describe degraded service delivery, broken workplace ethics and competence, negative rumors, as well as departures of demoralized fear; those who ask questions or complain say they face bullying, isolation, non-promotion. CalWORKS, a welfare to work program for families with children, is pointedly criticized marked by favoritism, intimidation and a mass exodus of eligibility workers. Complaints their intensity is. HSA's own 2008 Strategic Review raised "serious concerns" about stating the basis for allegations of favoritism in hiring and promotion? What can be done to address perception of favoritism? Apparently, those questions went unanswered. Civil Service Commission "Inspection Requests" alleging unfair hiring at HSA rose from 1 in 2013 to 16 in 2014. Corrective action. Comparing the years 2010-2012 versus 2013-2015, the average number 10-fold while HSA job recruitments merely tripled. What's going on?

HSA Backstory: The Human Services Agency (HSA) is the City's central resource for public employees who believe in social justice and helping others. Starting as a bureau to help last year its \$871 million budget and 2,111 employees provided a spectrum of social services training, health care, food stamps, and in-home support for over 200,000 clients. Today merger of the Department of Human Services and the Department of Aging and Adult Services architect of Mayor Newsom's 10-Year Plan to End Chronic Homelessness. Like Civil Service promised efficiencies. But by mid-2008, HSA's budget had risen 20%, with a 47% increase in jump in new hires and promotions.

The fiscal crisis of 2008 triggered reductions in HSA positions and multiple "consolidation

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staffing ramped up 30% and the program merged with CalFresh (food stamps) to provide Newly-funded employment initiatives impacted CalWORKS which was already struggling double its client employment rate to 50%. To ease these transformations, the term "Service" to the targeted programs. Soon, HSA needed a "Service Center Improvement Plan". Rec its Innovation Office with repurposed "employee engagement" tools to manage the stress. Could the stress associated with new mandates and initiatives, major program changes cause of staff discontent? Protesting workers say no, because such stressors have always workforce adapted to them. Similarly, Union-Management tensions aren't new. What the serving, underhanded practices that break trust with conscientious Civil Service employees. Observer, we will analyze HSA's 2015 All Staff Survey and management's response to the Agency.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

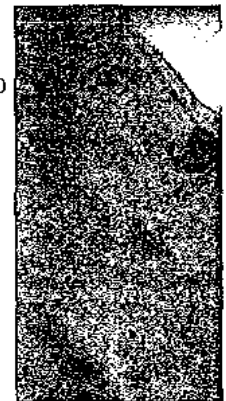
May 2016



SFPD Body-Worn Cameras – Who's Watching?

by Dr. Maria Rivero and Dr. Derek Kerr

The publicized purpose of body-worn cameras (bodycams) is to bring transparency into police activities – especially when police misconduct is suspected. Like two-way mirrors, bodycams can be used to watch law-abiding individuals who are deemed "suspicious". Policies alone cannot prevent bodycams from impinging on privacy rights and First Amendment protections. Their use must be transparent and accountable. That means public oversight - and access to recordings.



Privacy Protections: To protect privacy, the SFPD bodycam policy prohibits filming law-legitimate investigations or beyond what officers "could lawfully hear or record". Officers for personal use – only for "a legitimate law enforcement purpose". That way, victims or fear calling the police because a camera-bearing cop may enter their homes. The policy that they are being filmed "when feasible", though civilians cannot direct a cop to stop filming when the camera is activated. Officers are required to turn on cameras for specific force incidents, arrests, pursuits, searches and traffic stops. However, filming strip searches or child abuse, and confidential informants is prohibited, except in "exigent circumstances". publicly, the SFPD may get consent from the subjects or blur their images to respect privacy.

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watching communities rather than police."

First Amendment Rights: SFPD policy prohibits the filming of citizens engaged in First Amendment activities such as peaceful demonstrations. However, the bodycam policy allows filming if it "may become hostile" or anytime it "would be valuable for evidentiary purposes". Loopholes in the policy allow an undercover SFPD "infiltrator" could provoke a "citizen encounter that becomes hostile" or film law-abiding protesters, and assembling dossiers on civil rights activists and social movement purposes." Capturing "evidentiary" footage is also problematic. The Police Executive Research Council defines "evidentiary" as data that "could prove useful for investigative purposes". That could mean anything.

More troubling is how counter-terrorism policies are merging with domestic policing. The Department of Homeland Security and the FBI viewed the Occupy Wall Street and Black Lives Matter protests as "domestic terrorism" or "criminal activity" and coordinated with local police department participants. These intrusions were justified as "providing situational awareness of activities" or "action". Similar rationales drove the FBI "Cointelpro" abuses during the Civil Rights era.

Each year, the SFPD reports its collaboration with the FBI's Joint Terrorism Task Force. Yet, SFPD may be violating its First Amendment obligations by interrogating, for the FBI, a Freedom of Information Act request regarding his air-travel issues. Recall how the Oakland "Domain Awareness Center", a \$10 million anti-terrorism surveillance project, marketed primarily deployed to track political protests. Public outrage halted the city-wide spying. The Police Commission to check police overreach.

Public Access: Who watches whom depends upon access to bodycam footage. The SFPD will control access to the data and release recordings "to the greatest extent possible" while protecting privacy rights, endanger witnesses, or "jeopardize the successful completion of an investigation". Complaints, operating under the Police Commission, will also have access to bodycam footage of police misconduct. Since the bodycam recordings will likely be stored in TASER International servers, SFPD should ensure that neither the vendor nor hackers can access them.

Bodycam videos will be public records under the California Public Records Act and the practice however, police dash-cam and body-cam videos are withheld unless a dogged attorney can prove misconduct. Typically, police withhold evidence of misconduct by citing "an ongoing investigation", but that exonerate them. Time will tell how the SFPD determines which video disclosures will be made after completion of an investigation".

Related to public access is the integrity of video data. SFPD officers are prohibited from deleting bodycam recordings. Disciplinary actions follow violations of SFPD policy, but it's unclear if they are enforced.

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James Madison Freedom of Information Award includes automatic license plate readers, Hi-Definition cameras, drones, "Stingray" cell capture nearby calls, "TrapWire" facial recognition technology, and social media monitoring activities are already tracked and stored by hundreds of government agencies and private of National Emergency, repeatedly re-enacted since 9/11/2001, and the growing tender bodycams could end up watching communities rather than police.

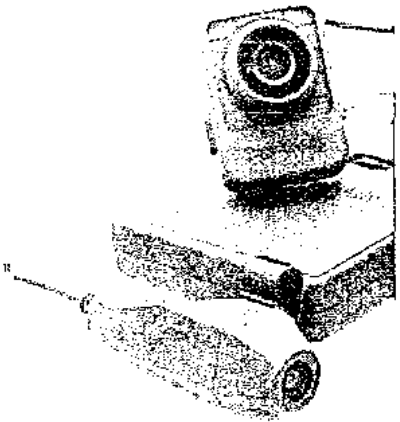
Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital when the Department of Public Health. Contact: watchdogs@westsideobserver.com

April 2016

Watching SFPD's Body Worn Cameras

By Dr. Maria Rivero and Dr. Derek Kerr

Violent and militarized encounters between police and communities of color, largely recorded by bystanders and shared on social media, have raised nationwide alarms. "Copwatch" groups are now "policing the police" to expose the dark side of law enforcement. Such community alienation can paralyze crime-fighting. In December 2014, the White House issued an edict titled "Strengthening Community Policing" to "fortify the trust that must exist between law enforcement officers and the communities they serve." It provides \$75 million in matching funds for police departments to buy 50,000 body cameras. On 4/30/15 Mayor Ed Lee grabbed the offer, allocating \$6.6 million over 2 years to deploy 1,800 bodycams "for every police officer on the street."



Police Chief Greg Suhr called for body cameras in May 2011 - after Public Defender Jeff cops illegally searching and ripping-off hotel residents. In 2013 Suhr cut a \$250,000 no International to pilot bodycams. The SFPD bodycam pilot went nowhere, boggled by local institutional resistance to being watched. On 4/18/14 the Board of Supervisors' Neighborhood Committee urged the SFPD to formulate a bodycam policy, despite a projected 5-year c DA George Gascon demanded action instead of "playing games."

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for the public and law enforcement, a "third witness" to hold police accountable and to build trust, bodycams must add to the transparency afforded by citizen videos, without intrusions on privacy, or mass surveillance. Bodycams should also be cost-effective. Or expire, expenses for maintenance, upgrades, video storage fees, personnel time and training. Bodycams could cut litigation costs by deterring misbehavior by police and civilians all citizen complaints by 88% and use-of-force incidents by 60%. Such savings could be with violations of privacy or freedom of expression. To preserve public funds and trust, sour

On 5/13/15 the Police Commission directed the SFPD to create a Body Camera Working Group. The Working Group met publicly 6 times between June and August 2015. Law enforcement was represented. Also included were the Office of Citizen Complaints, ACLU, Public Defender, Human Rights Commission. On 6/9/15 Supervisor Avalos introduced Ordinance 15062 creating a Body Camera Policy with annual audits by the Controller's Office. When the Working Group's draft policy was complete, one issue was unresolved: whether officers involved in shootings, in-custody deaths or other serious incidents could view bodycam videos before or after writing their reports.

In 5 hearings from 9/2/15 to 12/2/15, the Police Commission reviewed the draft policy, which was set forth in Assembly Bill 69. Passed on 10/3/15, AB 69 grants ownership of bodycam recordings to the City, with chain-of-custody rules, along with public access per the California Public Records Act. The Commission could view videos of routine encounters, but disagreed over viewing footage of critical incidents. The Commission promised to "vote in recognition of the new normal that trust is a more important rate," it had to appease both cops and civilians.

Police Perspectives: The SFPD maintains that officer-involved shootings are rare, less than 1% of all incidents. Currently, involved officers are interviewed voluntarily and allowed to see videos to "trigger" their report. The Police Officers Association (POA) warned that cops will withhold voluntary statements to avoid viewing bodycam videos. Although cops can be compelled to make a statement, whatever statement is given, disciplinary action cannot be used against them per the Peace Officer's Bill of Rights. Such a policy would better serve investigations and justice.

Cops of all stripes emphasized that SFPD policy demands that "all evidence shall be intact." An adrenaline-fueled reaction to traumatic incidents causes memory lapses, "tunnel-vision." Only by viewing videos beforehand could they deliver "the most accurate and complete report." They cited similar practices in San Diego and Los Angeles. Entrusting officers to carry guns and write reports while bodycam videos would show that "you don't trust me," one said. Another emphasized that "viewing the suspect" would be more "divisive." Others faulted the logic of writing "a legal government report" without the evidence. "Plus, video ownership was claimed as 'the officer's point of view.'" Writing the report, and then writing a supplemental report would "set up officers to fail" said Chief. The "gotcha" when their credibility is challenged for any discrepancies.

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report should be preserved rather than a re-interpretation based on what appears, of the Jeff Adachi argued that viewing the video beforehand alters what officers remember, that The ACLU warned that incriminating events that don't appear are forgotten while events as if experienced, thus creating a "false level of accuracy," and potentially enabling cover view videos before interrogations, allowing police to do so confers an "unfair advantage" insisted that "investigatory best practices" require that witnesses, including police officers, not view evidence. There is also a public safety interest in knowing how officers perceive between officer recall and videos are expected, but gross distortions or fabrications could

Commissioners' Compromise: While holding that officers "shall not view shootings, criminal investigations or in-custody deaths before writing a report, the Commission "subject to the discretion of the Chief of Police." Chief Suhr already supports officers viewing reports. While ceding control to the SFPD, the Police Commission claimed to retain it with the Commission. This compromise calmed the opposing parties as the bodycam policy transparently created. But that same day, a dazed, knife-wielding 26-year old, Mario Woods 5 police officers in the Bayview. Only bystander videos documented the killing. Chief Suhr justified. Then videos surfaced that countered his view and intensified distrust. Had both they might have revealed something about the mind-set driving such lethal force. The Police Commission for final approval after negotiations between Human Resources and policy is implemented, the Commission will conduct a review.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

March 2016



Diversity Brings Controversy

Laguna Honda's Nursing Challenge

By Dr. Maria Rivero and Dr. Derek Kerr

In 2002, the Health Commission adopted a Resolution for "Culturally and Linguistically / broadly inclusive of diverse racial, ethnic, sexual and other cultural...groups." The Department then formulated a Cultural Competency Policy whose principles include; "To Recruit, Retain, and Develop a Diverse Staff and Leadership That Are Representative of the Community Service Area." Subsequently, DPH agencies like Laguna Honda Hospital (LHH), and DPH annual Cultural Competency Reports showing their compliance or diversity initiatives. The report boasted that; "DPH's committed and talented staff reflects the cultural diversity and rich

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Photo: David Edstrom

I "workforce that reflects community characteristics."
Not so, according to six LHH employees who testified before the Civil Service Commission 1/4/16. They risked retaliation by joining 30 other City employees in claiming that cronyism are sabotaging merit-based hiring and promotions. Here are excerpts;

"Laguna Honda is plagued with isms – favoritism, cronyism, racism - you name it. Even somebody's child is being hired while people that come and apply can't get hired. For the people being hired through the back door, despite Civil Service...then they're pushed into positions haven't been posted for people who have more experience and more seniority

.....
... six LHH employees ... risked retaliation by joining 30 other City employees in claiming that favoritism, nepotism and cronyism are sabotaging merit-based hiring and promotions."

"The workforce is not diverse, it does not reflect San Francisco or the Bay Area. Whoever gets hired looks like them, speaks like them, and comes from the same place as the minority. If we are asking questions, and if we are able and articulate to say 'what's the position, I can do this job', then you are called a troublemaker. So you are excluded from your colleagues are told not to talk to you... It's becoming somebody's living room, somebody's backyard." (LVN)

"Hiring is based on friendships and family. Managerial positions are...set aside for family members...adjusted based on whom it is or who you want to align the job for. There's no consistency."

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Supervisor responsible for staff recruitment committed nepotism. She "resigned" and was "released." Though relatively few DPH employees complain to the Civil Service Commission, a Report cited; "a notable increase in the number of complaints and/or questions" about minimum job qualifications, while 3 of 8 City departments "did not conduct verification for their appointees..." The DPH's 2014 Work Experience Survey found that 43% of 3,220 employees were "stymied." While the surveyors merely urged more "professionalism and respect", it's telling with "a manager training that reviews hiring and onboarding procedures." Laguna Honda Survey identified the main causes of discontent as; "unprofessional" or inexperienced retribution, bullying", and ignoring feedback.

Concerns about diversity and hiring have long-simmered at LHH. Because hospital employees lack related qualifications, their demographics won't exactly match the communities served. Competitive healthcare environments may require imported skills. But according to LHH Report, and the Department of Human Resources (DHR) 2013 "Equal Employment Opportunity Analysis", there's a striking imbalance;

Employees	%White	%Black	%Hispanic	%Asian	%Filipino	%Amer/Ind
CCSF(23,237)	34.58	12.75	14.51	24.54	13.10	0.49
DPH (5,787)	24.78	11.79	14.69	23.86	24.59	0.29
LHH (1,250)	13	10	9	20	47	—

San Francisco's 5.2% Filipino population. It doubled the DPH's percentage, which itself topped the DPH's. Rather, it reflected LHH's Nursing Department that hired 60% of hospital employees. All indicators of cultural competency, there's no current data on the ethnic distribution among employees numbering 1,678. LHH hasn't submitted any Cultural Competency Reports with employees. Both the DPH and the DHR denied having ethnicity data on Laguna Honda employees.

Nonetheless, ethnicity had been the focus of an internal "Cultural Competency Assessment" by hospital executives in 2007. It reported; "Nursing is dominated by Filipinos who comprise 71% of Registered Nurses, 81% of Licensed Vocational Nurses, 67% of Certified Nursing Assistants. Among patients, 3% were Filipino, creating "a great disparity between the ethnicity of those who give and receive care." Almost 10 years later, LHH nurses say little has changed. Here is the 2007 data for Registered Nurses, Licensed Vocational Nurses and Certified Nursing Assistants within the hospital; the most recent numbers available;

LHH's 2007 "Cultural Competency Assessment" warned; "Disproportionate representation of ethnicities in nursing staff causes tension and strife in some units, and makes it difficult for new staff to become accepted as a team member and, even more, as a unit leader." Staff in

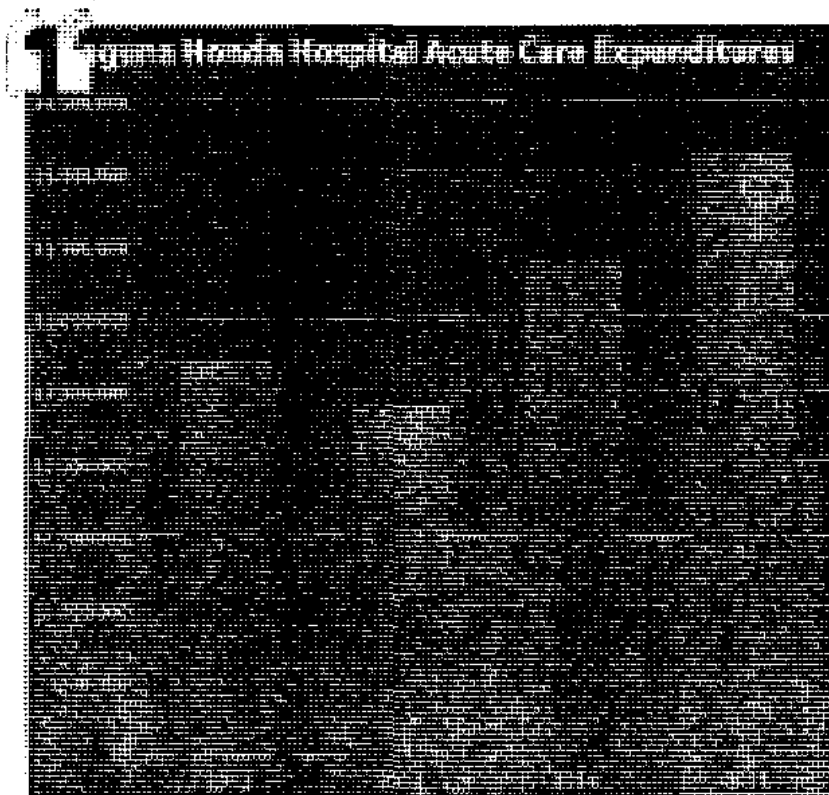
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Caring, competent, and generous, LHH's nursing staff diverges from DPH's cultural competence nurses say that lapses in merit-based hiring are perpetuated by workforce disparities - As Civil Service Commissioner Favetti emphasized; "The integrity of the system is directly administer the system." Beyond LHH's control are colonial, political and socio-economic "Empire of Care: Nursing and Migration in Filipino American History", and Rodis' "Why are nurses in the US?" What's needed in 2016 is Laguna Honda's Cultural Competency Report demographics, an assessment, and a plan.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

February 2016



Expenses for Acute Care show marked increases. Not shown is the 48% reduction in services.

Doing Less With Laguna Honda's Acute Care Slu

By Dr. Maria Rivero and Dr. Derek Kerr

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rates are several times higher than the \$800/day LHH spends per resident.

In 2009, LHH Rehabilitation Chief Dr. Lisa Pascual, and then-CEO John Kanaley, conjure budget proposal. In exchange for an extra \$836,000 in taxpayer funds annually, they pro revenues of \$1.35 million. They wanted more staffing to transform the existing 6-bed A building's showcase - with 15 beds, a choice location, therapeutic pool and state-of-the these costly enhancements needed in a safety-net hospital? Because they "will increas services," they wrote. An "upsurge in acute rehabilitation admissions" would raise the a patients to "a realistic goal" of 4 patients/day. The new facility, its trappings and fanfare was a field of dreams, untrampled by market research like scoping out the competition, what they wanted, and why they shunned LHH.

They wanted more staffing to transform the existing 6-bed Acute R building's showcase - with 15 beds, a choice location, therapeutic p art fitness gym. Why were these costly enhancements needed in a

Three months after the rebranded LHH opened, the 15 mostly-empty Acute Rehab beds just 5 remained. The other 10 were converted to lower-paying but fillable Skilled Nursin amenities and frantic recruitment efforts, private pay and Medicare patients chose to g worse. For 2013, the average daily census for Acute Rehab was 2.21 patients, in 2014 i dropped to 0.89 patients per day. Rehab Director Pascual omitted this decline in her An Commission's Joint Conference Committee on 9/8/15. Instead of a root cause analysis variants of patient recruitment strategies that hadn't worked previously. The Commissi didn't want to know.

Another revenue tale was spun in 2010. The Medicine Department sought \$950,000 in boost its Acute Medical census from "1.5 – 2.0 patients/day" to 5 patients per day, ther annually. Instead, patients vaporized. Signs of fluster appeared in 2012 when LHH bras and Acute Rehab censuses together under "Acute" to camouflage the minuscule numb When honest reporting resumed in 2013, the average daily census fell to 1.1, then to 0.7 mid-2015. On average, less than 1 patient per day has received treatment in the 7-bed A 18 months. Month after month, the dwindling numbers are presented; without explanat Colleen Riley, and without inquiries from Health Commissioners.

Yet, inquiries are due. The City's SFOpenBook data base shows LHH spending on "Acut sagging census. LHH spent about \$2.4 million in 2012-13, almost \$3.4 million in 2013- Unfortunately, corresponding revenue data isn't provided. Given the missteps and evasi executives, Health Commissioners should ask why a 73% rise in Acute Care spending a

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London Breed's Anti-Sunshine Litm

Dr. Maria Rivero & Dr. Derek Kerr

For those who are driven to govern, transparency doesn't come naturally. Nudging shadows often relies on open government advocates. For example, the 2013-14 in the City – Promise, Practice or Pretense, recommended amending the Sunshine Supervisors' business calendars be publicly disclosable. Since 1999, the Ordinance had Attorney and department heads to disclose who they met, and where. Although the Jur Supervisors voluntarily provided their meeting calendars, some officials "failed to list th attendee's names" making it difficult to track lobbying activities and influence peddling.

London Breed, who clenched the Board presidency in January 2015, has viewed request intrusions. When sunshine activist Michael Petrelis requested them this April, he was records would take time to assemble. Instead of delivering the calendars, Breed's legisl e-mail: "Supervisor Breed has not maintained a calendar since February 1st, 2015. Per t Breed is not required to keep a calendar."

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"concerns about my personal safety" and "establishing a pattern of my whereabouts." For days to separate my public and private calendar." Breed made a motion to withhold the meetings and to wait for the Department of Technology to organize their calendars. He second. The Board voted 10-1 in favor of disclosing its calendars. Breed voiced the sole dissent, and, finally, and unanimously, passed the amendment. The Mayor signed it into law on July 1, 2019. The smoldered.

Public interest in Breed's engagements peaked this August when the FBI probe of political corruption that en-snared Senator Leland

Though not a member of the Rules Committee (Avalos, Tang, Cohen), Breed materialized "in place of Supervisor Cohen." The agenda included the approval of a journalist and a Sunshine Ordinance Task Force (SOTF), the 11-member body that adjudicates sunshine requests. Two nominees were nominated by the Society of Professional Journalists (SPJ) that is mandated to serve the City, both nominees had recently moved to Oakland so they needed residency waivers.

After Hoodline editor Eric Eldon gave his presentation, Breed launched a meandering "in the public interest" when journalists serve on the SOTF. Note: voters approved assigning 3 journalists to the SOTF: New America Media, and local press. Breed wondered if Eldon's "professional opinion" records, might conflict with "making the right decision." Unappeased by Eldon's ethical potential bias, Breed declared, "Let me be more specific; I have a different opinion about a thin line between public information and being nosey...I don't think it's appropriate for whereabouts 24 hours a day." Then, the litmus test: "Do you think that public officials should disclose their calendars if requested?" Since her question had been affirmatively and legally answered, Breed rendered applicants into supplicants. Eldon maneuvered out of Breed's trap by crafting his responses, including, "I would listen to the advice of the City Attorney" and "I can't say I will." Incidentally, Breed had been wrangling with the SOTF since June, when she was found guilty of Ordinance for dodging a hearing on her calendar hoarding.

The other SPJ nominee was Mark Rumold, an Electronic Frontier Foundation attorney who has litigated surveillance issues in the National Security arena. After serving on the SOTF for 9 months, he moved to Oakland. He presented his credentials and goals in a straight-forward way, without a flourish. He bothered to ask him a single question, then groused; "I'm not completely familiar with Mr. Rumold's work." He kowtowed for her blessing before the hearing. To show who's boss, Breed "hesitantly" asked him to wait. A walver.

All 3 Supervisors okayed the candidates, but Katy Tang's mute passivity was a marked obstruction of SPJ nominees in 2013-14. Joining a Board vendetta against the SOTF, Tang

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Exodus From Laguna Honda Hospital

By Dr. Maria Rivero and Dr. Derek Kerr

In the year ending May 2015, 80 patients fled from Laguna Honda Hospital (LHH). AWOL (Absent Without Official Leave) or left AMA (Against Medical Advice) comprised "community discharges" – a record high. This exodus is rooted in the Health Department Project that flushes non-paying patients out of San Francisco General Hospital and into

CC

...in 2014 LHH reported 46 staff injuries from "resident aggression" medical treatment. LHH deploys additional staff as "coaches" to monitor rowdy and drug-sniffing dogs to curtail drug use and dealing"

Unlike the notorious 2004 Flow Project that generated an upsurge of violence and drug relieves on private rooms, electronic monitoring, additional activities, substance abuse classes contain disruptive behaviors. Yet, in 2014 LHH reported 46 staff injuries from "resident aggression" required medical treatment. LHH deploys additional staff as "coaches" to monitor rowdy dogs to curtail drug use and dealing. Cigarettes and nicotine vaporizers are prohibited. Patients must sign an imposing Agreement that stipulates rules of conduct. Such restrictions, at best, cramp the quality of life of some residents. Others simply don't want to be at LHH. Elopements this year signals that the Flow Project and LHH's containment policy are less

Why patients flee and what happens to them matters. Risks of harm multiply for patients before they are deemed ready for discharge. Beyond endangering themselves, those who are impaired also expose the hospital to potential liabilities. Elopements are disruptive, require "Green" alerts, burdensome paperwork, missing person reports, plus detailed searches by security deputies. In May, LHH projected "a deficit of \$780,000 in salary expenses" for 2014-15 "to facilitate patient flow". By July, this deficit dropped to \$190,000 for taxpayer funds. Further, neither Medi-Cal nor Medicare reimburse LHH for AWOL days, paid by the City. Importantly, for an institution that values resident satisfaction, the rise in AWOL is rising dissatisfaction. There may be correctable lapses in patient care, staff training, or facility needs and LHH's offerings. The Health Commission should request – and make public, the exodus.

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

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Jury labelled the Ethics Commission a "Sleeping Watchdog".

On 6/29/15 the Ethics Commission approved a soporific and nebulous response to the 2014-15 Civil Grand Jury (CGJ) report; "San Francisco's Whistleblower Protection Ordinance Is In Need of Change". In a feat of equivocation, the Commissioners agreed that all 6 CGJ recommendations to enhance whistleblower protections "may be the task would entail "heavy lifting" plus "the cooperation of at least 4 departments", Ex vowed that Ethics "would endeavor to do this in 2016" – long after his August 2015 dep now Acting Executive Director, Jesse Mainardi – hired from the Sutton Law Firm – stay whistleblower rights.

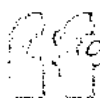


When Ethics Chair Paul Renne called upon the Commissioners for Whistleblower Ordinance, dead silence filled the chamber. Eventually Hur uttered; "You're putting all of us on the spot here."

Public comments by *Westside Observer* reporters Derek Kerr and Patrick Monette-Shaw failure to sustain any retaliation claims in 20 years, and the City's coddling of retaliators out in settlements. A former CGJ Foreperson, Elena Schmid, warned that Ethics' "vague dodged the specificity required by California Penal Code section 933.05. Friends of Ethics suggested that Ethics appoint a "sub-committee of one" to work on revising the Whistleblower Ordinance. The Ethics Commission declined to speak out as it would be "asking the foxes to redesign security".

When Ethics Chair Paul Renne called upon the Commissioners for volunteers to revise the Whistleblower Ordinance, dead silence filled the chamber. Eventually, Commissioner Ben Hur uttered; "You're putting all of us on the spot here." The Commissioners then hurried to the next agenda item.

September 2015



Secrets and Neglect

Laguna Honda's Patient Gift Fund

By Dr. Maria Rivero and Dr. Derek Kerr

Health Commissioners and Laguna Honda Hospital (LHH) executives hold monthly public meetings. Portions of the articles or their work may be used without expressed consent.

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activities like bus-trips were curtailed, yet impermissible expenses
surged"**

On 3/10/15, LHH Finance Chief, Chia Yu Ma, added this afterthought to her Gift Fund re Office recommendation, we have been working ... to slowly move our (Gift Fund) stocks control to...Charles Schwab." At LHH, such afterthoughts and mumbled asides warrant buried something about the \$2.4 million Gift Fund, most of which is in donated stocks. Treasurer's Office had advised her to sell the Gift Fund's \$1.3 million stock portfolio. After recommendation on 4/3/15, Ma again withheld it from her 5/12/15 Gift Fund report. All donation received weeks before from retired LHH physician Milka Rols.

These non-disclosures resembled those preceding the Gift Fund scandal of 2009-10. But over \$2 million, including stocks donated in the 1980s. Stocks were kept by the City Treasurer, overseen by the Controller, while cash went for LHH patient activities. With the installment in 2004, then Mivic Hirose in 2009, Gift Fund policies were surreptitiously altered – in violation of the Code – to create an administrative slush fund. Pilfering and mismanagement depleted the fund by late 2009. Another \$835,000 was frozen in stocks and \$543,000 was locked in the interim. This triggered warnings that the Gift Fund was bankrupt. Patient activities like bus-trips were curtailed, while expenses for staff perquisites surged.

Protests were ignored within LHH, but reported by KGO TV's I-Team and The Westside Observer in 2010. The resulting furor forced the Controller to issue a Gift Fund audit on 11/1/10 for \$350,000, stop misappropriations, issue quarterly reports, and restore the Gift Fund. Unfortunately, the Controller dropped the promised follow-up audit to quell negative publicity. When the Knight estate returned Gift Fund assets above \$2 million in March 2011, in July 2013, Bill Frazier, Director of LHH's Activity Therapy Department, was reassigned to a newly created post. The move also freed him from justifying cuts in patient activities upstream.

Ma's censored Joint Conference Committee presentations contained grains of truth. In 2010, the Controller did urge LHH to "actively manage" Gift Fund stocks, but Ma said nothing about the role, selling the stocks, or Rols' \$400,000 donation. Instead, CEO Mivic Hirose took center stage to spin highlights before the full Health Commission, leaving crumbs for Ma to dispense. The public had to dig for answers.

A visit with Michelle Durgy, the Treasurer's Chief Investment Officer since September 2011, revealed a "tremendously understaffed" team began organizing the stocks in mid-2011. A collaboration with a local broker collapsed, so SF discount broker Schwab was contracted to manage the holdings in June 2011. In Gift Fund stocks had been quietly transferred to Schwab. According to the Administrator,

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want it all."

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Frazier and Treasury Investment Officer Hubert White powered through a mess of scatt \$1.3 million portfolio was consolidated under Schwab in January 2015. However, there between stock values reported by LHH and the Treasurer. Elisa Sullivan of the Controlle amount is not missing," just spread among various stock transfer agents. But 185 shar and Bethlehem Steel became worthless due to bankruptcies. The fact that LHH hadn't i its 104 Delphi shares since 1999 didn't raise alarms. In 2009, LHH lost track of 2241 sh they landed in the State's Unclaimed Property Fund. When located two 2 years later, the which Frazier reclaimed. Another \$14,099 had been stuck in a Schwab dividend accoun November 2014. In January 2015, LHH learned that 234 Chevron stock certificates wor although dividends were coming in. Exxon certificates were also lost. Replacing them c

Despite these losses and the 4-year slog to sort out the Gift Fund portfolio, most of the value. An analysis by Durgy's team prompted the "sell" recommendation since the mark and a downturn was expected. Durgy explained that selling the 25 remaining stocks wc merely \$325. On 5/19/15 the full Health Commission approved the sale, without review Conference Committee. To date, stock sales have garnered \$1,163,630, with more to co proceeds at 0.65% interest to generate \$7,564 annually.

Chia Yu Ma's Gift Fund reports concealed decades of neglect, uncovered during a long selling the stocks was reasonable, given LHH's inability to manage them, the Treasurer' outlook. And ethically, LHH shouldn't hold shares in war profiteers like Halliburton, Boei BP, and Chevron, and obesity purveyors like Coca-Cola. Still, the stock proceeds need te furtive practices of LHH executives.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital wh wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

July/August 2015



When Sunshine Casts a Shadow

- David Lee's Ballot Proposal

By Dr. Maria Rivero and Dr. Derek Kerr

n 4/23/15, long-time Sunshine activists were surprised when "San Franciscans for Ope Ballot Initiative to amend the City's Sunshine Ordinance. It calls for; 1) City public meeti

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David E. Lee

O them. The proposal is spearheaded by David E. Lee, whose political consultant measure. Former Supervisor Fiona Ma, who attended the City Hall filing, said; "the same people during meetings, and this will open that up."

One day before, a supportive *Chronicle* [article](#) merely identified David E. Lee, who heads Government, as "a political science instructor" at SF State University. But since 1993 Lee Director of the non-profit Chinese American Voters Education Committee (CAVEC) - the CAVEC's mission is to register voters, provide polling services, research voting trends, a 4-person Board includes Lee and his wife Jing Lee, who is Vice-President. Its Chair is A attorney assigned to Laguna Honda Hospital, and its Secretary is Sandy Close, Director Lees own a State Farm Insurance business and a 4-unit rental building in the Richmond recent *Chronicle* piece was Lee's controversial run for District 1 Supervisor in 2012.

Most of Lee's contributions came from real estate, construction, in corporate interests. Notable Lee backers included attorneys Jim Si tech investor Ron Conway, "broker" Mel Murphy, banker Dick Koval magnate Doug Shorenstein, and philanthropists Nancy Bechtle, De Swig. In 2012, the *Chronicle* endorsed Lee, although his cause was independent expenditure campaign" funded by the SF Association

In 2005 Mayor Newsom appointed Lee to the Recreation & Park Commission as it adva Lee resigned in 2012 to run against Eric Mar for Supervisor in District 1, pointing to forr his role model. Lee got 11,019 votes or 38.6% to Mar's 53.5%. In this costly clash, \$90 v vote. According to Ethics Commission [data](#), Lee spent \$320,589 in individual donations compared to Mar's \$360,100. The shocker was the cash tsunami from independent exp spent \$673,960 for Lee versus \$164,625 for Mar. All told, 68% of the \$994,549 supporti shadowy special interests compared to 31% of Mar's \$524,725. Most of Lee's contribut construction, insurance, banking and corporate interests. Notable Lee backers included Haas, tech investor Ron Conway, "broker" Mel Murphy, banker Dick Kovacevich, real est and philanthropists Nancy Bechtle, Dede Wilsey, and Roselyne Swig. In 2012, the Chron cause was "boosted by a sleazy independent expenditure campaign" funded by the SF

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numbers of minority voters *Journal of Professional Geographers, NorCal Chapter*

Between 2008 and 2011, Lee's salary at CAVEC averaged \$90,211 annually (range \$86,400 to \$94,000). In 2012, Friends of Ethics filed a complaint against Lee for failing to disclose this outside income to the City of Berkeley. Later that month, UC Berkeley Prof. Ling-chi Wang and Henry De la Torre, a professor of Chinese for Affirmative Action, publicly denounced Lee's exorbitant \$91,980 salary and CAVEC expenses – despite its revenue shortfalls. They also challenged the role of Lee's CAVEC as an exaggerated voter registration claims, the mingling of his business and CAVEC pursuits and "downtown and out-of-town" money pouring into his campaign. They asked "who was Lee's real employer?" In 2013, Lee's salary was cut to \$46,828, though it remained CAVEC's biggest line-item expense. CAVEC activists say that CAVEC has been losing touch with the community, becoming more political and less focused on its original mission.

Despite Lee's ties to business and moneyed interests, who already have influence at City Hall, Lee's push for public access to government activities. Plus, he has long advocated for immigrant participation in local government. Lee's pushing this Sunshine measure makes sense.

In appeals for a "generous donation" Lee claims that his ballot proposal arose from "worry that students don't have the resources to fund a campaign." However, the campaign's launch at the Center on 5/14/15 barely drew a handful of students to collect 14,000 signatures by June 15. Lee would take on a ballot initiative with such sparse front-line support, and while CAVEC is still active in District 1 will need a new Supervisor. Will an appealing Sunshine measure enhance Lee's CAVEC's viability?

Lee's Sunshine amendment emphasizes that "professional activists and lobbyists are taking too much of the time at City Hall to influence decisions" and that it will empower "working people, students, and caregivers who have set schedules." There's no mention of the costs and contract for the proposed technology. Tracking the funding for this ballot measure will show whether it will be the same donors who rallied behind him in 2012.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who witnessed the wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

June 2015

Laguna Honda's Falling Star

by Dr. Maria Rivero and Dr. Derek Kerr

barely audible Mivic Hirose, CEO of Laguna Honda Hospital (LHH), duped the Health Commission by reporting "fewer deficiencies" when the hospital's Health Inspection rating plunged to a "poor" level.

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Staffing, Quality Measures and Health Inspections, plus an Overall star rating based on the others. Medicare warns that; "All of these data are reported by the nursing homes themselves. Nursing home inspectors...don't formally check it to ensure accuracy...The information should be interpreted cautiously...along with information from the Long Term Care Ombudsman's Office, the State Survey Agency, or other sources." Nursing homes like LHH flaunt their stars, without noting Medicare's caveat.

Mivic Hirose,

Moreover, Medicare does not report violations of California nursing home standards, State complaints filed with State agencies. That's because licensing requirements for State (California) differ from those mandated by Medicare. Only federal-level violations affect 2013 LHH received 30 State deficiencies but only 19 were recorded in Medicare's federal. \$1,000 State fines for patient injuries in 2011 and 2012 didn't impact LHH's Medicare star rating. www.nursinghomeguide.org for this data from California Advocates for Nursing Home

.....
Although these deficiencies were considered minor, causing "minor" "few" residents, they exceeded the averages for California and US. Therefore, LHH's 2014 Health Inspection score plunged "below average" triggered LHH's fall from 5 to 4 stars overall."

The star-rating system provides an incentive for nursing homes to improve their care. It stars without earning them. As per an 8/24/14 New York Times [article](#); Medicare Star Rating Game the System, facilities plagued by serious deficiencies can garner 5-star ratings. So clients, revenue, and prestige, some facilities inflate their scores.

In 2009, just 35% of nursing homes were granted 4 or 5 stars overall. By 2013, it rose to overall rating of 3 stars is considered average, but by 2014 the average score for US facilities majority of facilities are above average, the system is unreliable. As a result, Medicare US nursing homes lost Overall stars this year, with more to follow in 2016.

Laguna Honda's star-quest started in 2010, when its Overall rating was 2 stars – below new building, 3 stars. A 4th star was captured in 2012. CEO Hirose, who collected \$290 pushed until LHH wrangled a 5th star in 2013, only to lose it in 2014. To detect how LHH top tier in 4 years, we examined its Nursing Staffing, Quality Measures, and Health Inspections.

Nursing Staffing

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Quality Measures

These are indicators of quality care such as the percent of patients with injury falls, but aspects of care are assessed, so their scope isn't comprehensive. Further, such measures are self-reported by nursing homes. To wit, State inspectors faulted LHH for failing to report an injury last year. Besides such under-reporting, adverse events can be minimized by LHH Department before they are transmitted to Medicare. A former LHH analyst, who requested records, "Laguna administrators, charged with filing self-reports that should have been forthright and regretful, were indeed adept at gaming the system." By clasping 5-stars for self-reported Quality Measures, LHH was granted an extra Overall star.

Massaging Quality Measures is widespread. In 2009, 37% of Nursing Homes held 4-5 stars. By 2014, a preposterous 80% were all-stars, including LHH which had jumped from 3 to 4 stars. To changes in its calculations, forced Medicare to recalibrate. So, two-thirds of nursing home ratings, and 30% lost Overall stars. This year, Medicare audits will inhibit deceptive reporting.

Health Inspections

This is the backbone of the ratings system, the only domain scored independently by State inspectors. It occurs almost annually, nursing homes anticipate them. At LHH, preparatory "mock inspections" to minimize deficiency findings. During surveys, LHH's "Command Center" tracks inspectors' findings to undiscovered violations. From 2010 through 2012, inspectors found relatively few violations. Health Inspection ratings are derived from the 3 most recent surveys, LHH rose to "above average" in 2013. Its jump in Quality Measures, contributed to its trumpeted 5th Overall star in 2013.

Untrumpeted was LHH's fall to 4 Overall stars after surveyors found 19 federal deficiencies in 2014. The 2014 lapses included: failure to monitor an amputee's phantom limb; failure to adjust a Care Plan for a patient with rapidly worsening dementia; not monitoring the patient's psychotic medications; keeping spoiled/outdated food in refrigerators; not washing hair; not cleaning equipment; speaking "a non-English language" around patients; causing a resident to wait 10 minutes to answer his calls; over-filling the stomach of a tube-fed patient and causing patient-to-patient physical abuse to the State, and not knowing that such reports are legally required.

Although these deficiencies were considered minor, causing "minimal harm" and affect only a few patients, they exceeded the averages for California and US nursing homes. Therefore, LHH's 2014 Health Inspection rating was "below average" – to 2 stars. That triggered LHH's fall from 5 to 4 stars overall. It could have been worse. A Safety Inspection found 7 deficiencies. Since such lapses aren't logged in the star-rating system, LHH is being down-graded to "above average".

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital when they were exposed to the nursing home's internal records. They were not paid for this work.

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By the National Society of Professional Journalists, NorCal Chapter

When Eugene Jeandeville "Gene" died at Laguna Honda Hospital (LHH) last December, a part of old San Francisco passed with him. He was 85. Gene had come of age in the 1940s within a pack of kids whose friendships spanned 70 years

Some 17 years before, a fire blackened Gene's kitchen. Then he fell and broke his arm. Unable to care for himself, LHH took him in. Bereft of immediate family and decision-making capacity, he was assigned a Public Guardian to manage his affairs. He got around with a walker or wheelchair and loved field trips to ball games, casinos and race tracks. His requests to "go home" subsided, but he always wanted to "see the guys." For years, Gene's old friends; Larry the retired school teacher, Art the former insurance executive and cartoonist, and later Bob the Laguna Honda volunteer, brought gifts, news and memories on birthdays and holidays.

Gene's death, after a fall during a movie outing, left them mystified. Another old friend gone, then evasive responses to their inquiries. Though grateful for LHH's good-hearted fingers that appropriated their gifts, the conversational drift from English to Tagalog and they felt something was being hushed-up. They asked The Westside Observer to peer tl

Growing Up in the City

Born in 1930, Gene was raised by his Mom in Glen Park - 64 Chenery Street near Fairmont was a nurse. Gene said his longshoreman father died during the 1934 Waterfront Strike more inclined toward community than to self. A sharing economy emerged from the pre the War, marked by bartering of ration stamps and produce from Victory Gardens. Few everywhere or hopped streetcars for a nickel. Kids met up to trudge to school. In a world computers, playground directors handed out balls and bats for after-school activities until Gene was a star playground athlete, the type of kid who made fast friends despite a dei



Gene's death, after a fall during a movie outing, left them mystified responses to their inquiries...they felt something was being hushed

Pearl Harbor brought black-outs, when mothers covered windows as families huddled fell silent. Soldiers packed the Presidio and sailors flooded the streets when the fleet's brothers went away, never to return. One afternoon, all the sirens went off, horns blared over." Some cried. Hopes soared when the United Nations Peace Conference met at the Then came Korea.

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publicly helped out, even an attorney for the hospital, who was not a lawyer.



The Investigation

In September 2014, LHH's began a transition from "pro services that would augme without increased staffing. Gene went on an outing as band of patients supervisor. While waiting for an elevator backwards down a ramp ar Someone had forgotten to l perhaps Gene unlocked the paramedics bandaged his t to Seton Hospital.

On 11/30/14 Seton notified withheld details pending an "investigation". Upon returning to LHH, Gene's condition de transferred to UCSF. He developed pneumonia, caused in part by a swallowing disorder to LHH.

On 12/4/14 someone called Larry: "Gene wasn't eating and we should visit ASAP." Gene Then, Gene's Public Guardian reported he had died on 12/10/14, cause of death undisc. His body went to Cypress Lawn for burial on 1/7/15. When his friends went to pay their unmarked. Another unanswered question.

We brought \$21 to the Department of Public Health's Office of Vital Records for a copy wasn't ready. A week later, same story. Turns out his case had been referred to the City that's done whenever someone dies of unnatural causes. This referral argued against a must also report injury-falls to the State, and we knew LHH had a history of down-playin the State Licensing and Certification Division on 1/20/15, just to be sure. An investigati LHH had reported the accident.

Gene's Public Guardian was notified about the missing gravestone. Records show that Cypress Lawn plot in 1998. In 2005, the Public Guardian collected \$760,000 from the s Capistrano, assuring that his funeral expenses would be paid, including an engraved he

Our first call to the Medical Examiner went unanswered. On 1/15/15 we were told that t Certificate would take at least 3 months. Toxicology tests had to be completed, medica typed up and approved. Plus, there was a back-log of 800 cases, some dating back to 2

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Acknowledgement: Thanks to Larry, Art Ness, Bob Coffey and Ken Sproul for inspiration

April 2015

City Attorney's Whistleblower Battle Laid Bare

By Dr. Maria Rivero and Dr. Derek Kerr

No City agency admits to retaliating against whistleblowers. Dennis Herrera insists that City Trial Deputy, Joanne Hoeper, "was in the works long before she claimed...that she was part of a scheme in the City Attorney's Office." Hoeper charges Herrera with "after-the-fact removal for exposing shady sewer replacement deals. Legally, she must show that whistleblowing was a factor in her firing. Herrera must provide clear and convincing evidence that she was severely harmed and entered Superior Court on 1/7/15.



Once again, taxpayers are footing the bill for a plausible retaliation claim. A Herrera campaign donor, is collecting \$850/hour to defend her. Expected to exceed \$50,000. Ethical concerns are rising alongside the fact that Hoeper received a conflict waiver to represent Herrera, while representing the City.

After publicly praising Hoeper's aggressive fraud litigation in 2003, Herrera says he began escalating expenses and underestimating liabilities. He focuses on 2 out of hundreds of cases. In the \$7 million Lopez settlement against the School District, the judge rebuked Hoeper for "fought each stage of litigation and caused delay throughout discovery, which substantiated costs." Hoeper responds that the litigation strategy was directed by the client and that her staff the case...seriously hampered the defense." In the \$27 million Dominguez verdict, Herrera claims Hoeper called it a "no liability case." This she flatly denies, as she recommends settlement.

Herrera asserts that in 2005 several Magistrate Judges complained about Hoeper's "inconsistent discussions and her failure to evaluate the cost-effectiveness of litigation." Hoeper explains policy reasons to oppose payouts in frivolous lawsuits against police officers. Further, she told magistrates that her approach was sound – and told her to keep it up. In 2006, an unwritten report showed that Hoeper's team "frequently outspent liability estimates for its cases." Hoeper

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the Observer that executives like Hoeper aren't subject to formal annual appraisals. In 2007, Therese Stewart wrote a private appraisal – solely for Herrera. It lauded Hoeper: "She g Office...tremendously dedicated. She is very loyal. She is extremely confident in herself. litigation." In counterpoint: "Cultivates a pugilistic style of litigating, tending to polarize i making settlement more difficult and possibly resulting in underestimation of...risk and she was never told her performance was unsatisfactory. Rather, Herrera repeatedly ass work and wanted her to continue...as Chief Trial Attorney."

Though certified as "very loyal", Herrera claims that, "With her subordinates, Ms. Hoepe of Mr. Herrera and Ms. Stewart, encouraging an 'us versus them' mentality." One alleged Team "the real lawyers" and the Executive Team "the front office." Hoeper calls such all noting how she lobbied Herrera to "address the morale issues...that plagued the City At deputies who did a good job - "something the City Attorney was not in the habit of doing

In 2008, Herrera restructured the Trial Team, thereby reducing Hoeper's duties. Herrera "rebuffing" his guidance and "stoking divisions." However, Hoeper recalls that Herrera a reflected shifting priorities, rather than performance problems. Despite what Herrera ar that the reorganization related to her work, as she was undergoing chemotherapy. So sl quotes his reply, "You're invaluable to the Office. Do not misunderstand what I'm doing. job performance."

Contending that he remained "dissatisfied with Ms. Hoeper's performance," Herrera rep late 2010 with a partner from Kecker & Van Nest, the law firm now defending him. Over t other attorneys were reportedly approached, but none wanted or fit the job. Ironically, ir recruited for a high-level State position. Since Herrera was running for Mayor, she asked She recalls that Herrera pronounced her position secure and encouraged her to stay. So offer. She concludes that Herrera either lied while secretly devising her ouster, or axed l scheme.

In late 2011, Herrera's Executive Team met without Ms. Hoeper to prepare a report titled 2012. It's undated, except for 12/21/11 scribbled in a corner. The actual date is importa investigation also began in late December 2011. The 2-page memo is entirely redacted in charge of Trial Team (for 2 years)" and "Maybe you could get Gascon to hire Jo to be DA's Office." Matt Dorsey told us that the date on this memo, and on Hoeper's 2007 per after they were written "to reflect the documents' actual dates." Notably, "Danny" was n proposed.

It took more than 18 months of "actively searching" to find Hoeper's successor. Suppos the process was finding the right person." Strangely, the search was covert – with no jo "It defies belief that the City Attorney was unable to find highly qualified candidates...wh

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is collecting \$850/hour to defend him per a contract. Expected to exceed \$50,000, ET alongside legal fees. Keke also received a conflict waiver to represent Herrera, while re suing the City. This conflict has churned Herrera's staff, per an anonymous tipster. A Ke chairs our Ethics Commission that unfailingly denies whistleblower retaliation claims. I venues for whistleblower complaints, along with the Ethics Commission, the Controller Because these agencies reflexively shield City departments, Jo Hoepfer had to seek red

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

February 2015

Outside Job:

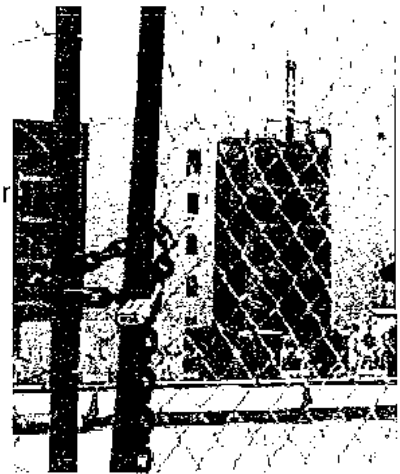
ousting LAGUNA HONDA'S C.O

By Dr. Maria Rivero and Dr. Derek Kerr

The June 2014 ouster of Laguna Honda Hospital's (LHH) Chief Operating Officer Mike Llewellyn so rattled the Department of Public Health (DPH) that the scandal was buried. As detailed in the September Westside Observer, Llewellyn was chummy with Rachel Decker, owner of the DPH-favored painting contractor William Decker Company. Cordial rapport between City officials and contractors often enhances public services — unless favoritism ensues.

In October 2013, the Controller's Whistleblower Program was investigating complaints about the "over-utilization" of a DPH painting contractor. Decker's dominance over the other 6 DPH painting contractors during Llewellyn's tenure 2009 and 2014, Decker pocketed \$783,211, or 41% of DPH's painting expenditures — al nearest competitor, RAS Engineering. The bottom 3 contractors, M&A, Monticelli, and A 0% of the pie, respectively.

DPH records confirm the disparity. Between 11/1/10 and 10/31/13, Decker was granted (BPO) authorizing \$400,000 in DPH contracts. The other 6 DPH painting contractors we \$100,000 to \$250,000, and totaling \$1.2 million. Just 17 months into its 3-year BPO, De



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Perhaps Decker Co. did excellent work at lower rates than their 6 competitors. Still, the Llewellyn and Rachel Decker should have sparked concerns, especially after DPH Director Llewellyn in charge of all DPH facilities in late 2011. With such authority over contracts, indulge preferred parties.

According to the City's Office of Contract Administration, "For general services, compete \$10,000." Such small jobs need not be advertised because City departments have "competitive vendor selection process." Records show that in the first 3 years of Llewellyn's tenure a through November 2012, Laguna Honda processed 54 invoices from Decker Co. totaling for jobs costing less than \$10,000. They included a \$1,010 contract to paint "Mike's safe" and "Mike's wood table refinishing." These small contracts, awarded under Llewellyn's watch, 51% of Decker's Laguna Honda revenues over 3 years.

Though disapproved, big jobs can evade competitive bidding rules if broken down into projects costing under \$10,000. On 11/14/12 Decker Co. submitted 3 invoices at \$9,996 each for window projects. Had this window project been treated as a single \$29,988 contract it would have required approval by the Office of Contract Administration.

A favored contractor could be told in advance about upcoming DPH projects, or informally submit proposals. Hefty contracts can be won with tiny under-bids. On 1/25/11 Decker Co. secured a \$30,250 contract. Its closest competitor, RAS Engineering, had bid \$30,500. When the bid results were announced, he notified his staff, "I will take care of that."

Or, a painting company could be steered to work as a subcontractor under a bigger DPH contractor. On 4/1/12 Turner Construction paid \$11,585 for 4 windows. The following month, Llewellyn received a proposal from Rossi Construction contractor. On 10/22/12 Llewellyn sent Rossi's proposal to Decker's Office of Contract Administration. It responded, "Thank You Mike! Hope you are well!" In May 2013, Rossi Builders hired Decker Co. as a subcontractor.

When funds aren't available, money can be pulled from other pots. For example, LHH can be paid for their jobs and vice versa. Given its enormous budget and major hospital rebuild money streams that can be siphoned when needed. For example, on 9/30/10, a \$3,130 contract was revised because LHH's CFO wanted to switch from "operating funds" to "project funds" for window services. Similarly, creative accounting may explain why Decker's BPO balance increased between 3/1/12 and 10/17/13.

When DPH Director Barbara Garcia wanted to "expedite" the renovation of DPH Clinics, the BPO balance was depleted, despite the mysterious boost to \$14,269. Nevertheless, on 10/2/12, Llewellyn gave estimates to "John Lee A-Hole" to refurbish 4 Clinics for \$235,062. Technically, any bid

December 2014

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Hoeper briefed Stewart about a plumbing company that had filed 84 claims for \$850,000 inflated by \$3,000. These \$3,000 premiums reportedly ended after a citizen complained of fraud and threatened to call the press. Moreover, that plumbing company abruptly stopped after Hoeper alerted the Claims Bureau about the FBI's warning. This sequence of events, even if insiders "had colluded with the plumbing company to submit fraudulent and inflated claims, likely warned the plumbing company and tried to cover their tracks." She then surmised that the claims served as kickbacks to the Claims Bureau. Whoa!

The next morning, Herrera replaced her as Chief Trial Attorney. In August 2012, he transferred her to the Attorney's Office but continued her \$202,000/year salary. Hoeper states that Herrera threatened her with allegations and failed to seek an independent audit of the Claims Bureau. In November 2013, Herrera elected, Herrera told Hoeper that she would be terminated. In January 2014, he kept his word.

A contrasting narrative emerges from a 35-page rebuttal by lawyers representing Herrera. Hoeper is not a whistleblower and that she was fired for "sub-par performance" related to her "refusal to be a team player" – not in reprisal for her investigation. Admittedly, he "refused to continue her scorched-earth investigation against Mr. Haase...because she had uncovered wrongdoing in the investigation."

To receive whistleblower protections, Hoeper must show reasonable cause to believe that wrongdoing occurred. Herrera rejects her whistleblower status by declaring that her own investigation provided evidence of a fraudulent scheme." He quotes this snippet from her Report: "The preliminary investigation has not revealed the sort of obvious patterns that could be expected if there was a scheme involving particular plumbing contractors in return for kickbacks." Another excerpt emphasizes that she was a conscientious, hard-working and competent employee."

Hoeper responds that Herrera selectively "misrepresents" her findings and is "deliberately covering up (his) true motivations for terminating Ms. Hoeper." She challenges Herrera to "replete with detailed examples of wrongdoing by the Claims Bureau." She adds that Herrera lifted from a section titled Additional Investigation is Needed that segued into "specific allegations of wrongdoing engaged in unlawful acts."

While Hoeper viewed the City Attorney's handling of sewer claims as unjustified, Herrera has been City policy to accept liability for residential sewers damaged by City trees. Contrary to what was unique in paying for tree-damaged sewers, Herrera identifies other California cities that do not reimburse homeowners for sewer repairs. Hoeper retorts that, "Under the San Francisco charter, the City may set policy and only through written ordinances and resolutions." Unlike the cities cited by Herrera, San Francisco didn't set a sewer policy. Therefore, Hoeper maintains that the Claims Bureau had unilateral authority to set policy.

San Francisco's Freedom of Information Act was repealed in 2019. The City's policy of not reimbursing homeowners for sewer repairs was established in 1999. The City's policy of not reimbursing homeowners for sewer repairs was established in 1999. The City's policy of not reimbursing homeowners for sewer repairs was established in 1999.

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that Hooper ignored or dismissed security professionals warning of a kick-back chapter

Hooper responds that her investigators "documented many instances in which there were despite the DPW inspections and approvals. Plus, she was not allowed to examine the Haase as: misleading when interviewed, concealing citizen complaints, taking 16 disco contractor for whom he initiated a \$12,000 City sewer deal, and approving no-bid jobs for his son. Herrera is portrayed as: "willing to make untrue statements about these easily bolster his false narrative..."

Unfortunately, the City Attorney's Office twice declined to release Hooper's investigative product and other confidentiality exemptions. So, we are bedeviled by contrasting intersecret document. Herrera does admit that; "The sewer investigation prompted the City that "outdated policies were reformed and allegations against City employees were investigated. Hooper's attorney, Stephen Murphy, told us, "Jo's investigation was shut down and her she had uncovered huge, illegal outlays of taxpayer funds. There's no question she was

Next, we'll explore Herrera's claim that Hooper's firing "was in the works long before she kick-back scheme"

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Dept. Public Health. Contact: DerekOnVanNess@aol.com

November 2014

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Sweetheart Deals Revealed in Construction and Rebuild

Behind the Perp Walk

The mysterious June 20 expulsion of Laguna Honda Hospital (LHH) Chief Operating Officer long roots. According to 780 pages of Llewellyn e-mails, his termination seems connected to William Decker Company/RMD Enterprise (Decker). The firm, now owned by the late father of Decker, was being investigated by the Office of Labor Standards Enforcement (OLSE) in 2009. He complained that Decker wasn't paying fair wages.

OLSE enforces prevailing wage requirements in City contracts. Unlike most other City workers, OLSE gets results. It substantiates 65% of complaints and recovers lost wages from 90% of employers. By combating wage theft, OLSE protects vulnerable workers from exploitation, reduces costs, and allows honest employers to compete fairly.

On 4/26/11, the OLSE contacted Llewellyn seeking information about Decker's work at Laguna Honda Hospital. No portion of the article or any work may be reproduced without expressed consent. © 2020 Westside San Francisco Media

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Favoritism in contracts with DPH is revealed in records obtained by the *Westside Observer* under the Sunshine ordinance.

Decker sent him a FAX detailing \$2,324 in repairs to her 2004 Silverado. Llewellyn responded. Llewellyn sent Decker an internal bulletin issued to DPH finance officers. Two months later, Llewellyn sent Decker a financial report listing fund balances available for 8 vendors, without sending it to the other vendors.

... the OSLE reached a Settlement Agreement with Decker on 2/21/12, in which Decker admitted any wrongdoing but agreed to pay \$28,000, including \$19,704 in back pay for her employees and \$8,296 in penalties for violating the City's prevailing wage law.

Over the next 8 months, OLSE struggled to round up records of Decker's work, particularly at DPH headquarters that included a \$13,000 renovation of Health Director Barbara Gai's office. It occurred between OLSE and Llewellyn and his deputies; Diana Kenyon, LHH Facilities Management Buildings & Grounds Supervisor. Wherever OLSE probed, Llewellyn was made aware. When an employee sign-in sheet was found, John Lee forwarded them to Llewellyn noting, "thought you would be interested in Llewellyn on his responses to trivial inquiries about Decker."

There were other signs of Llewellyn's pervasive interest in Decker's affairs. On 1/12/12, Llewellyn inquired about work done by Decker before a contract was signed. Kenyon forwarded the inquiry to Llewellyn. In the background, Llewellyn coached Kenyon, "Here is your reply" and wrote out a generic memo.

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Chapter 6.1
employees
used exempt
on unfilled
fund in 1995

Temporary Assistance
by City Employment

An employee
disclosed a
relationship
connection.

We believe the second complaint is about Llewellyn but
the first one on the page may be about Llewellyn as well.

raised by the City Attorney. Frustrated by OSLE's persistence, Kenyon e-mailed Llewellyn
barking up now." Six minutes later, Llewellyn forwarded the e-mail train to Rachel Decker.

On 2/7/12 Llewellyn sent his deputy John Lee a quote for a window project submitted in
message, "Here's your quote, let's get it processed" – and blind cc'd Rachel Decker. One
Diana Kenyon, notified 3 painting contractors, including the Decker Co., of a bid walk-through
was rescheduled, Kenyon notified the 3 bidders. Llewellyn then forwarded that notice to
she got it personally. When the walk-through was delayed, Llewellyn instructed Kenyon
date for bids, then cc'd Decker – not the others.

After receiving assurances from Llewellyn that Decker's jobs were "won through competitive
reached a Settlement Agreement with Decker on 2/21/12. She did not admit to any wrongdoing
\$28,000, including \$19,704 in back wages to 6 employees and \$8,296 in penalties for violating
wage law.

One week after the OLSE Settlement, Decker was awarded a \$44,725 contract to paint
Grove Street. However, the Accounting Office lacked the funds to cover Decker's bid. So
from a Mental Health facilities account to pay for the job. After a lengthy set of maneuvers
Llewellyn was a party, funding was granted on 3/19/12. One minute later, Llewellyn forwarded
Office e-mails to Rachel Decker with the emoticon, "Funded :)". However, it took another
funded contract released. One minute after getting the OK, Llewellyn forwarded that settlement
Decker, writing, "Now you can schedule."

On 4/18/12, Llewellyn's Assistant, Jessica Kennedy, was trying to tie a name to a relationship
Llewellyn's deputy, John Lee, Kennedy copied an invoice with Rachel Decker's name on.
Name on invoice." Lee rushed Kennedy's discovery to Llewellyn, adding, "OOOOOOOOOP"

the one I said Rachel is married with kids and that she is a real bitch and that you were
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Besides Llewellyn's close associates, other LHH staffers knew of the Llewellyn-Decker for partiality. Given the hospital's repression of dissent, insiders stood mum as Llewellyn. Next month, we'll explore why outsiders exposed the rot at the top of Laguna Honda Hospital.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

October 2014

City Hall Watchdogs

Clogged Sewers Erupt In Whistleblower Retaliation Claim at City Attorney's

By Dr. Maria Rivero and Dr. Derek Kerr



Joanne Hoeper

It's hard to ignore a call from the FBI. In December 2011, Joanne Hoeper, City Attorney Deputy, got that call. Homeowners were complaining about a handful of plumbing replace sewer lines – at City expense – because they were supposedly clogged by their sewers were working fine. In some cases, there were no trees in sight.

A 20-year veteran of the City Attorney's Office, Hoeper launched an investigation. Unhappy inner circle. Seven months later, in July 2012, her investigation was quashed, she was banished to the District Attorney's Office for 17 months. On January 7, 2014, after turning While acknowledging publicly that "Whistleblowers do not fare well in this world," Hoeper myself if I didn't speak up." So she filed a whistleblower retaliation claim with the Controller re-instatement, lost wages and other damages. True to form, the Controller referred the – the City Attorney's Office.

Unhappily, it led directly into Herrera's inner circle. Seven months later

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No word about an independent investigation. Hoeper's attorney, Stephen Murphy, told U claim is unnecessarily hostile; the defense that the claim was untimely is also meritorious retaliation claim. We're preparing a lawsuit."

A Hastings Law School graduate, Hoeper started out with Morrison & Foerster, a corporate law firm in San Francisco. Though rising to become a partner, she was drawn to community service. He on civil rights abuses in Guatemala and Argentina. In 1994 she joined the City Attorney's office. After Dennis Herrera was elected City Attorney in 2001, Hoeper rose to become his Chief of Staff. She was recognized as one of the "Top 50 Women Litigators in California" for prosecuting a case that recovered \$4.4 million from the Unified School District. Herrera lauded her in a 2003 Press "Her skills, energy and dedication have made an enormous contribution to the public integrity of the City. An enormous price from those who've sought to cheat and defraud San Francisco taxpayers."

Hoeper prosecuted other high-profile frauds and served as an advisor to City officials. She was named "California Super Lawyer" in 2005, 2006, 2007 and 2008, based on peer nominations and professional achievement – an honor accorded to 5% of California lawyers. She became an advisor, a member of his 4-person Executive Team, until her 2012 investigation.

Two years later, Herrera's Press Release disparaged her as "a disgruntled former employee who spent years grinding against some of her former colleagues, who is expressly seeking a payout...by making unsupported charges of serious crimes in a bid to shake-down taxpayers." What happened?

Upon receiving the FBI tip about fraudulent sewer claims, Hoeper alerted the City Attorney's office to handle claims against the City. The Claims Bureau Chief, Matthew Rothschild, is a long-time fund-raiser for the Democratic County Central Committee and the Alice B. Toklas LGBT Center. He is an asset for Herrera's political campaigns. The Claims Bureau Assistant Chief, Michael Haddad, said that "all dubious claims were weeded out and that there was no cause for further inquiry. Given the lack of allegations and a pattern of anomalies in the claims, Hoeper also contacted the Chief of Staff, Cothran, who provided an investigator. Years before, as an investigative journalist, Cothran had bid for a Municipal Court judgeship. (SF Weekly; 2/28/1996)

According to her claim, Hoeper informed Herrera that from 2002-2011, the City had paid for over a thousand claims, mostly to replace private sewers allegedly damaged by City tree roots. The higher cost of replacing rather than simply repairing the sewers. Importantly, no other city had to replace private sewers clogged by roots. The consensus of arborists and sewer engineers was that tree roots cause sewer breaks. Rather, roots infiltrate already broken sewer lines. Further, the responsibility of property owners – not the City.

After persuading homeowners that the City would restore their aging, supposedly damaged sewers to code standards, plumbing company salesmen filled out the claims, had the owners sign them.

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Attorney's Office and its Claims Bureau. *Society of Professional Journalists, NorCal Chapter*

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who
DPH wrongdoing. Contact: DerekOnVanNess@aol.com or www.SFWhistleblowers.com

September 2014

Perp-Walk At Laguna Honda

By Dr. Maria Rivero and Dr. Derek Kerr



Mike Llewellyn

A flurry of anxious-joyful messages from Laguna Honda Hospital (LHH) insiders pinged our cell-phones last month. On Friday May 30th, Laguna Honda's Chief Operating Officer (COO) Mike Llewellyn was escorted out of his office by Human Resources officials and CEO Mivic Hirose. We were told that his computer hard-



drive was seized -- perhaps by "the Feds", and that the institutional police perp-walked him out of the building. Sources who insist on anonymity for fear of retaliation whispered that the computers of his deputies were also seized. However, these two were temporarily assigned his duties. A week later, LHH blew every door of the buildings he had overseen. Another Laguna Honda scandal?

Our e-mail to Llewellyn on 6/4/14 received an automatic "out of office for an unspecified period" response. We then contacted CEO Hirose, whose representative confirmed that Llewellyn had been placed on leave 6/2/14, but denied a raid by the Feds. We then requested any notice sent by Hirose to Llewellyn at the time of his departure. LHH replied "no responsive records" and wouldn't provide answers about a requested document. We referred further inquiries to the Department of Public Health information Officer. Taking the hands of LHH's bumbling CEO is a sure sign of an erupting scandal.

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DPH responded on 6/11/14, "any current personnel actions would be confidential." At any interventions at LHH. Finally on 6/20/14, Human Resources confirmed that was "LI employment," while the DPH divulged that CEO Hirose was "currently assuming the COO" were no documents announcing this important development until 6/25/14.

Although LHH is abuzz with gossip and rumors about Llewellyn's downfall, informants' managers have been tight-lipped, evasive, misleading or feigning ignorance. They seem pugnacious Communications Director Marc Slavin in June 2013, and the mysterious lea Klain, a former Project Homeless Connect director, hospital communications have dete example, Laguna Honda's website stagnates with bogus photos, portraits of long-gone Community Events from 2011-12. The hospital's *Grapevine* newsletter is gone. Even the is silent. Inarticulate in person, furtive and prone to flee when questioned by journalists scripted confections. Questions about her management are viewed as threats. That's w clamped under a cone of silence. It prompts questions about how much Hirose knew, a - why not?

Absent a coherent explanation for the departure of Laguna's COO, rumors are running a hear that contract bids had been leaked to a favored contractor beginning in 2010. In O Office investigated complaints about contracting procedures at SFGH and LHH. As of 6 restrictions have been imposed on vendors doing business at Laguna Honda" per Depu Llewellyn's forced resignation on 6/20/14 may be a first step.

Subordinates who describe Llewellyn as a bully, devious, and arrogant view his downfall ignominious finale for Laguna's #2 official who earned \$173,742 in 2012-13. Llewellyn e SFGH where he had toiled as an undistinguished but bossy engineer since 1991. He rea career as Maintenance Supervisor in 2006. In 2008, he was hauled into LHH as Facilitie CEO, John Kanaley, and former Health Director Mitch Katz, who wanted to stuff LHH w Katz had previously dispatched Kanaley, another lackluster SFGH engineer, to "kick son revolt against the 2004 Flow Project. Predictably, CEO Kanaley found himself over his h related heart attack in March 2009 at age 51. Katz then fingered an obeisant Mivic Hiro with the requisite SFGH pedigree, to fill Kanaley's boots. That would enable Katz to plar Kanaley's Big Daddy demeanor – within Laguna Honda's inner circle.

In November 2009, an under-qualified Mike Llewellyn snagged the COO position "becau according to former LHH managers. The job qualifications were reportedly shrunk to fit the misgivings of Selection Committee members. With Hirose's OK, Llewellyn replaced had been forced out for protesting the closure of LHH's Adult Day Health Care program installed, Hirose and Katz temporarily foisted SFGH's clueless COO upon Laguna Honda proclaimed a "Soda Free Summer at Laguna Honda" – a paternalism that sparked out

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managers with apparatchiks. Llewellyn's implosion exposes the fault-lines under Laguna
Hirose's tenure.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who
wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

"Integrating" Obamacare at the July 2014

By Dr. Maria Rivero and Dr. Derek Kerr

The Department of Public Health (DPH), exhorted by favored
contractor Health Management Associates (HMA), is using
Obamacare to transform itself into a conglomerate via
"integration."

Records show that HMA promotes "integration" by breaking down
"micro-cultures that have their own vision and goals." These "need to be
taken on by leadership and held accountable as a component of a
unified approach to care..." HMA sees no room for organizational
ecosystems and no pitfalls with mergers. "Integration" is HMA's
panacea.

This dream of "seamless integration" flopped in 1999 when the DPH set
up its "Community Health Network" to entice privately-insured patients
into its safety-net system. Similarly, the 2004 Flow Project imploded
after San Francisco General Hospital (SFGH) tossed younger, troubled and sometimes
elderly at Laguna Honda Hospital (LHH). A 4-year take-over of LHH finances by the SFGH
2009. Another dud was Laguna Honda's multi-million dollar Acute Rehabilitation Unit. DPH
SFGH patients – each for \$4,527/day - it struggles to serve two per day because eligible
elsewhere. Nevertheless, "integration" is prescribed for cost overruns throughout the DPH



.....
**Reimbursement means that SF General Hospital can charge the
\$6,716/day ...Laguna Honda Hospital charges an average of \$968/
pressure to unload non-paying SFGH patients into LHH regardless
benefit from the transfer."**

SFGH, LHH and 14 City Clinics all spend more than they earn. Therefore, they rely on City
center of fiscal hemorrhaging is SFGH whose operating costs comprise "more than 50%
Controller's Office. Historically, SFGH has lost millions due to sloppy billing practices. H
specialty clinics like Dermatology and Psychiatry collect no revenue as they "find it too

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To grow the Network, DPH must pursue and secure managed care contracts with Kaiser, though none had materialized as of late 2013. For Laguna Honda, the plan is to increase kidney dialysis. To manage all this, the DPH will "expedite leadership hiring" into a new consulting contracts will be issued, more staff will be hired and more technology purchased. Budget Proposal for 2013-14, allocations for SFGH will rise by \$225 million plus \$17 million. HMA admits that all this growth and integration "will be reducing the number of face-to-face visits, adding that staff "must convince (patients) that changes are for them." HMA's "Community Outreach" "generate a groundswell of DPH staff support." Its effectiveness will be gauged by staff to measure "employee engagement" with the integration agenda. Unions will be persuaded "better than layoffs."

"Integration" struck Laguna Honda a decade ago when top LHH executives were replaced after a staff revolt against the 2004 Flow Project. The next step, per HMA, is to merge LHH with SFGH. Then, SFGH can pour chaos and costs into Laguna Honda without resistance. In LHH's "Executive Council" is set to "facilitate integration" and "client flow." HMA emphasizes that the needs are the integration of Rehabilitation and Psychiatry services with SFGH. "Amazing population feature" of SFGH is a "high incidence of behavioral issues." No problem; "Merge Behavioral Health Skilled Nursing Facility to Laguna Honda is a significant improvement from a patient perspective."

Reimbursement means that SFGH can charge the average patient \$6,716/day until they stop. When patients cannot be quickly discharged home or to a nursing facility, they are stuck in a shortage of nursing home beds in the City. Since LHH charges an average of \$968/day, unload non-paying SFGH patients into LHH regardless of whether they benefit from the care.

One HMA report declares that: "Admission and continued stay at LHH is predicated on restorative care; LHH not intended as an option for permanent housing." In other words, LHH is a temporary holding facility. Paradoxically, an HMA marketing analysis envisions: "Laguna Honda will become another destination if seniors believe that access to Laguna Honda and other long-term care programs are available." To increase flow from SFGH, Laguna Honda is cutting patient lengths of stay by 12% to increase referrals this year. So, the DPH is looking to "subcontract to private long-term care partner."

Although LHH was rebuilt as a sanctuary for "Old Friends," it's becoming a colony for young, non-paying SFGH patients. Elders in need of long-term care are burdens in the corporatized hospital. Obamacare promotes patient choice, but Laguna Honda will only be a choice for patient long-term care.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who were fired for wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

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since Medicare and Medicaid in 1965. The strains and spawn of this coupling a Controller's Office report titled Summary of Health Reform Readiness.

Enacted by Congress in 2010 and implemented this year, the ACA will provide health insurance for millions of Americans - and billions of public dollars for the commercial insurance industry. Reimbursements for nursing homes, home care and hospice agencies will drop by \$716 billion over 10 years. Instead of Medicare, the ACA promises more-for-less in a corporate marketplace. While expanding mandates that individuals buy health insurance or pay tax penalties, provides subsidies for small businesses to cover their employees.



... DPH's operating budget is expected to rise by 8% next year. To stay afloat, DPH will need 50% more than the \$337 million General Fund bail-out provided in 2014. These alarming projections could be used to prop up SFGH at the expense of other city services.

In order to control costs, Obamacare uses a "capitation system": a fixed sum of money per patient, regardless of the frequency or intensity of services. Currently, reimbursement is based on the number of services provided, with little incentive to reduce costs. Patients can choose where they want to receive their health care, thereby introducing competition.

As of January 2014, 56,000 of 84,000 uninsured San Franciscans have signed up. The challenge is to persuade these newly insured persons to choose DPH instead of private or non-profit hospitals. If DPH must transform itself from the "provider of last resort" to a "provider of choice," it will lose money. Another challenge is to stem losses from serving patients with multiple medical and psycho-social ailments, once fee-for-service payments stop. To draw in more healthy and therefore low-cost patients. Also, it must better manage the rest - like the high costs of urgent/emergent care at San Francisco General Hospital (SFGH).

San Francisco anticipated Obamacare with its 2006 Health Care Security Ordinance that set aside \$1.9 billion to cover health care expenses for 265,000 workers. And since 2007, the Health Care Access Program, has covered 116,000 persons who didn't qualify for insurance previously. With its sizable resources, the DPH has outsourced expertise to adapt to Obamacare. Health Management Associates (HMA), a for-profit Michigan-based corporation, is getting \$2.5 million to tutor DPH management. HMA's original reports upon which the Controller's 51 page Summary is based.

HMA principals have been embedded in DPH policy circles since being hired to salvage the 2004 HMA advised against a 2006 Ballot Initiative aimed at preventing violent patients.

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largely driven by San Francisco General's operating costs, which gobble up one-third of subsidy, and more than 50% of DPH's expenses. HMA warns: "SFGH's ability to manage overall financial sustainability of the Network." SFGH is too big to fail.

There's more. Although DPH is considered a revenue-generating enterprise fund, it has under Obamacare, DPH projects losing \$131 million or 16% of its State and Federal safe years. While revenues from the MediCal expansion may partially offset this loss, DPH's to rise by 8% next year. To stay afloat, DPH would need 50% more than the \$337 million in 2012-13. That's "an unsustainable scenario" per the Controller's Report. Such alarmist prop up SFGH at the expense of long-term care for elders – as we will explore next month.

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May 2014

Sinking Sources

The Controller's Whistleblower Program

By Dr. Maria Rivero & Dr. Derek Kerr

In 2003, voters funded the Controller's Whistleblower Program (WBP), expecting the whistleblowers to root out fraud, waste and abuse. In response to criticism for shoddy WBP's 2012-13 Annual Report laid it out; "The Whistleblower Program does not adequately address complainants in their disputes with city departments..."

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Tips sent to the Whistleblower Program have fallen from 465 to 29. WBP Manager Steve Flaherty ... was "unable to determine any cause for the program should look within, at how it treats whistleblowers."

Unfortunately, reporting fraud invariably provokes "disputes" – and denials. And how do we determine if reports are solid or figments of disputes? They check with implicated departments. If whistleblowers are "disputes" unworthy of engagement, the WBP risks acting as an advocate for respondents.

While shunning whistleblowers because "the program must conduct its investigations collaboratively with targeted City departments. Most complaints are referred back to their respective departments when the WBP independently conducts an investigation, department heads are often

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Commission, after having reported 17 cases last year. Omitting retaliation claims make has ever been sustained.

The Annual Report also announced an "updated" online Complaint Form. The form is no tips. No complaint can be submitted without checking off: "I certify that all of the stated are true, complete and correct to the best of my knowledge. I understand that...the Com persons...swear to the truth of their statements by taking an oath administered by the C perjury"... Oblivious to whistleblower fears and their limited access to evidence, the WB scammers. Dozens of potential sources will be turned off by this bristling language.

Compare this hectoring with the way our Police Department (SFPD) engages tipsters. T Anonymous Tip Line states: "Crime prevention cannot be achieved by the police alone. officers must work hand-in-hand with the public...we depend heavily on your assistance use and convenience." Using this Tip Line is a breeze. To foster communication, there's to text back and forth with the tipster. The SFPD also offers an Online Reporting System entries. But unlike the Controller's Office, the SFPD doesn't force sources to swear they their tips. Although false reports to the police can have serious consequences, the SFP the fire and brimstone.

Why is the WBP complaint process so adversarial compared to the SFPD's, if both were Well, complaints to the Controller point to government misconduct whereas tips to the misconduct. When tips about government wrongdoing are unwelcome, whistleblowers Complaints to the WBP have fallen below 300 for the first time since 2006.

This decline prompted WBP Director, Tonia Lediju, to agree to a Complainant Satisfaction meeting of the Citizens' General Obligation Bond Oversight Committee (CBOBOC). Also a Fraud Hotline Webinar Series to review best practices in the field. The one-sidedness revealed when a webinar lecturer opined about Satisfaction Surveys for hotline users, " why they don't like the Sheriff's treatment?" Programs that view whistleblowers as disgi their tips to sink.

Tips sent to the Whistleblower Program have fallen from 465 to 291 in the past 5 years, examined external events, but was "unable to determine any causality..." Perhaps the Pr how it treats whistleblowers.

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April 2014

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persons over 65 exceed the City average, and most will eventually need supportive services.

Although women comprise 49.3% of the City's residents, the majority of our seniors are women. As they age, women increasingly outnumber their male peers. In San Francisco, there were 63,000 women over age 65 compared to 48,000 men. Of these, 22,000 lived alone, twice the number of solo males. Among those 85 and older, women outnumber men by 2 to 1.

These demographics explain why, for decades, the majority of Laguna Honda Hospital residents have been elderly - and female. Although LHH served more young patients than other nursing homes, caring for elderly, disabled San Franciscans had long been its core mission. Accordingly, "Old Friends" became the emotional theme of the 1999 Proposition A campaign to rebuild the hospital. At the time, hospital records show that two-thirds of LHH residents were over 65, 52% were over 75 years of age - and 56% were women.

That changed abruptly with the notorious Flow Project of 2004-05. Laguna Honda was non-paying SFGH patients, as well as a way-station in the Care not Cash "housing continuation" program. The Department of Public Health (DPH) introduced a new paradigm - the City's "neediest" - "psycho-social rehabilitation". Admissions from San Francisco General Hospital (SFGH) flooded LHH with "hard-to-place" patients. For the first time in memory, women - and minorities at LHH. The percent of female residents plunged from 53% to 47% in 2 years.



.....
Given the dramatic drop in elders and women served by Laguna Honda, "Old Friends" who can no longer care for themselves? Where do they go? Whether the care they receive elsewhere is comparable to what the Laguna Honda provides?"

The new population included younger, able-bodied men with aggressive behaviors and endangered others and required specialized services. They needed a highly-structured, LHH's elderly, physically disabled residents fared best in a home-like setting with more

Although Mayor Gavin Newsom was forced to abort the Flow Project in 2005, the hospital didn't return to its prior levels. Before the new building opened in December 2010, a revamp was launched.

For 2013, LHH reported that only 41% of the patients served were women - a record low.

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Society of Professional Journalists, Non-Zero Report
 shipped to out-of-County nursing homes. Since SFGH serves a much lower percentage of elders than the 13.7% living in the City, the new LHH will likely serve

The infirmities of old age, including poverty, persist. The number of City nursing home beds declined from 1990 to 2012. The City's own 2012 "Community Health Status Assessment" warns that; "...the population over age 65 is projected to grow by 11% by 2030. The projected growth in San Francisco's aging population has implications for long-term care options..."

No matter. As Patrick Monette-Shaw reported in the June 2013 *Westside Observer*, LHH is a San Francisco General's Mental Health Rehabilitation Facility. And in August 2013, LHH adopted a safety measure from its Medical Staff Bylaws: 24-hour Sheriff's security services are not available for patients with a police-hold are admitted.

Given the dramatic drop in elders and women served by Laguna Honda, what happens to those who no longer care for themselves? Where do they go? Who checks whether the care they receive is what the new \$585 million Laguna Honda provides?

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who exposed wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

March 2014



FEAR and FAILINGS at LAGUNA HONDA

Employee morale is a key driver of quality of care in hospitals. In April 2010, one month into the tenure of CEO Mivic Hirose, Laguna Honda Hospital (LHH) commissioned an Employee Satisfaction Survey. The results were dismal. Out of 1,350 surveys distributed, only 258 were returned. A response rate of 19% indicates apathy, mistrust, and fear of management reprisals.

One month before that survey, City employees had been rocked by mass layoff notices. Few LHH staffers were willing to convey criticism when their livelihoods were threatened. Having scrambled through administrative shake-ups, mission changes and altered plans, many felt unsettled before the December 2010 move into the new building.

The survey asked a series of questions to which staff could respond "Excellent", "Good", "Fair", or "Poor". Good indicate satisfactory, while Fair and Poor show dissatisfaction.

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Assistance with Job Stress	20%	21%	29%	48%
Communication by Supervisor	15%	31%	32%	22%
Appreciation of Supervisor	12%	27%	28%	34%

presented to the Health Commission. No remedial plan was announced and no follow-up survey was conducted. LHH did not renew its contract with the surveyor.

However, in July 2013, LHH hired the market research firm Corey, Canapary & Galanis (CCG) to conduct a survey. In his contract proposal, VP Jon Canapary slyly promised, "We respond to the needs of public agencies must operate under with real-world solutions." CEO Hirose values spin, something more than straight data analysis. Unlike Laguna Honda's prior survey contractor, CCG has experience in healthcare surveys. It does, however, have political polling experience, having assisted Mayor "Ask the right questions, and you get the real answer."

.....
...this Employee Satisfaction Survey, obtained via a public records request, was not made public nor presented to the Health Commission. No remedial plan was announced and no follow-up survey was conducted."

Four years after its first Employee Satisfaction Survey, LHH has had enough time to perfect its threats no longer depress hospital workers. They've had 3 years to settle into the new financial changes, plus new, savvy surveyors who "ask the right questions," satisfaction scores are up regardless of who's in charge.

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Dr. Maria Rivero & Dr. Derek Kerr

BLOWING OFF WHISTLEBLOWERS THE ETHICS COMMISSION

The scandal encircling the Georgia State Ethics Commission is a wake-up call for all. Ethics investigators were removed after inspecting Governor Nathan Deal's campaign. They were told to alter documents about the case, and met retaliation when they refused. Reporting can be as perilous as reporting it. Dodging tips about governmental wrongdoing can expose whistleblowers and Commissioners alike.

Our own Ethics Commission (Ethics EC) has steadfastly deterred and dismissed whistleblowers.

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complaints only — "in writing and submitted on a form specifically provided by the Commission. See their *How to File a Complaint* guidelines. Further, formal complaints must identify "the person or persons violated." Few tipsters have this legal knowledge. All other complaints, whether delivered by e-mail or in person, are declared informal. And, we are warned, Ethics has "no obligation...to process informal complaints. They can be tossed. Even if complaints do reach the Factual Investigation stage, prospective complainants are required to interview complainants — the gold standard for investigations. Instead, Ethics requires "interview of the respondent and any witnesses." The reason for this bias, as Director St. Croix explains, is that respondents are more likely to provide "exculpatory information."

Empowering staffers at the expense of whistleblowers was a weird outcome of demands for more oversight by Commissioners Eileen Hansen and Joe Lynn in 2005. Because of confidential sources, the public has no assurances that staff is carrying out its mandate." In his July 2005 response, St. Croix disclosed dismissed and settled cases in Enforcement Summaries, and to categorize incidents in his monthly Director's Report. However, St. Croix's July 2006 follow-up report, *Investigation and Enforcement*, took a different course. It lobbied for "streamlining the process" via more staff autonomy and less transparency. The Commission approved the plan 4 to 1 in August 2006, with Hansen dissenting. Ethics Regulations include goal #6: "Delegating to the Commission staff the maximum responsibility for the resolution of complaints at staff level, while retaining oversight of staff activities." As the *Westside Observer* noted, that oversight is illusory.

Given maximum discretion, staff explain *How to File a Complaint* on the Ethics website: "Complainants are made aware that the Ethics Commission's Regulations...provide that a person accused of a violation will be provided with a copy of the complaint." Reassuring? Not for whistleblowers. Plus it's not in the Regulations, Sec. XII.B.3, state that the Director "may provide a copy of the complaint to the person accused of the conduct of the investigation." Importantly, the *City Charter Appendix C3.699-13* requires the Commission to provide respondents with "a summary of the evidence" — not a "copy of the complaint." Big difference. Whistleblowers can identify whistleblowers by the details given and the grammar used. Although the option of anonymous complaints is offered, it comes with the off-putting proviso that Ethics staff are "not required to process anonymous complaints."

Equally inhospitable from the current Ethics brochure: Ethics "investigates complaints and reports on the results of its investigations." Not so. When the Whistleblower Protection Act was passed in February 2002 — as recommended by the Commission itself — Ethics took responsibility for investigating complaints against whistleblowers who filed complaints within their own departments, as well as the District Attorney, the DA and the Ethics Commission. By wrongly shrinking Ethics' jurisdiction, the Commission has discouraged complaints. Worse, Ethics staffers may be dismissing valid retaliation claims based on the Commission's duties. Maybe that's why Ethics averages just 18 investigations a year. For example, the Commission's annual report tells us that "staff resolved 20 cases" and, "This number does not include the myriad of cases that are resolved by the Commission." By declaring non-complaints as resolved, the Commission is effectively erasing the existence of the cases.

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lost. After referring tips to the City or District Attorneys, St. Croix has waited up to 9 months to "duplicate law enforcement investigations." However, the passage of Proposition E in 2012 "investigate complaints before investigations by the City Attorney or District Attorney and by the DA or City Attorney does not prevent Ethics from investigating concurrently; politeness. In sum, the Ethics Commission deters reporters of government wrongdoing. Until reform is best served if whistleblowers obtain legal counsel, then expose misconduct publicly.

*Georgia's Ethics Scandal

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who exposed wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

December 2013

Detering Whistleblowers

We previously reviewed how the Ethics Commission (Ethics) "dismissed" whistleblower retaliation complaints. But getting rid of whistleblower claims doesn't stop wrongdoing. Deterrents serve to limit exposures of wrongdoing.

Commissioners are the first line of deterrence. Like a skilled courtier, Positive Resource gained an Ethics seat this June after promising the Board's Rules Committee "to build on Andrews' adulation of said legacy was based on schmaltz rather than his own observations. Though viewed as a phantom by Ethics watchdogs, Andrews portrayed himself as engaged. 2 years, a fawning Commissioner Dorothy Liu had showered thanks and praise on her Ethics responses credited her with more virtues than she possessed. By reframing this flattery as "go along to get along" ethos for proximity to power.



Renne labored like an elephant, and brought forth a mouse. After 6 interviews, she issued a 5-part, 112-page "limited, preliminary review of evidence" and could "offer no conclusions" about tainted contracts.

When asked by Supervisor Malia Cohen to showcase his aptitude for managing controversy, how he led his agency to move downtown despite staff concerns. No mention of the 3-4 year Legal Director – and whistleblower – Jane Gelfand (*SF Weekly May 22, '13*). Since Ethics Commission whistleblower retaliation claims, Andrews cast a pall over his candidacy by hiding his own. Yet, Supervisors Norman Yee, London Breed and Cohen selected Andrews over Hulda Gelfand.

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"dismissing" complaints, resulting in a 100% denial of Whistleblower Retaliation

The City Charter requires that Ethics forward to the City and District Attorneys complaints that appear to show a violation of Ethics laws. Similarly, Ethics can't even issue letters of advice without vetting by the DA and City Attorney. We can infer why whistleblower complaints are doomed by looking at the legal machinations that undermine Sunshine complaints.

In a 3/18/11 *Bay Citizen* story, Ethics Executive Director John St. Croix admitted that 14 Sunshine complaints "were dismissed based on advice from the City Attorney's Office..." The City Attorney has a duty to defend City officials. Since Sunshine complaints are all directed at City officials, complainants find themselves opposed by City Attorneys who coach Ethics staff. For example, the Director is required to send "a monthly summary to the Commission of each complaint with a reason for dismissal." Unfortunately, the Director and City Attorney calculate how little information shall comply with the confidentiality provisions of the Charter." Blunders are disguised in confidential summaries — especially bungled whistleblower investigations where oversight is illusory. A July 2006 Staff Report revealed that Commissioners rubber-stamp dismissals. In September 2006, the Commission agreed to forego monthly reviews, and St. Croix's dismissals. In 2011, a Commissioner confided to the Grand Jury that, "the City Attorney's Executive Director in his decision to dismiss a case." Like Sunshine complaints, Whistleblower complaints are dismissed. That's why they're always dismissed. In government misconduct cases, Ethics referrals to the City Attorney's Office offer little hope for whistleblowers.



Ethics Executive Director John St. Croix admitted that 14 of 27 Sunshine complaints were dismissed based on advice from the City Attorney's Office..." The City Attorney has a duty to defend City officials. Since Sunshine complaints are all directed at City officials, complainants find themselves opposed by City Attorneys who coach Ethics staff.

Ethics referrals to the District Attorney's Office offer little hope for whistleblowers. Our Department of public Health contracts sat in the DA's Office for 9 months. After we confronted and interrogated former Health Director Mitch Katz, then referred our case back to Ethics. The DA's Office wouldn't release any information about its findings. *CitiReport's* 3/8/12 article: *Golden Gate Sunshine Referrals* described similar disregard with seven Sunshine complaints that Ethics handled from 2009 through 2011. In each case, Ethics had asked the DA "whether your office will pursue the case." The DA requires a response "in writing" within 10 days. Neither the DA nor Ethics could provide a response. Apparently, Ethics referrals to the DA are also D.O.A. — whenever citizens find fault with

The EC's drive to deny complaints also leaps from a 6/5/12 report by the Board's Budget

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which we asked L.A. to do. The SF Staff Report adds that "since 2011 staff has conducted a much more extensive preliminary system - to ensure that only credible formal complaints are "brought forward." However, "the last year or so" (9/12/11 to 9/24/12) still showed a 74% dismissal rate.

Our Ethics Regulations state that the Director "may dismiss the complaint if the alleged action." Most complaints - including retaliation complaints - are euthanized under this Implementing L.A.'s "much more extensive preliminary review" - prior to investigations - because fewer complaints will be investigated, and only investigated cases are publicly complaints be buried? There's no provision for discarding complaints, though it's been 45 complaints in 2004, St. Croix tossed an undisclosed number of "non-viable" cases. T portrayed the maneuver as "closing investigations that are unlikely to be resolved."

Occasionally, the Director opens a "formal investigation." This route usually ends in dis "not probable cause to believe" that any violation occurred. Then, the dismissal recom Commissioners. Before 2011, dismissals were automatically endorsed - unless two Co Session review. After the Grand Jury's lashing report, Ethics lowered the review thresho request. Alarmed by an "abdication of oversight responsibilities," the Jury also urged Co investigations recommended for dismissal." They refused. By staying a course that null devolved from favoring respondents, to suppressing complainants, to abetting reprisals

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October 2013

ETHICS COMMISSION TO WHISTLEBLOWERS

The City Charter directs the Ethics Commission (EC) to investigate Whistleblowers. Since 1995, all have been Dead On Arrival. Diagnosing why they are dismissed is hard, however, the notion that 100% are invalid is implausible. Like others, our retaliation was dismissed, and then validated in litigation, resulting in a \$750,000 settlement and many Rights for Laguna Honda Hospital executives. Most likely, Ethics rejects Whistleblowers automatically or intentionally. We can infer how it's done by dissecting other complaint



Such was the "culture of failure" described by the late Joe Lynn, a 5 who then served as Commissioner from 2003-2006 ... Lynn begins

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time, we had less staff and there were a lot of things we weren't doing. Although there were convicted of illegal diversion of \$150,000 in public funds, Luby was forced out of I article; Ethics Case Study in Scandal: City College Money Laundering details the cover-

Another way to bury complaints is to copy them to those accused. That's how Ethics ha 1995 until perhaps mid-2008. In a July 2006 memo, St. Croix admitted: "Prior to a few y was filed, staff would send a copy of the complaint to the Respondent." Two years later officially halted when the Board of Supervisors amended the Whistleblower Protection disclosures of source identities. Until then, as CitiReport editor Larry Bush told the Boar who blew the whistle... immediately had their name turned over to their Department by Historically, 43% of all Ethics complaints were referred back to implicated departments Civil Service Commission and Human Resources. Nowadays, the numbers are withheld considered dismissed. And, if Ethics doesn't investigate them, their outcomes aren't se Summaries. Such invisible, untracked referrals multiply opportunities for white-washes

A sure-fire way to neutralize retaliation complaints is to refer them to Human Resources. Supervisors drafted the Expanded Protections for Whistleblowers Ordinance in 2002, it follows; "The Ethics Commission may refer matters to the Department of Human Reso concerning reinstatement, restitution and discipline." Ominously, those crucial last 5 w Ordinance 29-02 passed. Instead of an independent Ethics review, cases are slipped to managerial reprisals.

Inept investigations cannot substantiate wrongdoing, so complaints get dismissed by c failure" described by the late Joe Lynn, a 5-year Ethics Officer who then served as Comi an August 2007 Fog City Journal series titled; They're Back – Ethics Resumes Meltdow "overpowering evidence of professional incompetence" among senior staff, and ends w who "get spoon-fed by staff." Complaint denials resulted from staff's lack of investigati training offers, salaries that didn't draw good investigators, and a City Hall that was OK Guardian piece, Watchdog Calls for Major Reform of Ethics Commission, Lynn saw no i changed. Without capable sleuths, reporting retaliation is futile.

Sham investigations also ensure dismissals. For example, willful violations of the Suns the Sunshine Ordinance Task Force (SOTF) to Ethics for enforcement. These have beer when St. Croix was hired. In a 5/7/09 Fog City Journal expose, Ethics Commission Airs announced, "We now understand why the Ethics Commission has dismissed each of th provides a video wherein St. Croix admits to ignoring complainants during investigation exculpatory information that's involved in talking to complainants...it's generally the res information..." Interviews were reserved for accused officials and City Attorneys represe SOTF members and their audio-taped Hearings were disregarded. Warranted investigat

winning goes to St. Croix's "old man of finding problems as a justification for
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shrewder, more detailed and oppositional analyses. Alarmed by ongoing denials of 18 complaints, the 2010-11 Civil Grand Jury investigated. In San Francisco's Ethics Committee Watchdog, it reported; "The Ethics Commissioners have relinquished their authority to concern his recommendations for dismissal." Notoriously, Ethics dismissed 33 of 34 October 2004 and October 2012, a record exceeded only by the 100% denial of retaliation. Next month, we'll examine other ways whistleblower complaints are dismissed by Ethics and District Attorneys.

Dr. Maria Rivero and Dr. Derek Kerr, as senior physicians at Laguna Honda Hospital expose
Contact: DerekOnVanNess@aol.com

September 2013

WHISTLEBLOWERS

By Dr. Maria Rivero & Dr. Derek Kerr

The First American Whistleblow

On July 30, 1778, while at war against imperial Tyranny, the Continental Congress empowered whistleblowers to protect the new Republic; "Resolved, That it is the duty of all persons in the service of the United States, as well as all other the inhabitants thereof, to give the earliest information to Congress or other proper authority of any misconduct, frauds or misdemeanors committed by any officers or persons in the service of these states, which may come to their knowledge."

The genesis of our first Whistleblower Protection Act was a Revolutionary War battle in Rhode Island, aboard the US Navy warship Warren. There, ten whistleblowers – Navy and Marine officers – planned to expose the incompetence, misconduct and war crime Commodore Esek Hopkins. Their mission was as perilous as Hopkins was formidable. occupation, the Continental Congress had recruited Hopkins to relieve General George's trouble and vexation" of unruly naval crews. Owner of a large merchant fleet, Hopkins had privateering during the French and Indian War. His brother Stephen governed Rhode Island of independence. His son John was captain of the Warren. His flagship flew his personal



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Virginia" and attack the British fleet, he sailed to the Bahamas instead. There, he succeeded in capturing a British depot, but later allowed enemy frigates to escape unchallenged from U.S. waters. Rarion being anchored "in a total state of inactivity for Several Months...therein they could not offer any defence". Hopkins struggled to recruit sailors, who made better money with privateers than with the British prisoners, giving them a choice to man his fleet - or be "placed in irons" and starved. He "treated prisoners in the most inhuman & barbarous manner."

On February 19, 1777, just seven months after the Declaration of Independence, the first Whistleblower Complaint: "We are ready to hazard everything that is dearest, and if necessary, the welfare of our country...We are personally well acquainted with the real character and conduct of Commodore Hopkins...we (are)... sincerely and humbly petitioning the honorable Marine Committee to enquire into his character and conduct for we suppose...he has been guilty of such crimes in the publick department he now occupies..." Marine Captain John Grannis was picked to deliver the petition from Rhode Island to Congress in Philadelphia.

At the time, there was no First Amendment to uphold freedom of speech. Whistleblowers in a country at war, insubordination was threatening. Yet, complainant Grannis was treated with respect, interviewed, not arrested. A Congressional investigation was conducted without secrecy.

"Have you a personal Acquaintance with Esek Hopkins, Esq?"

A: "Yes, I have had a personal Acquaintance with him since I came on board the Ship."

Q: *"Did you ever hear him say any Thing disrespectful of the Congress of the United States?"*

A: "I have heard him at different Times...speak disrespectfully of the Congress...that they were ignorant who did not understand their Business...that they were a Parcel of Lawyers Clerks, that the Country would be ruined..."

Q: *"Do you know any Thing about his Treatment of Prisoners?"*

A: "I was on board the Frigate Providence when...Twenty Prisoners...were...asked...whether they would be exchanged. They answered No....Orders from the Commodore (were) to put them in Irons, to keep them as some prisoners...were forced to do Ship's Duty by Commodore Hopkins Orders, and he refused to exchange when a Cartel was settled and other prisoners were exchanged, but don't know that it was assigned for not exchanging them was, that he wanted to have them enlist on board the Ship."

Q: *"Commodore Hopkins is charged with being a Hindrance to the proper Manning of the Ship, do you know relative to this Charge?"*

A: "I think him unfit for command...his Conversation is at Times so wild and orders so uncertain that I thought he was not in his senses...it is generally feared that his Commands would be so easily lost. The Character that Commodore Hopkins bore was a great Hindrance to the Service."

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suspended from his command in the American Navy."

Outraged by the "unjust and false complaints" filed by his subordinates, Hopkins retaliated against the petition's "prime mover," a Lieutenant Marven, an associate of Thomas Paine, who had been leaking that France was supporting the Revolution. Interrogated by both Hopkins, fathered by the guilty of signing "scurrilous papers against his Commander-in-Chief." Expelled from the first casualty in a 235-year epidemic of retaliatory firings. Still thirsting for revenge, upon January 1778, Hopkins sued all ten whistleblowers for "criminal libel," demanding 10,000. Marven and midshipman Shaw were jailed without means for legal representation. The intervention of Congress" after being "arrested for doing what they then believed and stood by duty." Their appeal was read before Congress on July 23rd and another investigation ensued.

On July 30, 1778, the Continental Congress passed America's first Whistleblower Protection Act. Founding Fathers in Congress understood the dangers of retaliation, and criminalizing whistleblowing during a wartime budget crisis, and National Security concerns, they noted that the whistleblowers were in the service of the United States." Therefore, Congress "Resolved, That the reasonable expenses be defrayed by the United States." Further, the whistleblowers were furnished, without hindrance, with a personnel file, and all records of "the proceedings of Congress upon the complaint of the Hopkins, Esq." Armed with funds for attorneys and depositions, plus investigative files in the hands of President John Hancock and others," they were vindicated by a Jury. Hopkins was ordered to pay. In 1779, Congress disbursed \$1,418 for the whistleblowers' legal fees, "to be paid to Mr. Shaw, who was granted his Navy pension, despite his court-martial for being a detractor. A decade later, the First Amendment Speech" and the "Right to Petition" would protect the people, the Founders enshrined the First Amendment of our Constitution.

Acknowledgement: Research by Stephen M. Kohn, Esq., Director of the National Whistleblower Center (www.whistleblowers.org) inspired this article. see: whistleblowers.org/index.php?option=com_content&view=article&id=1251

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who exposed the wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

July-August 2013

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READ-END FOR WHISTLEBLOWERS:

THE ETHICS COMMISSION

By Dr. Maria Rivero and Dr. Derek Kerr

A grim reality of "City Family" life is that 100% of whistleblower retaliation claims

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common, with rates ranging from 10% to 30% for whistleblowers. In San Francisco, whistleblowers are desamparados and the retaliation rate is always zero. The failure to enforce the Whistleblower Ordinance makes it meaningless. It also makes it deceptive — a trap for trusting tipsters. Worse, non-enforcement forces whistleblowers to sue the City.

The roots of deception reach back to 1993 when the EC was sold to voters as a means to clean up our City government, but its architects inserted controls to protect the interests of politicians, lobbyists and City officials. For example, the original "Regulations for Investigations and Enforcement" restrained the Executive Director's prosecutions. Instead of receiving designated funding, Ethics must plead with City Hall Commissioners. Instead of receiving designated funding, Ethics must plead with City Hall Commissioners. Commissioners are appointed by the Mayor, Board of Supervisors, District and City Attorney. Fawning candidates prevail. In April 2011, the Board had to fill the EC seat through a "general public" Dorothy Liu, an employment attorney with a large firm that represents City Commissioners, was appointed by promising; "I would respect the integrity of the Board, for certain. I would tell you all of you about issues that need to be addressed." Predictably, complaints that touch on Commissioners and approve its budget go nowhere.

The failure to enforce the Whistleblower Ordinance makes it meaningless, deceptive — a trap for trusting tipsters. Worse, non-enforcement forces whistleblowers to sue the City."

In a world of complainants and respondents, Ethics empathizes with the latter. Goal #3 "Protecting the privacy rights of those accused of ethics violations..." There's no goal to service. At an April 2005 meeting, Executive Director John St. Croix emphasized; "confidentiality" because investigations and enforcement matters impact the lives and livelihoods of respondents. He lauds the City Attorney, whose duty is to defend City officials, as the "higher authority" in ethics matters. Citizens who criticize his habitual dismissal of ethics complaints are labeled "believers in Ethics." Ethics adjudicated a Sunshine complaint against St. Croix in October 2012, citizens won. In conflicts of interests. Unaware that bias is ubiquitous and often sub-conscious, Commissioner St. Croix, City Attorney's appointee, claimed immunity because; "we act with regard to City officials. The situation is sensitive." Studley explained that she examines both sides of any issue, and the City Attorney says so - and "as long as...we feel that we have an open mind." This responder dismisses whistleblower claims. That's one reason retaliation persists.

Building upon respondent bias, Ethics has rendered whistleblowers, and retaliation, invisible. Around 2004 when the Whistleblower Hotline was transferred to the Controller's Office,

Before then, whistleblower complaints and retaliation were openly addressed. For example,

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The opacity spread even farther, in defiance of Article IV that requires Ethics to annually "the number of referrals to other agencies disappeared, though they had amounted to as a 'type of conduct' had been quashed. By 2005, Annual Reports deleted the count o still appeared in the Director's Monthly Reports until August 2011, when the number of by the sum of pending investigations.

Once invisible, whistleblower retaliation complaints are easily buried. Rarely has Ethics don't add up. Meeting minutes for December 2001 show that 7 whistleblower retaliation reviewed since June 1995. That's about one a year. Ten years later, in September 2011, CGOBOC (the oversight body for the Controller's Whistleblower Program) that Ethics ha 16 years we've been in business." Again, one a year. He added, "When investigated, som Others could not be proven." In other words, all were rejected. It's intriguing, however, th investigations listed in Ethics "Enforcement Summaries" between October 2004 and Ap retaliation. That's just 2 in 8.5 years – a lot less than one-a-year as St. Croix implied. Wh

Clues rolled in after we protested the City's failure to monitor whistleblower retaliation. to report outcomes of retaliation cases to the Controller's Whistleblower Program. Sud upward. The Whistleblower Program's 2011-12 Annual Report shows that Ethics review months. None were sustained. Amazingly, however, Ethics was now reporting 2 retaliat of one per year. No explanation for this startling 20-fold increase – despite our inquiries investigated and noted in Ethics Enforcement Summaries for 2011-12. The other 16 we review."

At the November 2012 CGOBOC meeting, Rebecca Rhine strained to downplay this surge being;"...retaliation for any number of other activities, but not claims of retaliation for be EC's jurisdiction covers whistleblower retaliation complaints, and since the 17 retaliatio Whistleblower Program, why would they be anything other than whistleblower claims? I as adverse employment actions for engaging in legally protected activities – most of w about misconduct. The spike in retaliation claims, and their relentless dismissals, must

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital wh wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

June 2013

Oversight Disregarded

Dr. Maria Rivero and Dr. Derek Kerr

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Since 2004, CGOBOC has struggled to keep up with a slew of reports about City services, plus those from Bond Projects. Still, they stuck to quarterly meetings, squeezing in an extra one yearly to plough through the work. Only after an August 2011 scolding by civic activist Nancy Wuerfel did they vote for 6 meetings annually.



Lapses in oversight of the Whistleblower Program came to light during May 2010 media tips, and retaliation, related to Laguna Honda's Patient Gift Fund scandal. So in July 2010, a 3-member "Standing Committee on Audit Review" to better oversee the Whistleblower Program was created. The 2010-11 Civil Grand Jury report; Whistling in the Dark – the San Francisco Whistleblower Program dawdling 7 years before getting it organized. The Grand Jury characterized their oversight as dependent upon the agency it monitored, then concluded; "Clearly, CGOBOC is not. Further, it can be a stepping-stone to political office. Political ambitions can skew oversight. Campaigned for Supervisor while serving the Committee.

In the past 6 months, taxpayers forfeited over \$1.76 million to settle retaliation lawsuits. Why pay, when we have a Whistleblower Program Protection Ordinance, and an Ethics Commission that dismisses every complaint?"

Disinterest in whistle-blowing also impaired the Committee's oversight. This is apparent in the Reports. In the five Reports between 2003 and 2007, their role with the SFWP is covered. In 2007, they forgot to assign a liaison to work with the program. The Annual Reports from 2008 to 2012, they forgot to assign a liaison to work with the program. The Annual Reports from 2008 to 2012, they forgot to assign a liaison to work with the program. The Annual Reports from 2008 to 2012, they forgot to assign a liaison to work with the program. In the 8 years between July 2004 and June 2012, it met 36 times. Ten of those meetings were with the SFWP Director. But in only 3 did Committee members make comments worthy of entering the minutes. In the 8 years between July 2004 and June 2012, it met 36 times. Ten of those meetings were with the SFWP Director. But in only 3 did Committee members make comments worthy of entering the minutes. In the 8 years between July 2004 and June 2012, it met 36 times. Ten of those meetings were with the SFWP Director. But in only 3 did Committee members make comments worthy of entering the minutes.

Like Yin and Yang, CGOBOC's disregard of the Whistleblower Program dove-tailed with its lack of information from it. A tolerance for data-hoarding is most obvious in a 3-year period from 2007 to 2009. In that time, the Committee accepted just two formal presentations by SFWP Directors. Without explanation, SFWP cut public reports from two to one a year in 2009, thereby reducing oversight opportunities. In a rare show of engagement in January 2009, Committee member Robert Muscat challenged the SFWP Annual Report, compared to "...all the kinds of activities in the City worthy of reporting." In response, the Committee then ordered a "more comprehensive and substantive list of complaints – a

In response, a special Whistleblower report was presented in April 2009, with information on the SFWP's activities and the Committee's oversight.

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THIS COMMITTEE

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In his July 2011 response to the Grand Jury, Controller Ben Rosenfield wrote: "an official Audit Review Board...regularly receives updates and provides feedback on overall program's policies and procedures, and provides feedback to program staff on individual of this recorded in Committee minutes or Annual Reports? Notably, Rosenfield's claim of announcement by then-Chair, Abraham Simmons: "As you know, the Liaison has never left the Program itself. This is the first time we undertook to do that."

In her October 2011 reply to the Grand Jury, past-Chair Thea Selby defended the Committee discussed the Whistleblower Program at over half the meetings I have attended in the last year. Selby had been a member since July 2009 - for 2 years and 3 months - not one and a half years. During her first year show just one item about the Whistleblower Program - in July 2011, a subcommittee to facilitate review of whistleblower complaints." That decision came after Laguna Honda's Gift Fund abuse. Subsequently, every discussion about the SFWP was covered in media coverage, or Grand Jury criticisms.

CGOBOC members have generally been open to public comments, but hesitant to act. In 2002, the Committee has amassed \$1,080,865 to audit bond expenditures. This pile of money over years, according to its 2011-12 Annual Report. No independent auditors were hired. Since then, we were asked to assess the Whistleblower Program, although there are ways to get professional help. Bylaws allow for a "Special Subcommittee" composed of: "members of the Committee and other persons, no public experts have been recruited.

The Charter empowers the Committee to "recommend departments in need of comprehensive review" and even recommended a whistleblower satisfaction survey. In the past 6 months, taxpayers have settled 3 whistleblower retaliation lawsuits. Why pay, when we have a Whistleblower Protection Ordinance, and an Ethics Commission that dismisses every retaliation complaint? It is its mission and recommend an audit.

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May 2013

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 political interference. Still, oversight succeeds when it is knowledgeable, independent, and in service. Surprisingly, oversight of the SF Controller's Whistleblower Program (SFWP) was authorized by the General Obligation Bond Oversight Committee (CGOBOC). This happened when Proposition 53 authorized the Controller to act as City Services Auditor —and to run the Whistleblower

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...these new oversight tasks were bewildering and unwelcome. And with no training, no budget and no enforcement powers. Although CGOBOC has a \$1 million budget ... this money must be used to audit bonds, not the SFWP Program."

CGOBOC itself had arisen from Proposition F in March 2002 in reaction to Laguna Honda's under-scope and over-time replacement bond project. The City wanted independent citizen oversight of bond expenses, and to make sure money was spent as voters intended. But these bond-related tasks were added to the Controller's duties from City services and whistleblowers. Nevertheless, the Charter amendment had CGOBOC create an independent Citizens' Audit Review Board to advise the Controller/City Services Auditor in need of comprehensive audit; and (c) review citizen and employee complaints received via a complaint hotline...and the Controller's disposition of those complaints.

Judging from CGOBOC meeting minutes, these new oversight tasks were bewildering and unwelcome with no training, no budget and no enforcement powers. Although CGOBOC has a \$1 million budget garnered from 0.1% of bond proceeds, this money must be used to audit bonds, not the SFWP. While Prop F dictated that the Board of Supervisors would provide "administrative assistance," all of its aid came from the Controller. For example, its Committee Assistant is the Controller's secretary. Though CGOBOC can recruit outside experts, the vetting and funding comes from the Controller. Oversight of the SFWP is limited to asking questions and hearing public comments.

At the September 2003 CGOBOC meeting, then-Controller Ed Harrington explained how the new Committee members; "one major difference in work-load between the current bond-related advisory role to the Controller would be that all reports would be coming from one source." The purpose of an advisory committee is to have civilian oversight without taking away from the Controller. This jumbling of "oversight" and "advisory" functions allows the Whistleblower Program to have oversight, while CGOBOC ducks oversight by pointing to its advisory status.

Claiming he was not consulted when CGOBOC was picked to oversee the Whistleblower Program, Harrington explained; "the Board did not want to create another advisory committee, and this Committee was what the Board wanted." Apparently, the Board wanted "representation" rather than expertise. The Board has six members, three are appointed by the Board, three by the Mayor, two by the Controller, and

But only the Controller's appointees must have expertise, one in construction management, one in finance, and one in legal. No portion of the articles or artwork may be reproduced without expressed consent.

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Compared to CGOBOC's Charter mandate, this guidance dropped its oversight. The second Whistleblower Program further limited CGOBOC's oversight, and advice.

Meeting minutes from 2004 through 2012 show CGOBOC members passively receiving Directors. Focused on City bonds, and meeting quarterly for two-year terms, members of the SFWP was withheld. In January 2005, over a year after the passage of Prop C, CGOBOC to serve as "Liaisons" to the Whistleblower Program. But minutes of the April 2006 meeting mechanism was hobbled; "...the City Attorney's Office noted that two members of the CGOBOC meet with staff of the Whistleblower Program, monitor its progress and report back to the City Attorney's Office suggests that only one member interface with staff rather than two members. One Liaison couldn't confer with anyone, other than the SFWP Director, for the next 5 years. CGOBOC presented only one substantive report about the SFWP, in April 2005. CGOBOC's constrained meddling lasted until late 2010. That's when the Laguna Honda Gift Fund scandal and the investigation spurred a show of diligence and responsiveness. After we protested the scandal, CGOBOC restored a second Liaison, Regina Callan, in August 2011.

By then it was too late. John Madden had already been sworn in as Controller Rosenfield in January 2011. He was immediately hustled to volunteer as the sole Liaison to the SFWP for an unprecedented review of the Whistleblower Program. No one objected to Madden as the sole Liaison. It would have been gauche because CGOBOC's then-Chair Abraham Simmonds, a CGOBOC Supervisor, had publicly endorsed Rosenfield to fill Mayor Newsom's unfinished term. CGOBOC was the City's Assistant Controller in the late 1990s.

So at the April 2011 meeting, Madden reviewed just three investigations, each hand-picked by Lediju. Oblivious to selection bias, Madden praised Lediju for her help. He skipped the Laguna Honda Patient Gift Fund case; "I did look at the Audit Report in that particular case, but I put it back on it. I did some review." Madden likened whistleblowers to folks who "fink on their backs" or "putting sand in your sandwich" or being "moved to a smaller cubicle." There were no problems with the Controller's Whistleblower Program.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital. Contact: DerekOnVanNess@aol.com

April 2013

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Exhuming Whistleblower Complaints

by Dr. Maria Rivero and Dr. Derek Kerr

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**Health Department contracts that eventually recovered \$430,000 fun-
 punted to the Ethics Commission, the City and District Attorneys, th
 26 months, even though the Controller is charged with overseeing**

SFWP Manager Steve Flaherty jolted the 11/29/12 meeting of the Citizens' General Obl Committee (CGOBOC), the oversight body for the SFWP; all 18 long-stalled investigation week scramble. For the first time, no complaints were over 6 months old! No reason was around, just a slew of excuses for past delays. Stone-walling, a common delaying tactic one message-point was emphasized, and echoed by Controller Rosenfield and CGOBOC were not within the control of the Controller's staff." Reality got twisted in this denial of can subpoena records, prod department heads, hire outside investigators, audit department compliant managers to the Board of Supervisors. Plus, the Controller must have orchestrated those 18 frozen cases.

Buried complaints are predictable because the SFWP outsources most investigations to in the complaint. That was a key finding in the 2010-11 Civil Grand Jury report: "Whistleblowing in the San Francisco Whistleblower Program". Though the City Charter requires the SFWP to "track what really happens: "(A complaint) goes to another department to investigate. The other Human Resources involved, etc., etc., etc. Sometimes, the departments don't assign the like...but that's the world as it is." Thus spoke John Madden, the Controller's appointee to the Controller's Whistleblower Program.

The SFWP is also required to refer about a dozen tips annually to City agencies that have again, the SFWP avidly ships cases out, seemingly indifferent to the outcomes. Some were lost for years. For example, our tips about tainted Health Department contracts that eventually taxpayers were fun- punted to the Ethics Commission, the City and District Attorneys, then but even though the Controller is charged with overseeing City contracts. Further, the Charter concurrently investigate such referred complaints. In practice, the SFWP bars concurrent cut costs, despite abundant voter-approved funding.

Given this tendency to dispatch tips, the energetic unearthing of 18 cold-cases was among two part-time auditors, is part of the Controller's City Services Auditor (CSA) division. But CSA duties because staffing had dropped below the usual 50 full-time jobs. CGOBOC's CSA had just 44 staff when 63 positions were covered by its \$12.5 million budget. Rosenfield the number of staff required to provide a meaningful body of work, rather than spend all it's available," then promised to ramp up hiring. But overall staffing had fallen, while SFWP last year - to 344. How did the SFWP close 70% more cases - plus 18 mummified complaint corners?

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Original requires the City to. *San Francisco's Office of the City Auditor (OCA) has awarded the James Madison Freedom of Information Award to the City of San Francisco for its perceptions of quality, and the extent a service meets the needs for which it was created. City services – except its own Whistleblower Program.*

The 2010-11 Grand Jury delivered information that never appeared in SFWP reports, no perceptions of quality. Yet, Controller Rosenfield chided the Jury's "interviewing a small without trying to "randomly sample feedback." Ironically, the SFWP has never sampled a CGOBOC Chair Thea Selby pointedly asked if the SFWP had surveyed any whistleblowers satisfied with the process, if not the outcome." Rosenfield answered, "We have not. Fight challenge – and what to do with the data that is reported back." Well, the Controller's City improve performance and customer service. Why won't the SFWP? By shunning whistleblower Program has become a Procrustean agency, arbitrarily forcing informants to adjust to it.

Thwarted by City channels, some employees will seek legal redress. Data from the City shows the City approved nearly \$11 million in payouts for workplace harassment, discrimination between January 2007 and January 2013. That's about \$1.8 million in taxpayer money due to City Attorney fees, mediation, sick leave, worker's compensation, unemployment rehabilitation, pension payments, training new hires, negative publicity, depressed work distracted customer service. The Whistleblower Program could abate some of these costs satisfaction surveys of whistleblowers, and quality reviews of investigations.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who wrongdoing by the Dept. of Public Health. Contact: DerekOnVanNess@aol.com

March 2013

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Rewards for Whistleblowers?

by Dr. Maria Rivero and Dr. Derek Kerr

"... San Francisco has a paramount interest in protecting the integrity of its government in interest, individuals should be encouraged to report...possible violations of laws, regulations, conduct of City officers and employees."

So states the City's Campaign and Governmental Conduct Code. Yet, the SF Controller's (SFWP) discourages whistleblowers.

Whistleblowers are the last line of defense against fraud, waste and corruption. But the including harassment, ostracism, termination, and blacklisting. That's why the government encourage informants. Realizing that government alone was over-matched by fraudster rejuvenated the Civil War-era False Claims Act (FCA) expressly to improve rewards for

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The fraud-driven collapse of the U.S. financial system in 2008 pushed lawmakers to revamp just protect them. Accordingly, the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act created mandatory rewards for securities fraud whistleblowers. The Department of Justice, Internal Securities & Exchange Commission (SEC) provide bounties to eligible informants. On 8/1/2019, the Office of Special Counsel, the agency charged with protecting federal whistleblowers, gave awards to three Air Force whistleblowers, proclaiming: "Whistleblowers are patriots. They come forward because they are driven by conscience."

Statistics published by the US Department of Justice show that rewarding informants paid by the DOJ Civil Fraud Division recovered \$9.03 billion without informants. But recoveries helped from whistleblowers. A 2010 econometric study of corporate fraud by the University of California found that monetary rewards were the key "positive incentive" for employee whistleblowers. Rewards increased by 23% - without increasing frivolous claims.

While the SFWP rejects whistleblower incentives, other City agencies reward tipsters. The "Real Estate Watchdog Program" offers bounties up to 10% of unpaid property taxes. In 2018, a "watchdog" whose tip brought in \$1.07 million. The Department of Public Works has a "Graffiti Reward Fund" and publicly gives \$250 to "Good Samaritans" who report taggers. A tipster may get \$500. Likewise, the Police Department offers \$100,000 for solid leads in homicide cases. A tipster can bring \$1,000. Turning in someone who sounds a false fire alarm nets \$500. The Department of Animal Care offers \$250 rewards for tips about dog-fight trainers. The Civil Service Commission rewards employees with one month's salary for "heroic or meritorious conduct." Why not whistleblowers?

Well, the 2010-2011 Civil Grand Jury did recommend "a reward system for validated high priority complaints with a \$500 minimum or 10% of funds recovered..." This notion, that public officials have drawbacks come with rewards, roused a chorus of City Hall naysayers.

Controller Ben Rosenfield rightly asserted that City employees should report wrongdoing. Most will not, to keep their jobs. Rosenfield warned about a "moral hazard," that employees might report wrongdoing in order to collect a larger reward. There's no evidence of such scamming by City whistleblowers. Moral hazard comes from encouraging employees to not blow the whistle by denying incentives and retaliation.

The formal responses to the Grand Jury were gems of bureaucratic resistance: "The Commission does not believe that rewards will enhance the effectiveness of the program...rewards are not a standard practice for local government whistleblower programs." Mayor Lee responded, "the Commission has no evidence where other jurisdictions have a reward system and where that reward system has enhanced the effectiveness of a whistleblower program." Nevertheless, since 1992 the Los Angeles County Auditor-Controller's Office has offered up to \$1,000 for tips toward convictions. The L.A. City Office of the Auditor-Controller has offered up to \$1,000 for tips toward convictions. The L.A. City Office of the Auditor-Controller has offered up to \$1,000 for tips toward convictions.

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What went unsaid is that whistleblowers present a threat to unethical officials – and an

control systems. That's why the City rewards tips about citizen misconduct - never about

Rewarding whistleblowers is taboo in circles where retaliation is more often orchestrated

obedient employees are preferred over honest ones, City whistleblowers won't be rewarded

Fortunately, most whistleblowers aren't driven by monetary rewards. But they do need a

The SFWP offers neither, much less incentives. One option is to offer "Public Service Awards"

deliver high-value tips - and who desire such recognition. Such awards would reduce the

and show that the Whistleblower Program values those who justify its existence.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital. They

wrongdoing. Contact: DerekOnVanNess@aol.com

February 2013

High-Jacking the Whistleblower Program

Dr. Maria Rivero and Dr. Derek Kerr

The SF Controller's Whistleblower Program (SFWP) emerged after voters passed Proposition C authorized the Controller to function as the City Services Auditor (CSA). In turn, the SFWP. Instead, the Whistleblower Program has been high-jacked and crippled.

The CSA grabs two-tenths of one percent of the City's annual budget – about \$12.5 million amounts to 32% of the Controller's Office budget, and is misleadingly called the "Control show that since 2005, CSA spent \$567,210 on 21 contracts for staff training and technical Only \$19,360 (3.4%) went to the Whistleblower Program. While the CSA grew from 4 to SFWP Division dwindled from \$312,816 in 2004, to a measly \$139,192 in 2012.



This change re-framed the Program's purpose from rooting out wrongdoing and liability. Within this paradigm, whistleblowers bring risk, City officials and confidentiality can limit risk by hiding misgovernment and shielding

The 2003 voter pamphlet presented Prop C as a good government measure to curb City Proponents' Argument promoted the SFWP to: "...ensure that City government will be run

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prior four years.

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The turning point was 2008. That year, the SFWP budget was slashed from \$218,010 to there a cash shortage in the Controller's Audit Fund? Nope. Records show that \$12.9 m in 2008-09, compared to \$12 million the year before. And of that \$12.9 million, only \$9.1 \$3.1 million was returned to City departments and the General Fund. So, the SFWP bud \$900,000 boost to the Controller's Audit Fund - with millions to spare. Also in 2008-09, 1 handled by the Program soared from 347 to 465 - a 34% jump. Why did the SFWP lose despite an increased workload?

In March 2008, Mayor Gavin Newsom replaced 17-year veteran Controller Ed Harrington Willie Brown's Budget Director - Ben Rosenfield. Within three months, the SFWP budge Rosenfield's four years, the SFWP budget collapsed to 48% below the norm in Harrington Rosenfield's spending on CSA contracts rocketed to \$542,835 versus just \$24,375 sper Harrington, the SFWP handled an average of 278 complaints annually compared to 391 sum, during Rosenfield's four years, the SFWP lost 48% of its funding and gained 41% n tax revenues had increased, along with spending on outside contracts. How could this l

One reason is that Prop C gave the Controller carte blanche to neuter the SFWP under t lax oversight. Oversight of the SFWP was assigned to the Citizens' General Obligation E (CGOBOC). But CGOBOC was given no budget and no enforcement powers over the SF is dependent upon the Controller's Office for information, funds and staff. As the 2010- "CGOBOC depends exclusively on selected information prepared by the Controller and t - the very department that it is charged with overseeing."

When CGOBOC met in April 2009, newly-appointed SFWP Director Tonia Lediju announ mentioning the 41% budget cut then imposed. Deceptively, the CSA's 2009-10 Work Pla SFWP. But records show that only \$133,707 - less than half - was actually spent. "Reva SFWP's allocation.

In December 2010, the SFWP quietly revised its original 2005 Policy & Procedure Manu. 2005, a dozen pages were devoted to engaging and responding to whistleblowers. By 2 approach had expired. Instead, the focus shifted to managing complaints, staff develop processes. Both Manuals use "Complaint Flow Charts" to show how tips are processec different. The 2005 version placed the whistleblower at the center of the chart. By 2010 only removed from the center, but off the chart entirely!

The 2010 Manual adopted a corporate tone. A self-promoting Mission/Vision/Values s We focus on our customers' needs. There is even a set of "strategic planks" like Market Mission and Engaging the Public. Apart from the fact that the SFWP does not engage i

corporate model is preposterous for a two-person "Program" with a \$139,000 budget! © 2020 Westside San Francisco Media. No portion of the articles or artwork may be without expressed consent.

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Since 2008, the SFWP has been sapped and rendered into a clearinghouse for "risks." But the SFWP side steps looting, self-dealing and retaliation.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who DPH wrongdoing. Contact: DerekOnVanNess@aol.com

December 2012

Veiled in Secrecy – The Whistleblower

By Dr. Maria Rivero and Dr. Derek Kerr

Between 2004 and 2009, the SF Controller's Whistleblower Program (SFWP) issued public reports. Though brief, they gave examples of investigated complaints, substantiated or not. Real complaints were not substantiated. Starting in 2006, investigated City departments were involved. Commissioners, CEOs and even Supervisors were noted. Whistleblowers were encouraged to identify themselves. SFWP staff would "ask follow-up questions and investigations." By 2008, 57% of tipsters were providing contact information. There was



State Senator Leland Yee asserts that whistleblower complaints are "swept under the rug." Yee proposed Senate Bill 1336 in February 2012 of substantiated complaints, the action taken, and the outcomes of allegations. Since then, SB 1336 has been eroded in committee and by auditors and Unions, among others. The clause requiring disclosure of substantiated complaints was the first casualty. Disclosure of unsubstantiated complaints remains discretionary State-wide, and unobtainable in San Francisco.

Something changed in 2009. Public reports were cut from two to one a year, and loaded with "confidentiality." Names of implicated City departments were replaced by generic terms like "department manager." Such generalizations can hide mismanagement in a City with so many employees. "Unsubstantiated" case reports were deleted, though they outnumbered substantiated ones. For the first time, the SFWP disclosed that it had "facilitated" all complaints. But the number of investigations independently conducted by the SFWP

Right after Ben Rosenfield became Controller, the 2008-09 budget for SFWP salaries, benefits and expenses were surreptitiously cut by 41%. At an April 2009 meeting, the newly-appointed SFWP Director said, "The Whistleblower Program is being revamped." Nothing more was disclosed. Likewise, any information never made public. In response to our public records request, the Controller's Office

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for SFWP Manager Steve Flaherty in 2010-2011. That budget barely covered one full-time benefits. Fiscal starving could explain the cloddish customer service, why investigation City departments, and why most complaints were "unsubstantiated."

The secrecy of the SFWP, and the alienation of its informants, were unveiled in a May 21 "San Francisco Whistleblower Program Comes Under Fire"; and the July 2011 Civil Grant Dark – The San Francisco Whistleblower Program."

In September 2011, Sunshine activist Mel Shapiro won a Superior Court ruling that San "must disclose any report of an investigation that has been substantiated." These events its 2010-2011 Annual Report on 11/22/11. Finally, all substantiated complaints were re implicated City departments were not. Quarterly reports were issued and a FAQ section previous practice, anonymous rather than identified tips were encouraged. Anonymity c follow-up contact, and lower the odds of full investigations. The number of anonymous Nothing about the 43% of complaints deemed "unsubstantiated" was disclosed.

This level of secrecy exceeds the confidentiality granted to Whistleblower Hot-Lines by While the identities of whistleblowers, witnesses and subjects are protected, State law report of an investigation that has been substantiated, or to release any findings result investigation that are deemed necessary to serve the interests of the public." Since 200 public interest in knowing why so many complaints are unsubstantiated. In comparison Whistleblower Program" does a better job. There, the Board of Supervisors gets twice-y complaint received – including unsubstantiated ones – along with investigative finding

State Senator Leland Yee asserts that whistleblower complaints are often settled and " proposed Senate Bill 1336 in February 2012 to identify subjects of substantiated comp outcomes of unsubstantiated allegations. Since then, SB 1336 has been eroded in com auditors and Unions, among others. The clause requiring disclosure of unsubstantiated casualty. Disclosure of unsubstantiated complaint findings remains discretionary State Francisco.

By October 2007, the SFWP had partnered with the City's Customer Service Center and 311. The sixty call-takers at the 311 Service Center receive over 7,000 calls daily. Though forward whistleblower tips to the SFWP website, they also forward minor complaints al After the transition to 311, the average number of SFWP complaints zoomed from 263 increase. Was this dramatic rise due to service complaints or whistleblower tips?

Since 2009, the SFWP has masked complaints coming from the 311 Service Center by whistleblowers log directly onto the SFWP website. Importantly, the number of citizen s employee whistleblower tips, is no longer reported. To preserve its focus and to inform

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Society of Professional Journalists, NorCal Chapter

Retaliation

By Dr. Maria Rivero and Dr. Derek Kerr

In 2012, the Association of Certified Fraud Examiners issued a "Report to the Nations on Abuse." They found that 5% of a typical organization's revenue is lost to fraud. Government rating second among 23 industries surveyed. Whistleblowers catch three times as many as management detection. Most whistleblowers are employees.

Meanwhile, the Government Accountability Project, an advocacy group providing legal assistance for 35 years warns:

"You will surely suffer some level of harassment or retribution for blowing the whistle because bureaucracies instinctively tend to eliminate anything perceived as a threat. Academic studies confirm that more than 90% of whistleblowers report subsequent retaliation."



You will surely suffer some level of harassment or retribution for blowing the whistle because bureaucracies instinctively tend to eliminate anything perceived as a threat. Academic studies confirm that more than 90% of whistleblowers report subsequent retaliation."

Other surveys in various settings show retaliation rates between 22% and 38%, but expected to increase despite laws prohibiting them. Studies show that retaliation is more likely when it involves losses over \$100,000 and when the misconduct is routine. Although San Francisco's Governmental Conduct Code includes "Protection of Whistleblowers," City whistleblowers are often punished in practice.

On 7/24/2012 the City agreed to pay over \$1 million to settle two whistleblower retaliation lawsuits. In May 2012 Westside Observer, 911 Call-Center supervisor Maura Moylan, and dispatch supervisor supervisory misconduct within the Department of Emergency Services in 2009. Reprisal lawsuit. Unaware of the City's Whistleblower Program (SFWP), they consulted a lawyer. They sued the City in 2010 (Case # C10-04700-TEH). The City Attorney fought them every step of the way. All but one claim was awarded them \$262,000 for retaliation and harassment. The post-verdict settlement, in addition to the \$262,000, was \$762,000. Not included is the cost of City Attorney hours in this 2-year legal battle.

Similarly, Recreation & Parks Ranger Michael Horan received \$250,000 for the retaliation lawsuit. Matt Smith's 7/19/12 article in The Bay Citizen, Horan had exposed favoritism and overreach in the Recreation & Parks Division since 2008. The City's Human Resources Department failed to fix the problem.

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retaliation were treated as a high priority, even though he had been the sole investigator. The Society of Professional Journalists, New York Chapter, had reviewed 7 retaliation complaints over 6.5 years. As of July 2012, Ethics has dismissed 10 whistleblower retaliation claims it received.

Retaliation, a primitive form of damage control, is directed at whistleblowers by their bosses. Most complaints right back to the department named in the complaint. Until May 2012, the SFWP tracked retaliation complaints. Instead, the SFWP washed its hands of retaliation by making the Ethics Commission. While monitoring retaliation would help, "reported cases of retaliation and actual reprisals" says Mat Stephenson, partner in the Employment Law firm of Kochan & Associates. Retaliation pushes most informants to give up and move on without protesting. Therefore, the City considers retaliation "cost-effective" according to Stephenson. The few who seek redress are "disgruntled." Until they sue. Although potential costs for the City are significant, the City will not conduct a whistleblower retaliation survey.

Exposing wrongdoing and retaliation by a City department often points to systemic failure. Wrongdoing may be entrenched in the work-place culture, or serve a hidden political agenda. To tackle such problems threaten powerful entities and become vulnerable to retaliation: smear campaigns, bullying, funding cuts, staffing changes, or having their mandate clipped. In other words, like whistleblowers. The Board of Supervisors' purge of the City's Sunshine Task Force, addressing misgovernment can be. However, Programs have ways to dodge political re-

Setting up a sham Whistleblower Program avoids the risks of exposing corruption. Fake informants so they don't air complaints publicly. The 2011 Civil Grand Jury alluded to such an investigation of the SFWP: "A poor or mediocre Whistleblower Program — one that seems to be perhaps worse than none at all." It's noteworthy that in the four fiscal years between 2008 and 2012, the annual budget for the SFWP was \$256,300. In the 4 years from 2008 to 2012, under Controller's Office, the average annual budget plunged to \$134,079, a 48% drop. That's enough to prop up a far less effective Program.

Colluding with other City agencies to dismiss whistleblower claims also reduces the risk. Both the Controller's Whistleblower Program and the Ethics Commission refer serious cases to the City Attorney. The City Attorney has dual loyalties — and a conflict of interests. Along with reviewing and prosecuting wrongdoing, the City Attorney has a duty to defend City officials accused of misconduct. "Behind the ethical walls," the likelihood of mutual back-scratching is high. Instead of protecting whistleblowers, the City is the main adversary, the reason retaliation persists.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who exposed DPW wrongdoing. Contact: [Derek Kerr](#)

September 2012

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"From a policy perspective, there are several issues. Most glaringly, once a complaint is that point forward, essentially shut out of the entire process and left to navigate a "black box" where the investigation is denied."



Other Whistleblower Programs are more open about the work they do. For example, the Oakland Fraud, Waste and Abuse Prevention Hotline "independently conducted 34% of the investigations." The Los Angeles Program claims it investigates 36% of complaints independently. In San Francisco, the percent may be too small to matter.

City whistleblowers should know that most complaints to the Controller's Whistleblower Program (SFWP) go back to involved departments for investigation. The SFWP has masked the number of complaints that were "investigated or referred for investigation." However, the 2010-2011 Civil Grand Jury report stated that "majority of the investigations were performed by the departments listed in the complaint." Belatedly on 11/22/11, the SFWP admitted to a "referred – without giving the number. The Jury concluded; "The investigation of whistleblower complaints is not independent when performed by the targeted agency or department."

Other Whistleblower Programs are more open about the work they do. For example, the Oakland Fraud, Waste and Abuse Prevention Hotline "independently conducted 34% of the investigations." The Los Angeles Program claims it investigates 36% of complaints independently. In San Francisco, the percent may be too small to matter.

Referring investigations to departments is reasonable for minor complaints. Indeed, many of the SFWP are gripes about City services. SFWP reports from 2006 and 2007 show that many were true whistleblower reports about fraud, waste and abuse of City resources. The Civil Grand Jury found that just 36% were true whistleblower tips in 2009 and 2010. Nevertheless, some of the most serious complaints go back to the targeted departments. In fact, even "Medium-Risk" complaints involving senior and/or mid-level managers were sent back to the named department. The SFWP asserts that it leverages investigative resources, and that they oversee results. But conflicts of interest arise when departments probe their own misconduct.

It was the Civil Grand Jury that revealed the Department of Public Health received the most complaints. Since 2009, the SFWP ceased naming implicated departments, perhaps to hide mismanagement. Had the SFWP conducted a Best-Practices survey, it would know that it identifies each department in a substantiated complaint. Further, when the LA Program targeted a department the outcomes are recorded as "Substantiated" or "Not Substantiated" for every department. The public has a right to know these department-specific findings.

Instead, the SFWP conceals outcomes of departmental investigations by lumping all the

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referring any matter to another City department... This "information" may include clues in other words, there is no confidentiality within the City network.

Conversely, records requests by whistleblowers whose complaint investigations are "denied because, "Whistleblower Program practices do not permit a complainant to wait for the disclosure of investigation work-product." The SFWP has also refused to return documents submitted in support of their complaint. The reason given is "to protect whistleblowers inaction and lost-records may be disguised as "work-product." Further, the SFWB has refused Performance Audits, since the City's Director of Audits, Tonia Lediju, also runs the Whistleblower Program. Leaks in the investigative pipeline are likely to spring up during the Preliminary Review.

That's when the SFWP screens tips for jurisdiction, "risk of loss to the City," and level of urgency. Within five days, informants supposedly receive an acknowledgement from the SFWP. But when we reported misappropriations from the Laguna Honda Hospital Patient Gift Fund in March 2010, it took a long time to get a response – and then only because we followed-up. We were told that the SFWP was still reviewing our tip. What kind of discussions – and with whom – would take three weeks? Even with the "High-Risk" SFWP review process may include contacting the Director of the implicated department. "Medium-Risk" complaints loop back to the involved department, informants should be prepared for retaliation. But that doesn't happen.

The SFWP has yet to conduct a Best Practices Survey. The Government Accountability Project (www.whistleblower.org), a national whistleblower advocacy group, compiled a set of best practices. A standard is a "Credible Corrective Action Process." This principle allows whistleblowers to request an investigation, and on whether there has been a good-faith resolution. We need more knowledgeable and concerned witnesses. The failure of the SFWP to engage its own internal investigations. Whistleblowers should not be silenced in the resolution of the alleged misconduct. Careers to challenge.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who reported wrongdoing by the Department of Public Health. Contact: DerekOnVanNess@aol.com

July-Aug 2012

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Can We Trust the Controller's Whistleblower?

by Derek Kerr, MD and Maria Rivero, MD

Whistleblower Programs need solid tips from insiders who confront wrong-doing. It is the belief that nothing will be done, and the fear of retaliation. Trust is essential.

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seized. The annual was widely criticized by the Society of Professional Journalists. No case

other high-profile whistleblower cases, it was invisible in the SFWP annual report. Hernandez-Bran explained:

"I reported the Chief Probation Officer for collusion and corruption, and I was laid off as a result. But not before being harassed and investigated... There are so many cases of City employees who have filed whistleblower complaints and then were targeted for layoffs. No one trusts this protects officials first, then acts against the informant."



Another half-a-dozen cases of retaliation were described in the July 2011 Civil Grand Jury – The San Francisco Whistleblower Program." Controller Ben Rosenfield was not moved. Retaliation surveys – or even satisfaction surveys – have been conducted, though the City auditors and analysts.

SFWP revised its 2010-2011 annual report and showed that only 1% were substantiated. During this period, the Los Angeles program sustained 72% of complaints, while San Diego sustained 33%. Notably, both programs have a greater share of complaints; 72% for LA and 100% for San Diego, compared to San Francisco's 1%.

Short of conducting a survey, whistleblower trust can be estimated from the number of City employees. The SFWP withholds this information. However, Oakland's Fraud, Waste and Abuse Program reported that in 2011, "City employees generated 44% of the reports...the first time from the public exceeded those tips from employees." A decline in employee tips should not be a surprise. The SFWP has a reason to overlook employee participation.

Over the past three years, complaints to the SFWP fell from 465 to 386 to 365, a 22% decline. Only 252 complaints came in. At this rate the fiscal year could end with another significant decline. Complaints are falling, too. This steady decline in participation has yet to be addressed.

A trustworthy program that focuses on serious wrongdoing will attract serious tips. For the SFWP to do that, true whistleblower tips, about fraud, waste and abuse of City resources, were needed. True tips about shoddy City services. Consistently, however, true whistleblower complaints stayed around 10%. Starting in 2007, whistleblower tips were merged with a larger group of minor complaints. This mix created the illusion that the SFWP was doubly-busy responding to "whistleblower" tips. This mix obscured malfeasance. Further, dispersing whistleblower tips in a sea of service complaints obscured the true nature of whistleblower tips. Whistleblowers when they lose faith.

In 2011, the SFWP resumed sorting out high-value tips about major wrong-doing. The SFWP

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complaints are actually received, investigated and substantiated, not just referred and Program that acts on high-value complaints will be trusted with more of them. That's all should immediately contact whistleblowers who submit High-Risk and Medium-Risk complaints — to check if they saw results or retaliation.

A program that protects tipsters will get more who identify themselves. A major provider of services, The Network, Inc., found that requests for anonymity dropped from 78% to 48% after becoming comfortable with reporting. The San Diego Fraud Hotline reported that only 46% of complaints were made with anonymity. In fact, the SFWP's own 2008-2009 mid-year report disclosed that just 43% of complaints were made anonymously. Since 2009, the SFWP has withheld the

More important, substantiated complaints show that something is being done. This number rose from 11% until 11/22/11 — after the public uproar over the Civil Grand Jury investigation. That's what the 2010-2011 annual report and showed that only 16% of all complaints were substantiated. The Los Angeles program substantiated 23% of all complaints, while San Diego sustained 33%. San Francisco investigated a greater share of complaints; 72% for LA and 100% for San Diego, compared to 46% for San Francisco. In the last half of 2011, the SFWP substantiation rate climbed to 21% of all complaints. The number of investigations rose to 71% of all complaints, compared to an average of 51% for the last half of 2010. Being done — but by whom? In our next column we will explore how most complaints are referred back to the same City departments named in the complaints.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital who exposed wrongdoing by the Department of Public Health Contact: DerekOnVanNess@aol.com

June 2012

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Whistleblower Advocates

Watchdogs Beware

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... Davis Ja & Associates received a \$1.2 million contract on behalf Behavioral Health Services. That contract was revoked and the City \$430,000 after whistleblowers reported a conflict of interest."

In a scathing report titled "Whistling in the Dark – The San Francisco Whistleblower Program Grand Jury (CGJ) noted that exposure to "bad press" and "liability from costly lawsuits" complaints are ignored or dismissed." Although the CGJ was unable to determine the effect of confidentiality conditions of the settlements, it determined: "A program that properly addresses allegations of malfeasance 'in house' can significantly reduce the City's exposure." The program was failing. (2)

Mayor Art Agnos started the Whistleblower Program in 1989. It fell under the Ethics Commission where it withered. After a Port corruption scandal, 71% of voters approved Proposition 13 Auditor (CSA) function to the Controller's duties, including a reinforced Whistleblower Program. The CSA 0.2% of the City budget, now \$12 million annually, to audit departments, monitor contracts and manage the Whistleblower Program. A selling point was the claim that the program was politically "independent."

Despite new management, the Controller's Whistleblower Program has been hobbled by lack of investigators, bureaucratic secrecy, fealty to power, disregard for whistleblowers, and lack of transparency.

Ironically, although the Controller's CSA conducts innumerable audits and reviews, the program was never assessed – until the CGJ report in July 2011. Predictably, Controller Ben Ross rejected the findings. Those who exposed misgovernment – professional journalists, whistleblower advocates, and the public, praised the report. Of the 14 recommendations issued by the CGJ, most were rejected. In response to transparency, the 2010-2011 Annual Whistleblower Program report was revised. It noted that the program was not transparent, rather than a trivial "sample." The time taken to resolve investigations was excessive.

The "Controller's Whistleblower Complaints Program" is a misnomer. Barely one-third of whistleblower complaints involving fraud, waste and abuse. The program primarily serves whistleblowers or the public. It was designed by high-level officials to address low-level complaints on whistleblowers and City hot-spots, embarrassing events are contained. With complaints from high-level officials, the program falters. These are some of the reasons why no performance audit has been done, why a Best-Practices survey has yet to be done. Although an informal survey was sent to the public, a Satisfaction Survey has been performed. Despite the clear connection between whistleblowers and the Whistleblower Program nor the Ethics Commission bothered to track retaliation. Whistleblowers are ignored, or treated like burdens and threats.

The Controller's Office has the money to do a better job, if public service is the goal. Instead, it is a waste of money.

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Society of Professional Journalists' Ken Kesey Chapter

Deprivation of due process rights guaranteed by the Fourteenth Amendment

- Violation of CA Govt Code §53298 that prohibits reprisals against employees who file
- mismanagement or a significant waste of funds; or an abuse of authority;
- Violation of CA Health and Safety Code §1432 that prohibits discrimination or retaliation
- initiating or participating in proceedings relating to care, services, or conditions of a long-term care facility
- Violation of CA Labor Code §1102.5 that prohibits retaliation against any employee for government or law enforcement agency when an employee has reasonable cause to believe that the employee has disclosed a violation of state or federal statute or regulation in accordance with a regulation.

Westside's Open Business Guide

Kerr filed two whistle-blowing lawsuits against the hospital. Kerr and Rivero filed a lawsuit against the hospital's office, alleging mismanagement of the hospital's response to Hirose as a whistleblower.

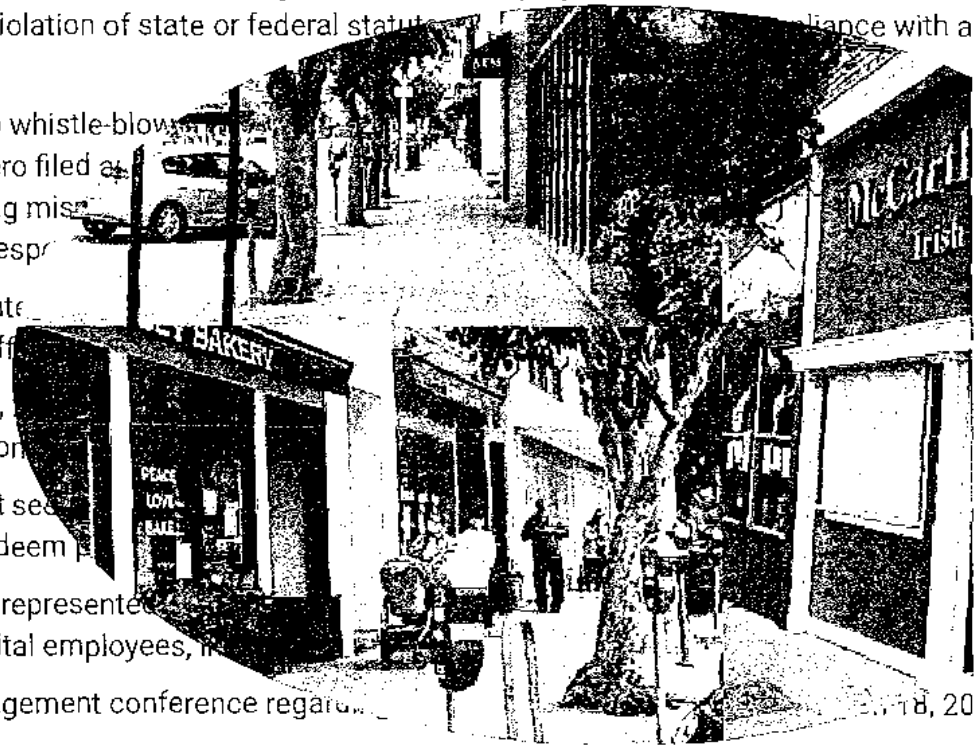
Three days later, Kerr was terminated effective March 12, 2020.

On March 15, 2020, Kerr filed a lawsuit against the hospital, his termination.

Kerr's lawsuit seeks damages and a court may deem the hospital liable.

Kerr is being represented by a law firm. Kerr is a former Honda Hospital employee, in the hospital's legal department.

A case management conference regarding Kerr's lawsuit is scheduled for October 18, 2020.



Most businesses are offering take-out and delivery, others continue with outside dining, but with precautions.

December 2010

Check it out

On the Watchlist

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Society of Professional Journalists, NorCal Chapter

Elevation

Laguna Honda and Rehabilitation

Red Line: Administration
Route Wheelchair Users
From MUNI Station Up
Using ADA Sidewalk

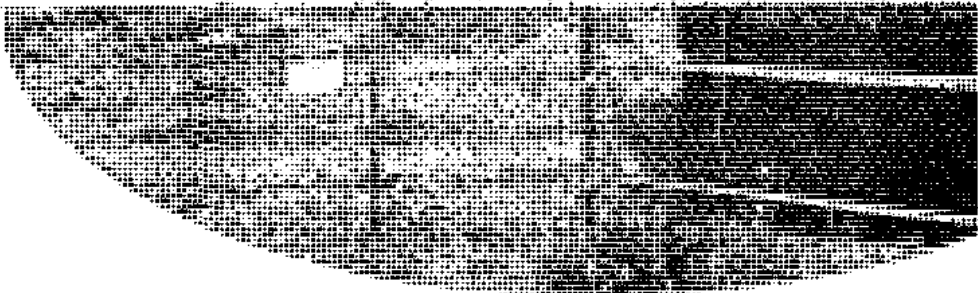
Patrick Monette-Shaw

If LHH was too small for 160 units, how is it now suddenly big enough for up to 375 units



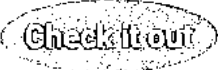
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Treacherous Toxics at Treasure Island by Glenn Rogers

"... the cleanup reports need to be available to the public. Skipping these steps will result in the public will be ultimately held accountable, making the taxpayers liable"



.....

Vote for Kids



Parcel Tax for San Francisco Unified School District

Shall the City replace its 2018 Parcel Tax for the San Francisco Unified School District with a new tax that changes the annual tax rate from \$320 per parcel to \$288 per parcel, adjusted for inflation each year, and with an exemption for people age 65 or older, until June 30, 2038, for an estimated cost of \$48.1 million a year?

by Carol Kocivar

Prop J replaces the 2018 School Parcel Tax with a new tax that lowers the annual tax rate per parcel. Read that sentence again."



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Society of Professional Journalists, NorCal Chapter

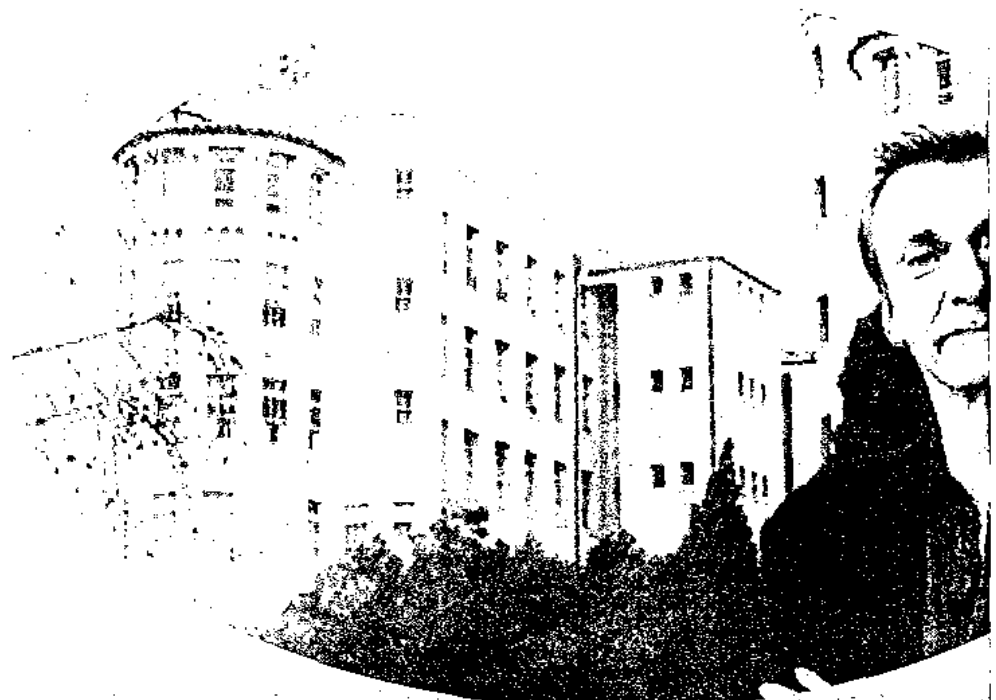


Running Against the Grain

Lou Barberini

Two D7 candidates, Vilaska Nguyen and Myrna Melgar ... are running ... with agendas the careers advancing for districts other than D7.

Check it out



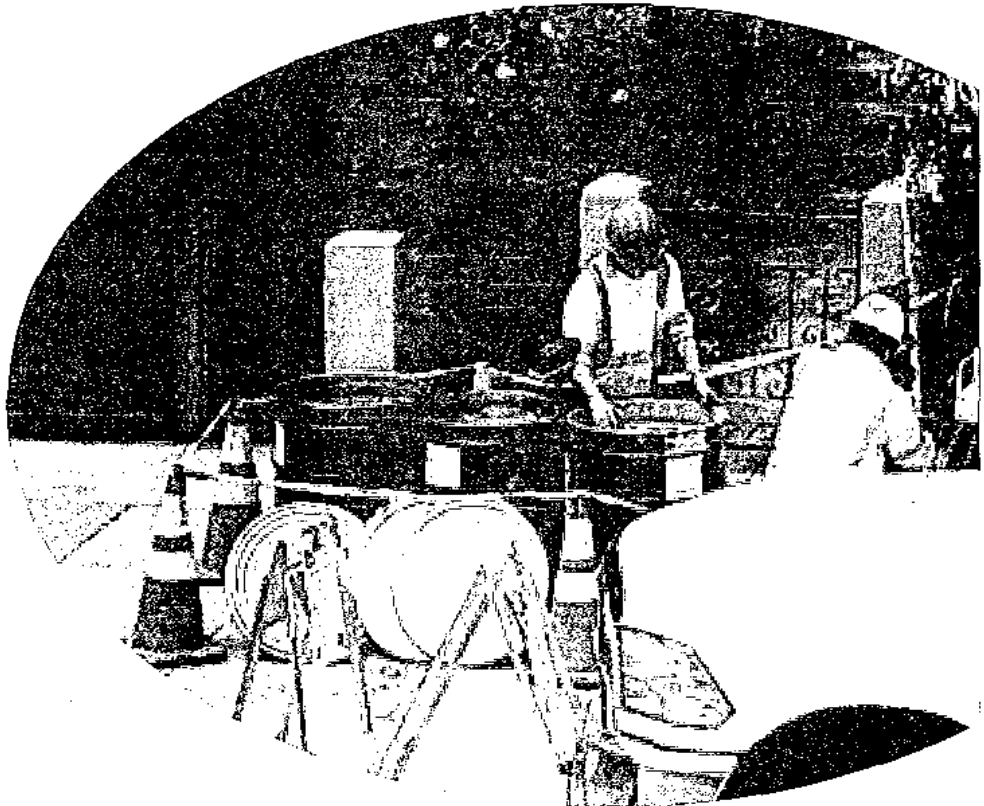
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San Francisco Sees Itself as a 'Green' City - But is it?



by Kathy Howard

The developer is proposing a six-unit condo development on the site of a former auto repair shop. The site is contaminated with benzene and other pollutants at levels 900 times above residential standards ...

Check it out

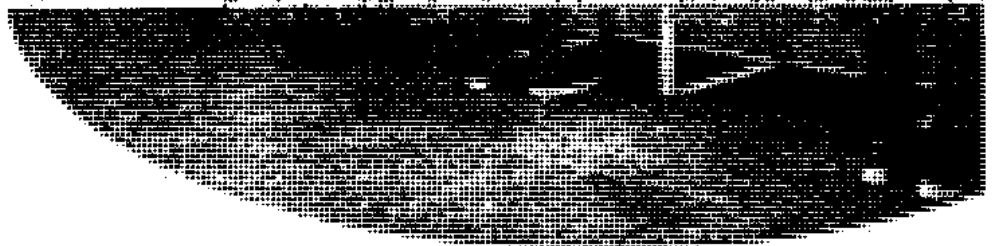
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Twelve Ballot Propositions Confront Voters

From massive recovery bonds, to the questions the Supervisors can't or won't resolve.

Check it out

Tony Hall's Ballot Recommendations



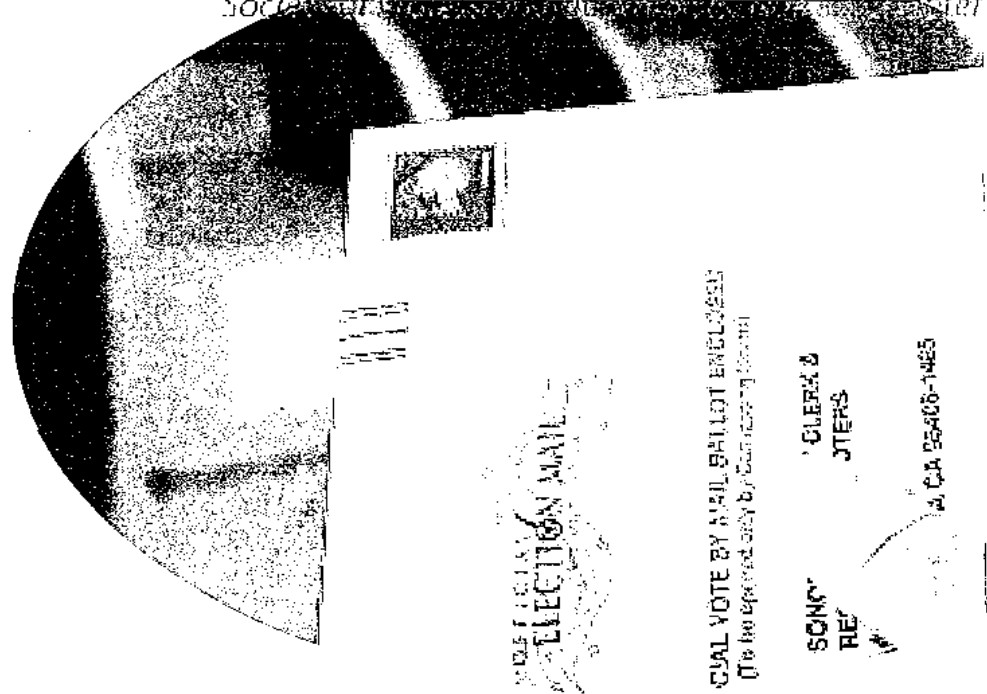
Former Supervisor Tony Hall

More than ever, we need a Supervisor who will not succumb to the self-promoting antics of Supervisors, or to the "machine politics" that has been running this City for the past 40 years.

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State Ballot Measure Recommendations

Quentin Kopp

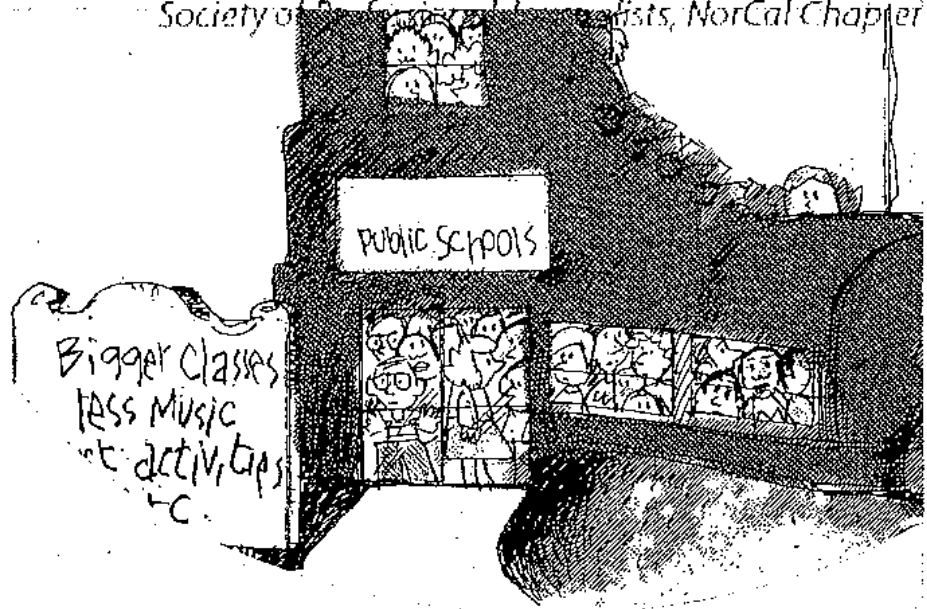
Props 14 to 25 Quentin wades through with his usual aplomb

Check it out

YES Prop. 15: More Money for our Schools and Comm

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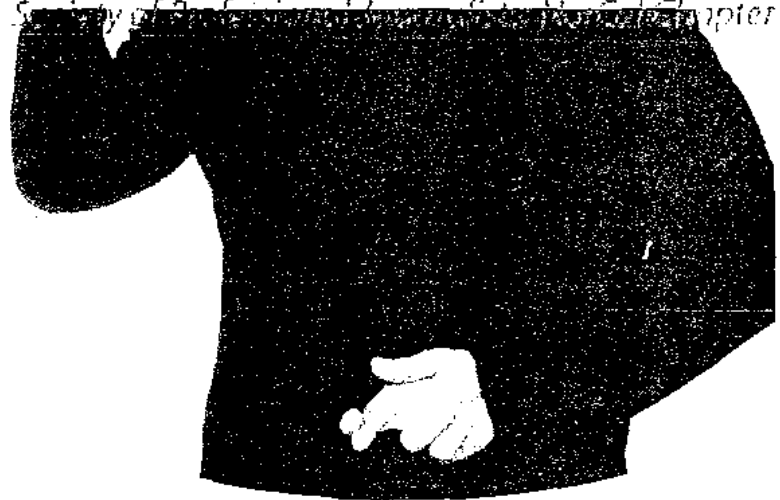
by Carol Kocivar

Prop. 15 ... relatively straightforward ... requiring commercial and industrial real property be taxed on the basis of its *current* fair market value.."

Check it out

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Audit's Unanswered Questions:

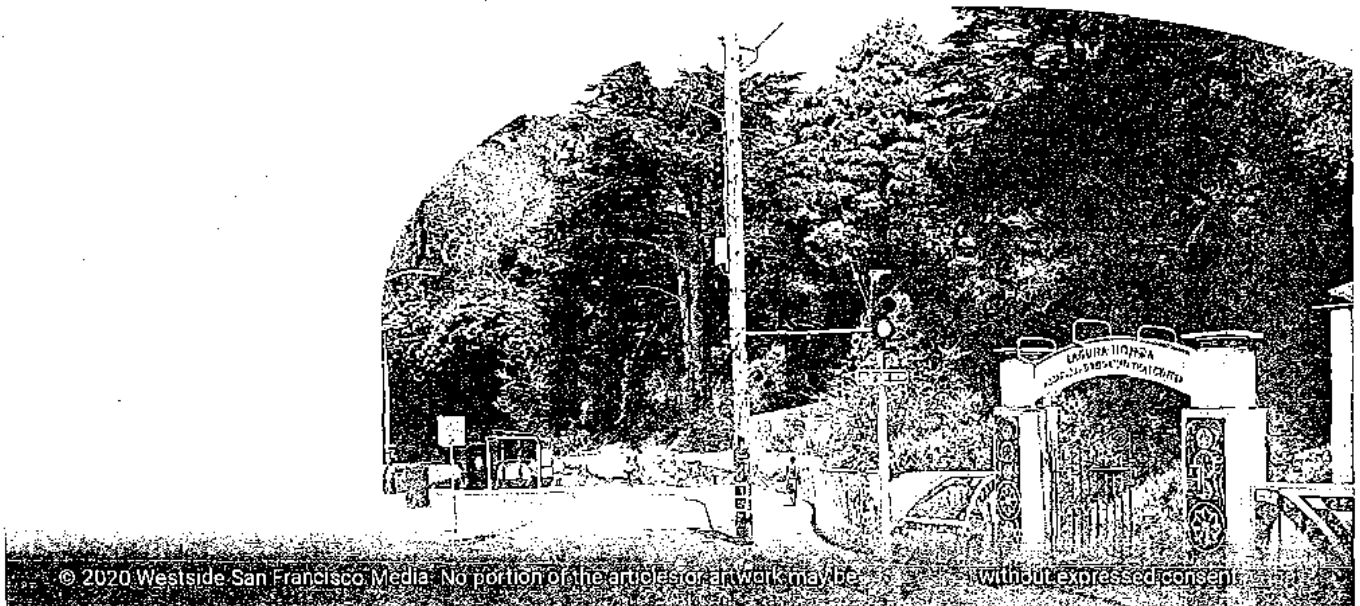
Does the Ethics Commission Fight Corruption?

by Dr. Derek Kerr

The audit fails to mention that no retaliation claims have ever been sustained by the Ethics Commission. The fact has been hidden by reporting only that cases are "dismissed" or "closed."

Check it out

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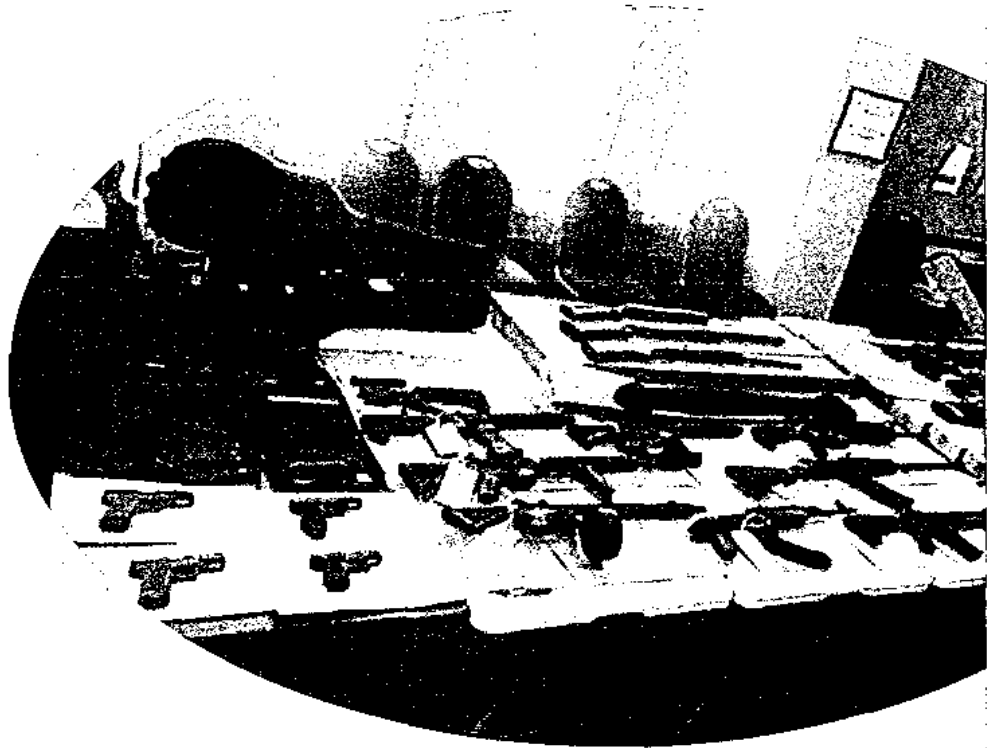
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Society of Professional Journalists, NorCal Chapter
Patrick Monette Shaw

Candidates were asked — given the work-from-home and telecommuting trends ... whether
Balboa Reservoir development, Parkmerced expansion, and housing development on Lag

Check it out



Taraval Crime Report

Multiple Arrests: Illegal Firearms and Narcotics

Police officers from the Tactical Unit, Specialist Team, and Taraval Neighborhood Team
on the 1500 block of 48th Ave."

Check it out

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Society of Professional Journalists, National Chapter

San Francisco
Public Library

by Carol Kocivar

Any time someone mentions a good book, I literally just go to my phone and reserve it on

Check it out



A Subpoena for SFPUC Skullduggery

by Dr. Derek Kerr

The federal subpoena demanded the resumes, job descriptions, and performance evaluations

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Society of Professional Journalists, NorCal Chapter

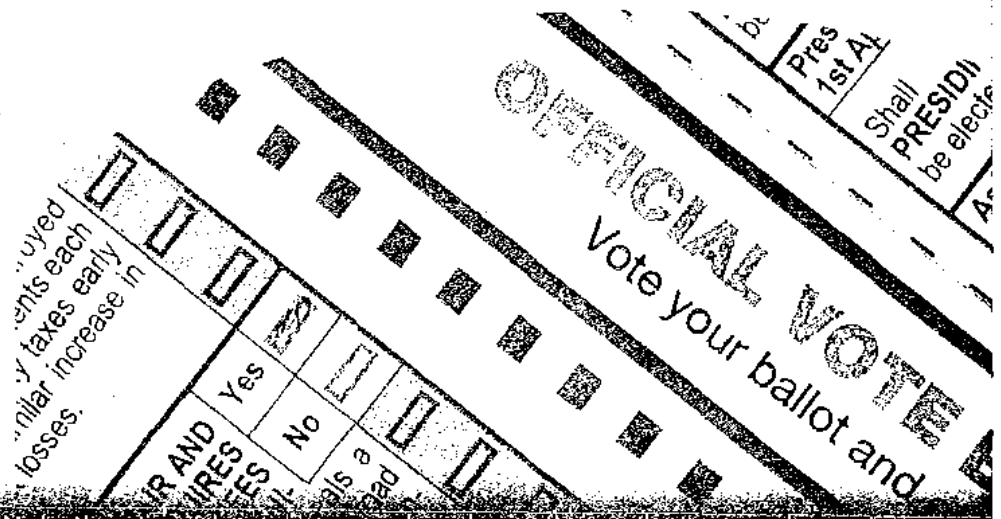
DEPARTMENT OF ELECTIONS

D7 Supervisor Candidates Answer the Tough Questions

Six contenders respond to the questions that will guide the next 4 years in the district.

Check it out

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Ballot Measure Recommendations

Quentin Kopp

I provide no wisdom on the presidential candidates because California's a one-party state. City and County ballot measures, Propositions A to L...

Check it out

.....

Stand Up for Arts in Schools



by Carol Kocivar

The arts touch our emotional core, whether it is song or dance or drama or drawing. The the spirit and help guide children from crisis to confidence.

Check it out

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Society of Professional Journalists, National Chapter



Balboa: Supervisors Get It All Wrong by Glenn Rogers

"The giveaway, linked to corrupt leadership, sacrifices precious public land for private profit. Balboa is vulnerable and is a significant reversal in our goal of income equality"

Check it out

.....



City Managers Reject Breed's Budget Plea

Patrick Monette-Shaw

"That's not a balanced budget; it's a gaping hole she plans to solve by kicking pay-raises back onto the road."

Check it out

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Society of Professional Journalists, West Coast Chapter



Teachers to Vote on COVID 19 Plan

by K. Rolph Morales, 3rd Grade Teacher

"Assuming teachers agree to these and additional detailed conditions, school begins Aug

Check it out

Free Government Money.



San Francisco
Water
Services of the San Francisco

Need Help
Your Bill Due
COVID-19?
Here To Help

by Steve Lawrence

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Society of Professional Journalists, NorCal Chapter
Walking West Portal



A photographer goes in search of life on the Avenue ... dining and browsing are available and in some stores inside within strict limitations.

Check it out

.....



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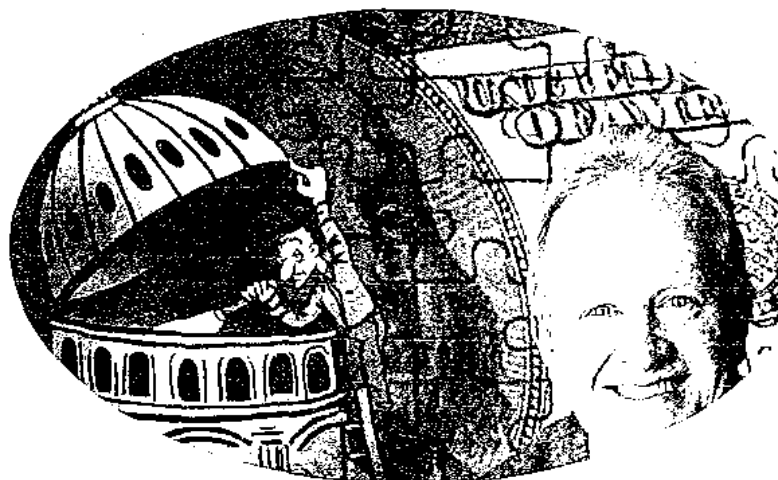
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Bay Area Plan to Mitigate Climate Change

by Glenn Rogers

"The authors of the *San Francisco Plan Bay Area 2050* are asking for public feedback on solutions ..."

Check it out



How to Stop the San Francisco Exodus

John Farrell

Our city is in big trouble. And it is not just because of Covid-19. It is because of a continuing series of poor decisions by City Hall over the past 10 years.

Check it out

Teaching Civics Never Mattered More

Creating the Future

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Justice

by Carol Kocivar

Whether it's protests about police violence and racism or defiance of government orders, fundamental issues of our democracy are being played out every day in front of millions of

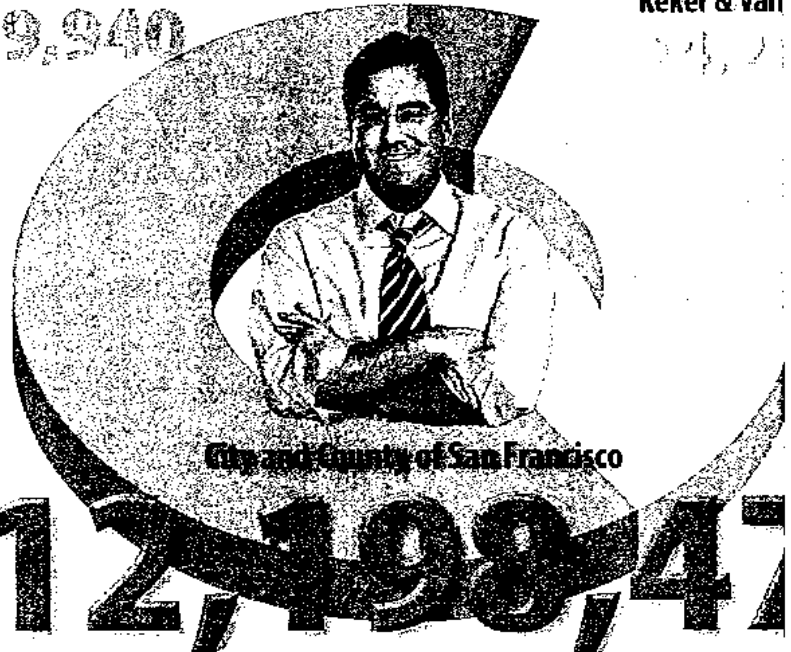
Check it out

Court Judgment for Hooper
\$7,309,940

City Attorney Fees
\$570,045
(2,124.75 hours)

Litigation Expenses
\$100,829

Keker & Van



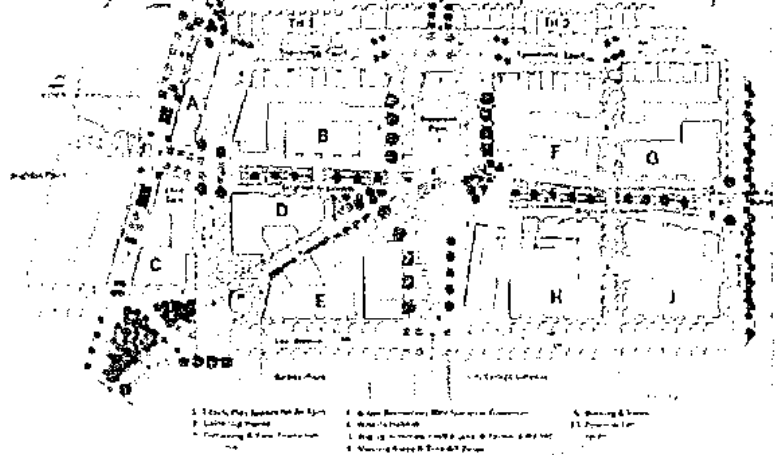
City Attorney's Retaliation Fiasco Blows \$12.2 Million

by Dr. Derek Kerr

Dennis Herrera's retaliatory sewer-gate debacle, alongside the FBI's recent arrest ... jabs at his capabilities.

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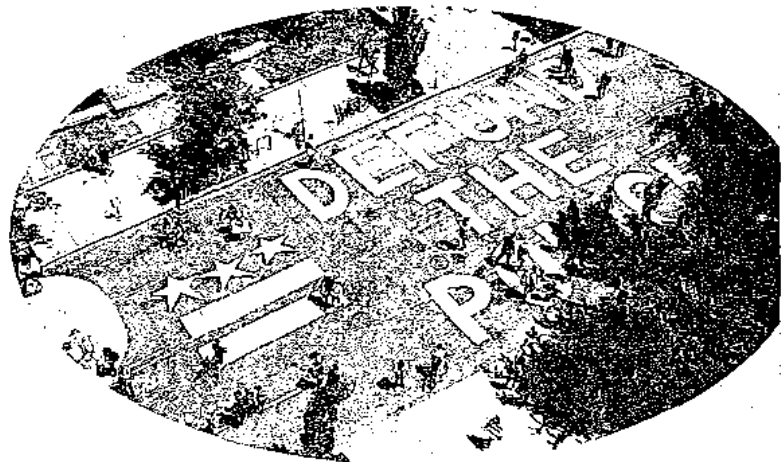
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Irreparable Damage to City College – Legal Violations at Balboa Res

City College Stakeholders File CEQA Appeal This is NOT the time for any Project to go for the access for 70,000 college students, most of them from working class, immigrant, black

Check it out



Defund and other public debacles

by Quentin Kopp

"... the heralded notion of "defunding" police ... risks a return to the high-crime era of the

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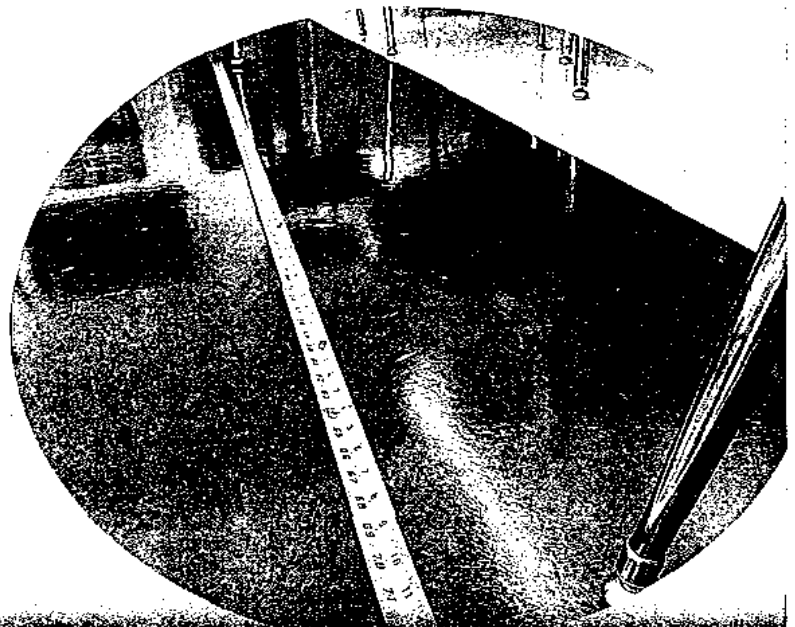


Why Black Lives Matter

by Glenn Rogers

"... the issue of Black Lives Matter is on everyone's lips. Unfortunately, many Americans are unaware of the history of racism. But consider the numerous steps that led to the problem and two alternative policies."

Check it out

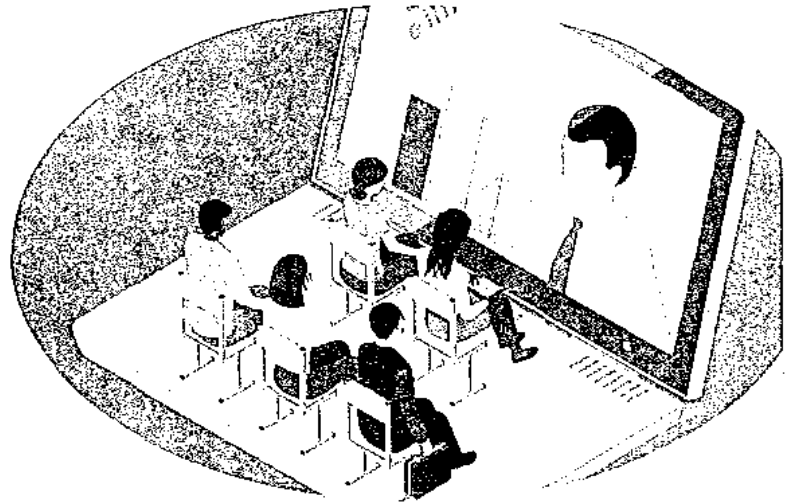


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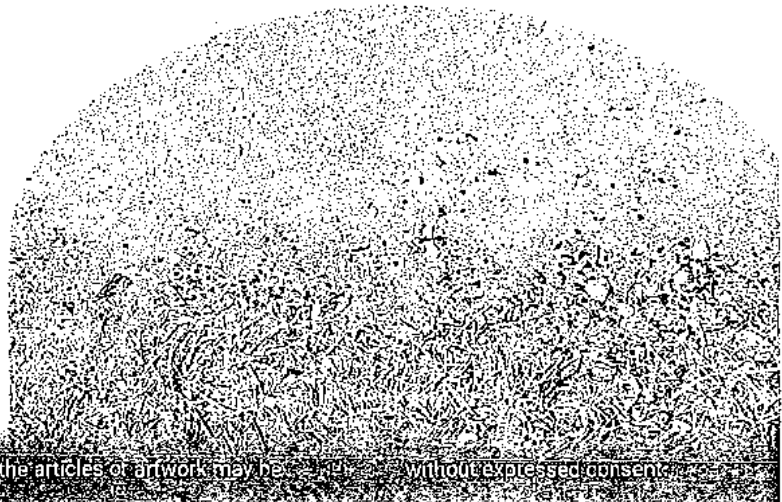


Students Want Schools Open by an 8th Grade Student

"If schools do not open this fall, it is likely to induce students to interact with one another
it is easier to enforce facemask and social distancing ..."

Check it out

.....



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permeable surface, it's called gr... Society of Professional Journalists, NorCal Chapter

Check it out



Loading Our Utility Costs on Our Children's Backs

by Brian Browne

"... your water, wastewater, and garbage rates are special taxes ... Your great-grandchildren
service provided in 2020."

Check it out



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Check it out

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COVID-19's Cruel Visit to LHH

Patrick Monette-Shaw

...whether the discrepancy is due to President Trump wanting CMS to "slow down" the te

Check it out

.....



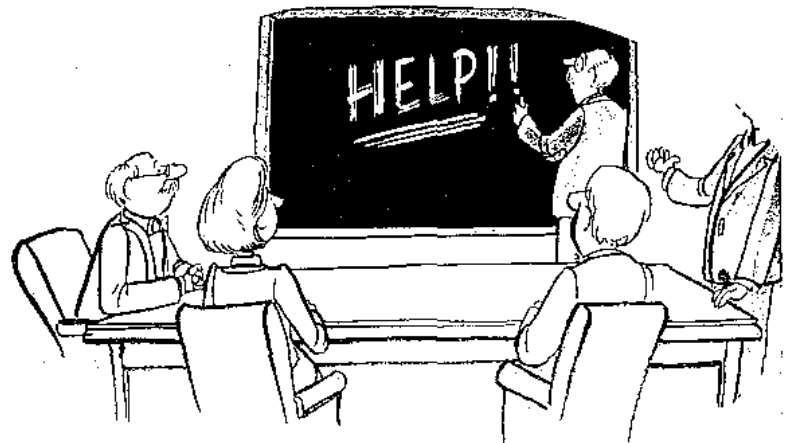
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Quentin Kopp

...the attitude of professional sports team-owning billionaires that local taxpayers must
professional sport businesses ...

check it out



sum up this year's budget with on

City's Budget Shortfall — Taxpayers Beware

John Farrell

a \$1.7 billion deficit over the next two fiscal years which could reach over \$2.5 billion per

check it out



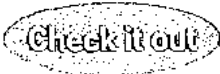
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Lou Barberini

SFPD officers spend 99% of their day responding to where 9-1-1 customers direct them who determine the location and quantity of encounters.



.....



New Normal: Decline in Urbanization

Glenn Rogers

Development is in trouble. If Parkmerced, which is the largest multifamily property in San Francisco, it is in very real trouble.



.....

Homeless Encampments in GG Park?



WESTSIDE OBSERVER

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For the San Francisco Chronicle, for its coverage of the



by Kathy Howard

Board of Supervisors seek solutions ... raising concerns among the public about the possible use of parkland to address social and economic problems ...

Check it out

Big Balboa Giveaway Bad Break for City College



by Jean Barish

The SF PUC will sell over 17 acres, for approximately \$11.2 million — about \$640,000 per acre — to a privateer for more than 90% below market rate ...

Check it out

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Dr. Derek Kerr

Hopes were that recovering from COVID-19 would generate antibodies, thus conferring immunity. Plus, survivors could help treat newly-infected COVID-19 patients by donating their convalescent plasma. It's not as simple.

[Check it out](#)

.....

Our Inefficient Water, Sewer and Power Provider



by Steve Lawrence

While water and sewer bills are not taxes, they are worse. They hit ordinary people harder than taxes. When costs rise, so do rates.

[Read More ..](#)

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Life returns slowly to West Portal People are beginning to return to West Portal — and others are ready to make sales...

Check it out

Nursing Home "Invisibles"



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Prelude to a Police Shooting



Lou Barberini

Tommy refused to social distance..... Upon arrival, the two officers immediately observed mouth ...



.....

Pandemic Clobbers School Budgets



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An Emphatic Letter to City Hall



John Farrell

We've been here before...after the assassinations of Mayor George Moscone and Supervisor Harvey Milk...incomprehensible murders in Guyana...AIDS and the 1989 Loma Prieta earthquake...

Check it out

City Hall's End Run Around Environmental Review



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..... Society of Professional Journalists, NorCal Chapter

SF's Covid Response

Dr. Teresa Palmer

Where Are Our Priorities? Nursing homes are like cruise ships, and the outbreak at Centra

Check it out

.....

Nuru, Breed and Willie Brown

George Wooding

Nuru was not the FBI's main target of the investigation—he was the bait to lure someone l

Check it out

.....

Earthday & Coyotes

Environmentalk: Kathy Howard

...a coyote attack raises the question... How do we coexist with wildlife?

Check it out

.....

Breed's Secrecy

Patrick Monette-Shaw

...suspending access to public records — even temporarily, is clearly dangerous to open g

Check it out

WESTSIDE OBSERVER

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Society of Professional Journalists, NorCal Chapter

.....

Court Upholds \$5 Million Whistleblower Judgment against City /

by Dr. Derek Kerr

Taxpayer costs will exceed \$5 million since the City has been paying the Keker & Van Nest / Herrera. They already billed the City \$2,267,75, in September 2016...

[Read More](#)

[See Her OpEd](#)

.....

Hold up on "insurance" for your water and sewer line

by Steve Lawrence

Don't be fooled: you're being sold insurance. Do you have a choice? Yes you do...

[Read More](#)

.....

Is City Hall Getting Nervous?

London Breed is Falling Down

by George Wooding

... City Officials are worried that Nuru is about to negotiate a plea bargain deal naming name prison.

[Read More](#)

.....

Respondents Document Submission

Leger, Cheryl (BOS)

From: Steinberg, David (DPW)
Sent: Friday, June 21, 2019 2:12 PM
To: SOTF, (BOS); Goldberg, Jonathan (DPW)
Subject: RE: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 19062
Attachments: Response - Complaint #19062.docx

Hi Cheryl,

Attached is our response to the complaint.

Regards,



David A. Steinberg
Custodian of Records & Executive Assistant to the Director
San Francisco Public Works | City and County of San Francisco
City Hall, Room 348 - 1 Dr. Carlton B. Goodlett Pl. | San Francisco, CA 94102 | (415) 554-6950
sfpublicworks.org - twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

From: SOTF, (BOS) <sotf@sfgov.org>
Sent: Friday, June 14, 2019 10:24 AM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>
Cc: JOHN HOOPER <hooparb@aol.com>
Subject: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 19062

Good Morning:

Public Works has been named as a Respondent in the attached complaint filed with the Sunshine Ordinance Task Force. Please respond to the following complaint/request within five business days.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

The Respondent is required to submit a written response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within five (5) business days of receipt of this notice. This is your opportunity to provide a full explanation to allow the Task Force to be fully informed in considering your response prior its meeting.

Please include the following information in your response if applicable:

1. List all relevant records with descriptions that have been provided pursuant to the Complainant request.
2. Date the relevant records were provided to the Complainant.
3. Description of the method used, along with any relevant search terms used, to search for the relevant records.

4. Statement/declaration that all relevant documents have been provided, does not exist, or has been excluded.
5. Copy of the original request for records (if applicable).

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:
Complaint Attached.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724



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June 21, 2019

Sunshine Ordinance Task Force
c/o Cheryl Leger
Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: SOTF Complaint No. 19062

We are in receipt of the above-referenced complaint and are submitting this written response as required.

On Feb. 11, 2019, John Hooper sent an email to several San Francisco department heads as well as to a number of private individuals requesting copies of public records. Public Works Director Mohammed Nuru forwarded the email to me. That same day, I entered the request as Public Records Request #19-517 in NextRequest, the online platform used by Public Works to respond to records requests, and sent Mr. Hooper an email acknowledging receipt and explaining that we would be releasing responsive records through NextRequest.

This was the third request from Mr. Hooper related to Green Benefit Districts ("GBDs"). In addition to his own requests, two associates of his, Mark Sullivan and Daniel Tomasevich, have submitted a combined 30 similar requests.

On Feb. 20, we released 43 documents to Mr. Hooper, totaling approximately 240 pages. In addition, we referred him to two previous requests that contained responsive records – Public Records Request #19-73 from Mr. Tomasevich with two documents and Public Records Request #18-1857 from Mr. Hooper with 30 documents totaling approximately 600 pages. Our communication closing the request included the following information:

Please note that San Francisco Public Works holds neither contracts nor grants with the Greater Buena Vista GBD or the Mission Dolores GBD or their formation committees. For this reason, we are only able to produce records that are under our control and possession.

On May 29, Mr. Hooper sent another email to a number of City employees, including Public Works Director Mohammed Nuru and Public Works employee Jonathan Goldberg. Unfortunately, the request he attached was in a format that wasn't readable by our computers. That day, I sent him an email that contained the following information:

As we wrote to you on Feb. 20, 2019, in our response to Public Records Request #19-517, we released to you the records responsive to your request. We also noted that San Francisco Public Works holds neither contracts nor grants with the Greater Buena Vista GBD or the Mission Dolores GBD or their formation committees. For this reason, we were only able to produce records that are under our control and possession. If you still believe there are responsive records outstanding, please submit a new request at sfpublicworks.org/records, which as you know is the online platform we use to answer public records requests, or send me a copy of the attachment from today's letter in PDF or another common format.

He mailed me a copy of the attachment, which I received June 3 and which contained a request that additional documents responsive to his Feb. 11 request be delivered. The mailed letter contained no new requests and we had already informed Mr. Hooper that we had provided all of the responsive records in our possession and control, so no further action was taken.

San Francisco Public Works has no contracts or agreements with San Francisco Parks Alliance, which Mr. Hooper knows because he spoke May 21, 2019, in support of Mr. Sullivan at a SOTF committee meeting in which a similar matter was heard. Mr. Hooper also notes in his Feb. 11 letter that "the City – through OEWD – has provided extensive funding to San Francisco Parks Alliance."

We have provided all of the documents responsive to the February 2019 request that are held by this department. Mr. Hooper's argument that there is an obligation to obtain records from a third party does not apply in this case because the San Francisco Parks Alliance has not received a grant from Public Works. For these two reasons, we ask that this complaint against Public Works be dismissed.

Regards,

David A. Steinberg
Custodian of Records
San Francisco Public Works

Jan. 8, 2020

Sunshine Ordinance Task Force
c/o Cheryl Leger
Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: SOTF Complaint No. 19062

Our initial written response to this complaint, dated June 21, 2019, is attached. In addition, we would like the following material included in the packet for SOTF members.

This complaint is substantially similar to one filed by Mark Sullivan (File #19062) seeking documents related to Green Benefit Districts ("GBDs"). In both cases, Public Works responded in a timely manner to requests for records, but complaints were filed for failure to produce records that were neither in the possession nor under the control of Public Works.

The Task Force found that Public Works did not violate the Sunshine Ordinance in the complaint filed by Mr. Sullivan (see attached Order of Determination), and we ask that you similarly find against Mr. Hooper in this complaint.

In response to his records request, the department on Feb. 20 released 43 documents to Mr. Hooper, totaling approximately 240 pages. In addition, we referred him to two previous requests that contained responsive records with 30 documents totaling approximately 600 pages.

Like Mr. Sullivan, Mr. Hooper, is arguing that San Francisco Public Works has an obligation to retrieve records from San Francisco Parks Alliance, an organization with which it has no contracts or agreements. Mr. Hooper is aware that a different City agency holds the contract with Parks Alliance and even noted in his Feb. 11 letter to the SOTF that "the City – through OEWD – has provided extensive funding to San Francisco Parks Alliance."

According to the meeting minutes of the Aug. 20, 2019, Complaints Committee, Mr. Hooper "stated that he requested the raw data from the 'survey monkey.'" While Public Works did not have access to this data, Marianne Mazzucco-Thompson of OEWD told the committee that day that the data had already been supplied to Mr. Hooper by her in spreadsheet format.

In summary, we have provided all of the documents responsive to the February 2019 request that are held by this department. Mr. Hooper's argument that there is an obligation to obtain records from a third party does not apply in this case because the San Francisco Parks Alliance has not received a grant from Public Works. For these two reasons, we ask that the Task Force follow its precedent in Mr. Sullivan's complaint File #19062 and find no violation of the Sunshine Ordinance.

Regards,

David A. Steinberg
Custodian of Records
San Francisco Public Works

Leger, Cheryl (BOS)

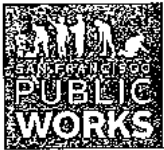
From: Steinberg, David (DPW)
Sent: Thursday, September 24, 2020 12:14 PM
To: SOTF, (BOS)
Cc: Thompson, Marianne (ECN); JOHN HOOPER
Subject: RE: SOTF - rescheduling GBD hearing

Hi Cheryl,

In response to Mr. Hooper's request that a most knowledgeable employee appear at the hearing, please note the following:

- Jonathan Goldberg is on a Disaster Service Worker assignment, is not reporting to Public Works and is unavailable for the foreseeable future.
- The sole purpose of this committee meeting was to review the "new" materials that Mr. Hooper belatedly tried to present at the January 21, 2020, hearing. None of those materials has any bearing on his request to or the response from Public Works. Further, as I've said at several meetings now, we have provided all responsive records in our possession and having Mr. Goldberg on hand to confirm that isn't necessary.

Regards,



David A. Steinberg

Custodian of Records & Executive Assistant to the Director
San Francisco Public Works | City and County of San Francisco
49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (628) 271-2888
sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

Note: The new contact information above is effective July 6, 2020.

From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, September 24, 2020 11:54 AM
To: SOTF, (BOS) <sotf@sfgov.org>
Cc: Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Subject: Re: SOTF - rescheduling GBD hearing

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Cheryl: I'm now in my SF office with my files at hand.

I was most recently scheduled to appear before the SOTF Complaint Committee on February 18, 2020 but SOTF cancelled that meeting. So you are now seeking to reschedule that meeting, as I understand it.

I prepared and sent to SOTF the statement I had expected to make on February 18, so It looks like you've got what you need. Please let me know if I can provide more info.

It would be helpful if the Committee would require City employees from Public Works and OEWD who are knowledgeable about GBD programs to appear rather than custodians of records who are - by their own admissions - not familiar with the details of these programs.

Please let me know when you plan to schedule the next hearing.

Thanks, as always.

John Hooper

On Sep 21, 2020, at 12:18 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Mr. Hooper: Attached are the materials you submitted to me at the January Sunshine Ordinance Task Force hearing. Are these the only materials you wish to submit or do you have other documents? I would like to schedule your file nos. 19061 and 19062 to be heard by the SOTF Complaint Committee. The decision of the SOTF is below. Please respond. Thank you.

January 21, 2020 SOTF hearing, SOTF referred the matter back to the Complaint Committee and have new materials provided to SOTF be included in the file for review to determine which documents are applicable to which respondent and provide a recommendation to the SOTF.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Cheryl.Leger@sfgov.org
Tel: 415-554-7724
Fax: 415-554-5163
www.sfbos.org

<image009.png>

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From: Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Sent: Monday, September 21, 2020 10:56 AM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; SOTF, (BOS) <sotf@sfgov.org>
Cc: Heckel, Hank (MYR) <hank.heckel@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Good Morning Cheryl,

I read the document that was sent, and I sincerely do not understand it. I do not see the need to proceed forward.
M.

<image003.png>

From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Wednesday, September 16, 2020 5:20 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Thanks, Cheryl.

-d.

<image005.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director
San Francisco Public Works | City and County of San Francisco
49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (628) 271-2888
sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

Note: The new contact information above is effective July 6, 2020.

From: SOTF, (BOS) <sotf@sfgov.org>
Sent: Wednesday, September 16, 2020 2:34 PM
To: Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hello Marianne and David: Attached are the materials submitted by Mr. Hooper at the January 21, 2020 SOTF hearing. Let me know if you need anything further. I will be at the office tomorrow if you need me to get other records to you.

Cheryl Leger
415-425-6918 – my cell

From: Steinberg, David (DPW) <david.steinberg@sfdpw.org>
Sent: Tuesday, September 15, 2020 3:12 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>
Subject: RE: SOTF - file nos. 19061 and 19062

Hi Cheryl,

I don't see the additional records that Mr. Hooper provided at the in-person meeting as part of the minutes you provided. My notes from previous emails show that you said you had them in your office and you would send us copies when the stay-at-home order was lifted. Do you have access to them? The whole reason to schedule the committee meeting was to consider these new records, so there isn't much point holding a meeting until we have copies.

Thanks much and stay safe.

-d.

<image006.jpg>

David A. Steinberg

Custodian of Records & Executive Assistant to the Director

San Francisco Public Works | City and County of San Francisco

49 South Van Ness Avenue, Suite 1647 | San Francisco, CA 94103 | (528) 271-2888

sfpublicworks.org · twitter.com/sfpublicworks

For public records requests, please go to sfpublicworks.org/records.

Note: The new contact information above is effective July 6, 2020.

From: SOTF, (BOS) <sotf@sfgov.org>

Sent: Tuesday, September 15, 2020 2:11 PM

To: Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>

Subject: SOTF - file nos. 19061 and 19062

Hello Marianne and David: Attached are the minutes from the January 21, 2020, Sunshine Ordinance Task Force hearing. Reflected in the minutes is the inclusion of records that were provided to Mr. Hooper. I would like to schedule these two matters to be heard next month before the Complaint Committee. Please review the minutes and let me know if you need anything further from me or if I need to do something. Thank you.

Cheryl Leger

Assistant Clerk, Board of Supervisors

Cheryl.Leger@sfgov.org

Tel: 415-554-7724

Fax: 415-554-5163

www.sfbos.org

<image009.png>

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<hooper.pdf>

Oct. 13, 2020

Sunshine Ordinance Task Force
c/o Cheryl Leger
Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: SOTF Complaint No. 19062

Our two previous written responses to this complaint, dated June 21, 2019, and Jan. 8, 2020, are attached. In addition, we would like the following material included in the packet for SOTF members:

The sole purpose of this committee meeting was to review the "new" materials that Mr. Hooper belatedly tried to present at the January 21, 2020, hearing. None of those materials has any bearing on his request to or the response from Public Works. Further, as I've said at several meetings now, we have provided all responsive records in our possession. We ask that this complaint be dismissed.

Regards,

David A. Steinberg
Custodian of Records
San Francisco Public Works

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION
October 24, 2019**

DATE DECISION ISSUED
August 7, 2019

CASE TITLE – Mark Sullivan v. Jonathan Goldberg, David Steinberg and the
Department of Public Works.
File No. 19032

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 19032: Complaint filed by Mark Sullivan against Jonathan Goldberg, David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(a)(c)(d)(g), by failing to respond to a public records request in a timely and/or complete manner; 67.5 requiring that meetings be open and public and 67.32 provision of services to other agencies.

HEARING ON THE COMPLAINT

On May 21, 2019, the Education, Outreach and Training Committee acting in its capacity to hear petitions/complaints heard the matter.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that in the Respondent's claims that Public Works has not entered into a contract with SFPark Alliance and that the contract is with OEWD. Mr. Sullivan stated that Public Works should have either provided the contract or obtained the contract on behalf of the Petitioner. Mr. Sullivan stated that DPW has a green benefits manager who regularly interacts with the green benefits formation committees. Mr. Sullivan stated that the documents submitted show that Mr. Goldberg attended five separate Mission Dolores green benefit district planning meetings to answer questions.

John Hooper provided comments regarding the Petitioner's complaint. Rick Correll provided comments regarding the proposed green benefit district and that possibly Mr. Sullivan could get documents from Place Lab aka SFPark Alliance.

David Steinberg, Public Works (Respondent), provided a summary of the department's position. Mr. Steinberg stated that DPW has received 33 separate records requests from Mr. Sullivan regarding green benefits districts and has produced all requested documents in their possession. Mr. Steinberg described the process for retaining emails and documents. Mr. Steinberg stated that Public Works has no additional documents to turn over to Mr. Sullivan and further stated that all requested records were provided to multiple parties on multiple occasions. Mr. Steinberg stated that they do not have the Place Lab contract in question as it was not administered by Public Works but by OEWD.

Marianne Thompson provided a summary of how green benefits districts work and their relationships with contractors. Ms. Thompson also provided information on how OEWD contracts are managed and work.

The Committee noted that the complaint is against the city department and that the SOTF previously found that the SOTF does not have jurisdiction over green benefit district (File No. 18086.) Upon discussion the Committee opined that that issue of contention is the provision of the contract with OEWD.

Due to the related issues in File Nos. 19031 and 19032 and with the agreement of the Petitioner and the Committee requested that the matters be scheduled and heard together before the SOTF.

The Committee found that the SOTF has jurisdiction and that the requested records are public and referred the matter to the SOTF for hearing.

On August 7, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated he receive documentation that indicates the existence of contracts that Public Works is withholding. Mr. Sullivan stated that Public Works (PW) has given out two contracts for a GBD formation which he has not received.

David Steinberg (Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that Mr. Sullivan asked for records that detail the GBD Formation Committee. Mr. Steinberg stated that he closed the requests on March 21, 2019 and told Mr. Sullivan that all records have been provided and no contracts have been withheld. Mr. Stenberg stated that the Place Lab, SFParks Alliance contract is not administered by Public Works but by OEWD.

Marianne Mazzucco-Thompson (Respondent), provided an additional summary of the OEWD's position. Ms. Mazzucco-Thompson stated that she has provided the contract with SFParks Alliance to Mr. Sullivan and that there were

deliverables. Ms. Mazzucco-Thompson stated that she went back to SFParks Alliance and they provided a spreadsheet which she forwarded to Mr. Sullivan. Ms. Mazzucco-Thompson stated that all documents have been provided to Mr. Sullivan.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Jonathan Goldberg, David Steinberg and the Department of Public Works **DID NOT VIOLATE** Administrative Code (Sunshine Ordinance), Sections 67.1, 67.5 and 67.32.

DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Cannata, seconded by Member Cate, to find that the Department of Public Works did not violate Administrative Code (Sunshine Ordinance), Sections 67.1, 67.5 and 67.32.

The motion PASSED by the following vote:

Ayes: 9 - Cannata, Cate, Yankee, Martin, J. Wolf, Tesfai, LaHood, Hinze
B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Hyland



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Mark Sullivan (Petitioner/Complainant)
Jonathan Goldberg, David Steinberg and the Department of Public Works
(Respondents)

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Wednesday, October 14, 2020 1:01 PM
To: SOTF, (BOS)
Subject: Re: Parks Alliance/Public Works/OEWD and corruption: "benefit" districts lay groundwork for private firms to take over City services

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Cheryl: This letter to Tim Redmond is a further attempt on my part to explain the central role that "benefit" districts have played in the corruption scandals that have swept the City.

Please include this note including the full letter(s) below in the files #19061 and #19062 so this information is available to SOTF members to read prior to the October 20 Complaint Committee hearing.

Thanks as always!

John Hooper

On Oct 14, 2020, at 12:44 PM, JOHN HOOPER <hooparb@aol.com> wrote:

Hi Tim: Parks Alliance Board now includes real estate developer OZ Erickson. Another big developer, former Parks Alliance Board member Michael Yarne, first introduced the idea that Parks Alliance get paid

by OEWD to promote special elections to set up "benefit" districts, thereby accelerating privatization of basic government services.

Below is an adaptation of a recent letter I wrote trying to explain this issue as being central to our corruption crisis in SF gov't.

Stay well!-

John Hooper

Subject: Re: Parks Alliance/Public Works/OEWD and corruption: "benefit" districts lay groundwork for private firms to take over City services

Another aspect of this complex subject, which has not yet received much attention, are City-funded efforts to establish Commercial Benefit Districts (CBDs) and Green Benefit Districts (GBDs), both of which encourage basic City services to be privatized with (historically) Mohammed Nuru making the decisions about what private companies or cronies then get the contracts for "extra" police, street cleaning and park maintenance.

More recently, multi-millionaire Chris Larsen has used CBDs as his vehicle to distribute hundreds of surveillance cameras via six CBDs in disregard of City ordinance and any public process.

For several years, DPW has had a full time employee - Jonathan Goldberg - promoting Green Benefit Districts (GBDs) which promise to provide "additional services" for residential neighborhoods which agree to assess themselves.

The funding to promote GBDs comes through Public Works and the Mayor's Office of Economic and Workforce Development (OEWD). Real estate developer Michael Yaerne gained City approval to set up GBDs while he worked at OEWD when Gavin Newsom was Mayor.

In effect, the City is funding lobbying campaigns to influence special elections and thus reduce its own responsibilities for cleaning up the City and setting up frameworks to hand off basic services to private firms.

Technically, City employees are forbidden by law from becoming involved in elections, but establishing CBDs and GBDs both require special elections, and, in reality, City agencies place their thumbs heavily on the scale, using taxpayer dollars to fund City staffers to promote benefit districts and through non-profits to influence the process while hiding the City's role. The City Attorney has been alerted to this problem on a number of occasions.

GBDs have been defeated in several neighborhoods, including the Inner Sunset and Haight (where I live), and most recently in the Dolores Park neighborhood where a divisive two year effort has just been called off. Property owners in these areas have generally responded to these City-funded lobbying efforts to convince property owners to tax themselves, by asking "don't we already pay property taxes to provide for policing, street cleaning and park maintenance?"

Once again, **Parks Alliance has been at the center of these illegal efforts and has been paid by the City to be the foot-soldier in these campaigns to privatize City services.** The contract between the City and Parks Alliance for the failed effort in the Haight, for example, came to \$221,000. The total cost of the effort in the Dolores Park area is still unknown but similar. Parks Alliance routinely used taxpayer dollars to set up websites, to run highly biased public meetings, pay for promotional mailers, run Petition Drives to the Board of Supervisors and was prepared to influence special elections by having all City-owned properties in targetted neighborhoods vote in favor of assessing neighbors.

A number of neighbors from different areas of the City have testified for the past two or three years before the Sunshine Ordinance Task Force (SOTF) to try to reveal the relationship between DPW, OEWD and Parks Alliance in promoting new residential assessment districts using taxpayer dollars.

You can obtain detailed information about this effort by asking SOTF for files #19061 and #19062. I expect to testify once again before the SOTF on October 20. SOTF has shown little interest in this issue to date. Now that Parks Alliance finds itself at the center of a City government corruption scandal, there may be some reason to hope that SOTF will help concerned citizens get to the bottom of this matter.

Anyhow, this whole effort to use public funds to set up special assessment districts to privatize services has not been fully exposed and I thought it would interest you.

John Hooper
Haight-Ashbury

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Friday, June 14, 2019 12:38 PM
To: SOTF, (BOS)
Subject: Re: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 19062

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear SOTF:

Just want to verify that OEWD is required to respond to the complaint as well as DPW.

Thank you.

John Hooper

On Jun 14, 2019, at 10:24 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Morning:

Public Works has been named as a Respondent in the attached complaint filed with the Sunshine Ordinance Task Force. Please respond to the following complaint/request within five business days.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

The Respondent is required to submit a written response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within five (5) business days of receipt of this notice. This is your opportunity to provide a full explanation to allow the Task Force to be fully informed in considering your response prior its meeting.

Please include the following information in your response if applicable:

1. List all relevant records with descriptions that have been provided pursuant to the Complainant request.
2. Date the relevant records were provided to the Complainant.
3. Description of the method used, along with any relevant search terms used, to search for the relevant records.
4. Statement/declaration that all relevant documents have been provided, does not exist, or has been excluded.
5. Copy of the original request for records (if applicable).

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:
Complaint Attached.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

<image001.png> Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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<SOTF - Complaint Procedure 2018-12-05 FINAL.pdf>

<19062.pdf>

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, June 20, 2019 2:57 PM
To: SOTF, (BOS)
Subject: Re: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 19062

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Cheryl: It was my intent to include both DPW and OEWD in my complaint.

Is that your understanding or do I need to take any additional steps?

Thanks for your guidance.

John Hooper

On Jun 14, 2019, at 10:24 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Morning:

Public Works has been named as a Respondent in the attached complaint filed with the Sunshine Ordinance Task Force. Please respond to the following complaint/request within five business days.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

The Respondent is required to submit a written response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within five (5) business days of receipt of this notice. This is your opportunity to provide a full explanation to allow the Task Force to be fully informed in considering your response prior its meeting.

Please include the following information in your response if applicable:

1. List all relevant records with descriptions that have been provided pursuant to the Complainant request.
2. Date the relevant records were provided to the Complainant.
3. Description of the method used, along with any relevant search terms used, to search for the relevant records.
4. Statement/declaration that all relevant documents have been provided, does not exist, or has been excluded.
5. Copy of the original request for records (if applicable).

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:
Complaint Attached.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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<SOTF - Complaint Procedure 2018-12-05 FINAL.pdf>

<19062.pdf>

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, July 25, 2019 5:38 PM
To: SOTF, (BOS)
Cc: mark@innersunsetsf.org; dtomasevich@gmail.com; bosco22@hotmail.com; stevebartoletti@gmail.com; rjcarell@gmail.com
Subject: Re: SOTF - confirming 8/20 hearing #19063

No problem, Cheryl. I'm marking August 20.

John Hooper

On Jul 25, 2019, at 4:56 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

I am in receipt of and thank you for your email. MY MISTAKE!! You only need to appear on August 20 before the Complaint Committee for the matters outlined below. I apologize if this caused you any trouble. I will be sending out a Notice of Appearance soon.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner. (attachment)

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: JOHN HOOPER <hooparb@aol.com>
Sent: Thursday, July 25, 2019 4:16 PM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Re: SOTF - confirming 7/29 hearing #19063

Confirming my appearance requested for Monday 7/29 per your email of 7/12 below.

Can you let me know agenda, place and time? Thanks!

John Hooper

On Jul 12, 2019, at 12:34 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

You have a total of four complaints (DPW (File No. 19062), OEWD (File No. 19061), Rec & Park (File No. 19064) and SFParks Alliance (File No. 19063)). I have separated those complaints into four because you are alleging noncompliance with three of the departments and we need to keep each complaint separate. In addition, we can only schedule two complaints per Petitioner per committee hearing. So I scheduled your 19063, SFParks Alliance, to be heard on July 29. Your other two complaints will be heard in the near future. Let me know if you have other questions.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: John C. Hooper <hooparb@aol.com>
Sent: Friday, July 12, 2019 11:10 AM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Re: SOTF -question re- Complaint Committee agenda; July 23, 2019 5:30 p.m.

Dear Cheryl:

A question about my May 29, 2019 complaint (which you have kindly agreed to postpone):

P2013

In your July 9 hearing notice, the complaint is described as being only against SF Parks Alliance. However, as I have tried to make clear in several clarifying emails since my original complaint, I am expecting additional information from OEWD and DPW and have not released those agencies from my complaint.

I have only released Rec/Park Dept from the complaint as that department has apparently sent me all requested information.

Please let me know that you understand that the complaint as described below incorrectly omits OEWD and DPW.

Thanks,

John Hooper

-----Original Message-----

From: JOHN HOOPER <hooparb@aol.com>

To: SOTF, (BOS) <sotf@sfgov.org>

Cc: drew@sfparksalliance.org <drew@sfparksalliance.org>;
brookeray@sfparksalliance.org <brookeray@sfparksalliance.org>

Sent: Wed, Jul 10, 2019 9:07 am

Subject: Re: SOTF - Updated Notice of Appearance - Complaint Committee; July 23, 2019 5:30 p.m.

Hi Cheryl: thanks so much!

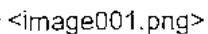
John Hooper

On Jul 10, 2019, at 8:38 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

I am in receipt of your request for postponement and accept it. Since this is your first request, we will note it as such in our records. After that any postponements requested must be approved by the Committee. By way of this email, I am notifying the respondent of your request.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: JOHN HOOPER <hooparb@aol.com>
Sent: Tuesday, July 9, 2019 7:03 PM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Re: SOTF - Updated Notice of Appearance - Complaint Committee; July 23, 2019 5:30 p.m.

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Dear SOTF:
Re: File # 19063 - request to postpone

I have a conflict the afternoon of July 23. May I ask you to reschedule that agenda item at another meeting. Please excuse the inconvenience.

John Hooper

On Jul 9, 2019, at 3:32 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: July 23, 2019

Location: City Hall, Room 408

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19060: Complaint filed by Ashley Rhodes against the Arts Commission for allegedly violating Administrative Code, Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

File No. 19025: Complaint filed by Jamie Whitaker against the Homelessness and Supportive Housing for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19058: Complaint filed by Robert M. Smith against the Fine Arts Museum of San Francisco for allegedly

violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19063: Complaint filed by John Hooper against SFParks Alliance for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19068: Complaint filed by Sophia De Anda against the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure). ***For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, July 16, 2019.***

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

[<image001.png>](#) Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Leger, Cheryl (BOS)

From: JOHN HOOPER <hooparb@aol.com>
Sent: Wednesday, August 7, 2019 9:55 AM
To: SOTF, (BOS)
Subject: Re: SOTF - Complaint Committee; August 20, 2019 5:30 p.m: submitting info for the record?

Good to know; thank you!

John Hooper

On Aug 7, 2019, at 8:21 AM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Dear Mr. Hooper:

Yes, you can submit materials as long as you do so on or before August 13. Everything else that I have been given will be included in the packet. Once the Agenda packet has been uploaded, you will be able to see everything that I have received in your file.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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From: JOHN HOOPER <hooparb@aol.com>
Sent: Wednesday, August 7, 2019 8:19 AM
To: SOTF, (BOS) <sotf@sfgov.org>
Cc: Juan De Anda <deanda_sophia@comcast.net>; Rudakov, Vladimir (HSA) <Vladimir.Rudakov@sfgov.org>; Pang, Ken (HSA) <Ken.Pang@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Nuru, Mohammed (DPW) <mohammed.nuru@sfdpw.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Goldberg, Jonathan (DPW) <jonathan.goldberg@sfdpw.org>; 72056-97339218@requests.muckrock.com; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; 72902-45637773@requests.muckrock.com; Heckel, Hank (MYR) <hank.heckel@sfgov.org>
Subject: Re: SOTF - Complaint Committee; August 20, 2019 5:30 p.m: submitting info for the record?

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: Files: 19061 and 19062

Hi Cheryl: May I submit written materials ahead of time for SOTF to read? If so, when would you like to receive materials?

May I assume information previously submitted by myself or others is already part of the SOTF record and may be referenced without resubmitting?

Thank you.

John Hooper

On Jul 29, 2019, at 2:05 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: August 20, 2019

Location: City Hall, Room 408

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19068: Complaint filed by Sophia De Anda against the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19044: Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19047: Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.25 and 67.29-5, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure). *For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, August 13, 2019.*

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

<image001.png> Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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Leger, Cheryl (BOS)

From: John C. Hooper <hooparb@aol.com>
Sent: Wednesday, August 28, 2019 12:31 PM
To: SOTF, (BOS)
Subject: SOTF hearing schedule

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Cheryl:

Wanted to let you know that I will be **out of town from Sept 16 til Oct 12.**

I don't know the SOTF hearing schedule for the foreseeable future, but I won't be available during that time.

This pertains to my two complaints heard before the Complaints Committee on August 20, 2019 and an outstanding complaint concerning SF Parks Allaince.

As always, thanks for your help.

John Hooper
415-626-8880

Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Tuesday, January 7, 2020 4:29 PM
To: 'libraryusers2004@yahoo.com'; Buckley, Theresa (TTX); Cisneros, Jose (TTX); Gard, Susan (HRD); Callahan, Micki (HRD); 'terence kerrisk'; 'JOHN HOOPER'; Corgas, Christopher (ECN); Thompson, Marianne (ECN); Nuru, Mohammed (DPW); Goldberg, Jonathan (DPW); Steinberg, David (DPW); '72056-97339218@requests.muckrock.com'; COTE, JOHN (CAT); 'Justin Barker'; 'vitustl@sfzoo.org'; tanyap@sfzoo.org; 'MICHAEL PETRELIS'; Breed, Mayor London (MYR); Heckel, Hank (MYR); '76434-70600365@requests.muckrock.com'
Subject: SOTF - Notice of Appearance, January 21, 2020 - Sunshine Ordinance Task Force; 4:00 PM

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: January 21, 2020

Location: City Hall, Room 408

Time: 4:00 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19011: Complaint filed by the Library Users Association against Theresa Buckley, Jose Cisneros, Christa Brown, Anne Stuhldreher and the Office of the Treasurer and Tax Collector for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(a)(b)(c), by failing to respond to a request for public records in a timely and/or complete manner and by failing to provide the requestor with assistance by directing the requestor to the proper office or staff person.

File No. 19015: Complaint filed by Terrence J. Kerrisk against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19044: Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 61.26, 61.27, Government Code Sections 6253, 6253.9 and 6255, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19092: Complaint filed by Justin Barker against the San Francisco Zoo for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19093: Complaint filed by Michael Petrelis against Sean Elsbernd and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21 by failing to respond to a request for public records in a timely and/or complete manner.


File No. 19091: Complaint filed by Anonymous against Mayor London Breed, the Office of the Mayor, Hank Heckel, Tryone Jue, Sean Elsbernd, Andres Power, Andrea Bruss, Marjon Philhour, Jeff Cretan, Sophia Kittler for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21, 67.26, 67.27 and 67.29-7, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, January 13, 2020.**

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Thursday, February 6, 2020 2:12 PM
To: 79999-25916958@requests.muckrock.com; Megan Bourne; 80695-54486849@requests.muckrock.com; Cityattorney; Cote, John (CAT); Coolbrith, Elizabeth (CAT); JOHN HOOPER; Corgas, Christopher (ECN); Thompson, Marianne (ECN); Goldberg, Jonathan (DPW); Steinberg, David (DPW); S; McHale, Maggie (HRD); Voong, Henry (HRD); Callahan, Micki (HRD)
Subject: SOTF - Notice of Appearance - Complaint Committee: February 18, 2020; 5:30 p.m.

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee of the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: February 18, 2020

Location: City Hall, Room 408

Time: 5:30 p.m.

File No. 19113: Complaint filed by Anonymous against Jason Moment, Thomas Campbell and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c)(k), 67.29-7(a)(c), 67.25, 67.26, 67.27, CPRA Government Code 6270.5-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to assist, failure to retain records, failing to record third party transactions, withholding and failure to justify withholding, failure to respond to a public records request in a timely and/or complete manner.

File No. 19120: Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a request for public records in a timely and/or complete manner; failing to justify withholding of records and failing to provide assistance.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.


File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, February 12, 2020**.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Monday, March 9, 2020 1:39 PM
To: John C. Hooper
Cc: Leger, Cheryl (BOS); Corgas, Christopher (ECN); Thompson, Marianne (ECN); Steinberg, David (DPW); Goldberg, Jonathan (DPW); Calvillo, Angela (BOS)
Subject: SOTF - Request for Postponement 19061 and 19062 - Granted

Mr. Hooper:

Pursuant to the SOTF Complaint procedures your request to postpone your hearings (File Nos. 19061 and 19062) scheduled before the Complaint Committee on 3/17 has been granted.

Cheryl will be in touch with you to reschedule the matter (most likely on April 21, 2020.)

Thank you.

Victor Young
Assistant Clerk
Board of Supervisors
phone 415-554-7723 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

From: John C. Hooper <hooparb@aol.com>
Sent: Thursday, March 5, 2020 12:43 PM
To: SOTF, (BOS) <sotf@sfgov.org>; Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-25916958@requests.muckrock.com; 80695-54486849@requests.muckrock.com; Cityattorney <Cityattorney@sfcityatty.org>; COTE, JOHN (CAT) <John.Cote@sfcityatty.org>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; grovestand2012@gmail.com; McHale, Maggie (HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>
Subject: Re: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

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Re #19061 and #19062:

I apologize, but I will not be able to attend the 3/17 meeting. For the record, I was prepared to speak at the Feb 18 meeting which was cancelled for lack of a quorum. Please let me know when the next Complaint Committee meeting is expected.

John Hooper

-----Original Message-----

From: SOTF, (BOS) <sotf@sfgov.org>
To: Campbell, Thomas (FAM) <tcampbell@famsf.org>; 79999-25916958@requests.muckrock.com <79999-25916958@requests.muckrock.com>; 80695-54486849@requests.muckrock.com <80695-54486849@requests.muckrock.com>; Cityattorney <Cityattorney@sfcityatty.org>; COTE, JOHN (CAT)

<John.Cote@sfcityatty.org>; JOHN HOOPER <hooparb@aol.com>; Thompson, Marianne (ECN) <marianne.thompson@sfgov.org>; Corgas, Christopher (ECN) <christopher.corgas@sfgov.org>; Steinberg, David (DPW) <david.steinberg@sfdpw.org>; Stephen <grovestand2012@gmail.com>; McHale, Maggie (HRD) <maggie.mchale@sfgov.org>; Voong, Henry (HRD) <henry.voong@sfgov.org>

Sent: Thu, Mar 5, 2020 10:11 am

Subject: SOTF - Notice of Appearance - Complaint Committee: March 17, 2020; 5:30 p.m.

Good Morning:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Complaint Committee of the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: March 17, 2020

Location: City Hall, Room 408

Time: 5:30 p.m.

File No. 19113: Complaint filed by Anonymous against Jason Moment, Thomas Campbell and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c)(k), 67.29-7(a)(c), 67.25, 67.26, 67.27, CPRA Government Code 6270.5-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to assist, failure to retain records, failing to record third party transactions, withholding and failure to justify withholding, failure to respond to a public records request in a timely and/or complete manner.

File No. 19120: Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a request for public records in a timely and/or complete manner; failing to justify withholding of records and failing to provide assistance.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)


For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, February 12, 2020.**

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Monday, October 12, 2020 5:28 PM
To: 79356-20639593@requests.muckrock.com; Steinberg, David (DPW); 84031-44127205@requests.muckrock.com; Scott, William (POL); Rodriguez, Brian (POL); Andraychak, Michael (POL); Cox, Andrew (POL); JOHN HOOPER; Corgas, Christopher (ECN); Thompson, Marianne (ECN)
Subject: SOTF - Notice of Appearance - Complaint Committee: October 20, 2020, 5:30 p.m.

Good Afternoon:

Notice is hereby given that the Complaint Committee (Committee) of the Sunshine Ordinance Task Force (Task Force) shall hold hearings on complaints listed below to: 1) determine if the Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force.

Date: October 20, 2020

Location: Remote Meeting

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (c) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19097: Complaint filed by Anonymous against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19128: Complaint filed by Anonymous against Chief William Scott, Sgt. Brian Rodriguez, Michael Andraychak and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, 67.27 and 67.29-7(a) by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.


File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (4) working days before the hearing. *For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, October 15, 2020.*

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Monday, October 12, 2020 5:28 PM
To: 79356-20639593@requests.muckrock.com; Steinberg, David (DPW); 84031-44127205@requests.muckrock.com; Scott, William (POL); Rodriguez, Brian (POL); Andraychak, Michael (POL); Cox, Andrew (POL); JOHN HOOPER; Corgas, Christopher (ECN); Thompson, Marianne (ECN)
Subject: SOTF - Notice of Appearance - Complaint Committee: October 20, 2020, 5:30 p.m.

Good Afternoon:

Notice is hereby given that the Complaint Committee (Committee) of the Sunshine Ordinance Task Force (Task Force) shall hold hearings on complaints listed below to: 1) determine if the Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force.

Date: October 20, 2020

Location: Remote Meeting

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (c) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19097: Complaint filed by Anonymous against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19128: Complaint filed by Anonymous against Chief William Scott, Sgt. Brian Rodriguez, Michael Andraychak and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, 67.27 and 67.29-7(a) by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.


File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (4) working days before the hearing. *For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, October 15, 2020.*

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: SOTF, (BOS)
Sent: Friday, November 13, 2020 4:59 PM
To: 'r s'; Bourne, Megan (FAM); Heckel, Hank (MYR); '81242-04060798@requests.muckrock.com'; Breed, London (MYR); Breed, Mayor London (MYR); 'Anonymous'; Gerull, Linda (TIS); Makstman, Michael (TIS); Licudine-Barker, Arlene (TIS); 'JOHN HOOPER'; Thompson, Marianne (ECN); Steinberg, David (DPW); 'S'; McHale, Maggie (HRD); Voong, Henry (HRD)
Cc: Young, Victor (BOS); Somera, Alisa (BOS); Calvillo, Angela (BOS)
Subject: SOTF - Remote Meeting of the Sunshine Ordinance Task Force - Notice of Appearance, December 2, 2020; 4:00 PM
Attachments: SOTF - Complaint Procedure 2019-10-02 FINAL.pdf

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Sunshine Ordinance Task Force to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee.

Date: December 2, 2020

Location: Remote Meeting

Time: 4:00 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 19058: Complaint filed by Robert M. Smith against the Fine Arts Museum of San Francisco for violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19103: Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Mayor's Offices for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25 and 67.26, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19119: Complaint filed by Anonymous against the Department of Technology for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b), 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19061: Complaint filed by John Hooper against the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19062: Complaint filed by John Hooper against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.


File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion in the agenda packet, supplemental/supporting documents must be received by **5:00 pm, November 19, 2020.**

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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