

**A Report of the 2004-05 Civil Grand Jury
For the City and County of San Francisco**

Continuity Report

Released: June 2005

Pursuant to State law, reports of the Civil Grand Jury do not identify the names or identifying information about individuals who provided information to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of the Supervisors. As to each finding of the Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further as to each recommendation made by the Grand Jury, the responding party must report either (1) that the recommendation has been implemented, with a summary explanation of how it was; (2) the recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for the officer or agency head to be prepared to discuss it (less than six months from the release of this Report); or (4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (Cal. Penal Code, Sec. 933, 933.05)

SUMMARY OF RECOMMENDATIONS

Part II

1. The Mayor's Office should develop a standardized protocol that comports with PC 933.05 for responding to Grand Jury reports.
2. The Mayor's Office should require all City departments, offices, and agencies to use such a standardized protocol in their responses.

Part III

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

Part IV

1. The Planning Department should prepare a Work Plan that identifies steps the Department will take to complete the implementation of the agreed-upon recommendations of the 2001/02 Civil Grand Jury report on Billboard Code Enforcement. Such a response should include the number of additional temporary and/or regular staff members required to carry out its implementation, the needed additional software capability to increase productivity in enforcing the plan, timelines for completing each plan element, and potential sources for funding the plan.
2. In order to ensure that the Planning Department can commence implementation of the Work Plan, including elimination of the billboard code enforcement backlogs, the Planning Department should request and receive "start up" monies for adequate temporary additional staffing to complete the assignment.
3. In order to limit the amount of "start up" funding needed before the billboard code enforcement program can become self-sustaining, we suggest the following: The Board of Supervisors research major urban communities in California and elsewhere to identify "best practice" legislation to be used for collecting fees and penalties in matters of enforcement of illegal billboard signs. That information should be the basis for replacing or amending Planning Code Section 610 to enable the Planning Department to collect disincentive penalties from violators of the Billboard Ordinance. The legislation should have a fourfold purpose: to create an economic disincentive for future violations, to provide revenue for helping make billboard enforcement self-sustaining, to enhance other city revenues indirectly, and to eliminate non-permitted billboards.
4. The Board of Supervisors should review the progress, including projected timelines, of the Department of Building Inspection's Information Technology Exchange Project. Without such simultaneous tracking and coordinated action, it will be very difficult for the CPD enforcement staff to proceed as expeditiously as planned. The interface of information technology is essential for identifying targeted properties and billboards needing attention.
5. The Mayor, using SFStat and the Board President, using the Government Audit and Oversight Committee, should review the Planning Director's Report semi-annually for progress in meeting the program milestones and timelines, identified in the approved Work Plan.

INTRODUCTION

A continuity report of each Civil Grand Jury (CGJ) is an independent project unto itself. It decides what work of prior GGJs it will spotlight. To assure that the efforts of each CGJ are maximized, we have attempted to make a case for institutionalizing the on-going monitoring of local government's progress in implementing all agreed-upon recommendations of each year's CGJ and keeping a spotlight on the results.

Presently, other than a one-year status report by the Controller, the entirety of that information is no longer tracked annually. As a result, the public may have little awareness of departments whose efforts have been successful. Likewise, the public is unable to identify the management of departments whose efforts at implementation have stalled, failed, or ceased.

We have focused our attention on past CGJ recommendations. We found that the respondents agreed with a majority of the recommendations. However, in numerous cases implementation has not occurred. Successful implementation of all agreed-upon recommendations can do a great deal to restore much needed public confidence and trust in the workings of local government. We will demonstrate the need for on-going monitoring and the opportunity to move forward the implementation of stalled agreed-upon recommendations. The Billboard Enforcement study, found in the 2001/02 CGJ report, provides such an opportunity.

We have been very impressed by staff personnel who have answered our queries. When it comes to billboard code enforcement, a topic we explored in depth, we believe staff will be able to implement a micro model that can be employed on a more macro scale, in dealing with all code enforcement complaints and infractions.

Under the current leadership, local government may be ready for change:

- Steps are under way to improve staff productivity. Departments involved in code enforcement are currently investigating ways of creating an improved exchange of inter-agency information, by upgrading computer software and information technology.
- The Mayor and Board President have created SFStat and the Government Audit and Oversight Committee, respectively. This enables them to hold management accountable for meeting agreed-upon targeted performance objectives.
- Steps are being taken to quantify the true costs of providing specific services so that appropriate user fees can be charged to pay for the services being provided.

However, recognition is long overdue that every new commitment for increased levels of service or new programs has a cost that requires additional resources. Unless adequate resources are available, departments should be careful not to over-commit.

Approval of the GGJ's new recommendations will enable our assumptions to be tested, with very little downside risk on the part of the city. Success should help counter the erosion of trust and confidence in the workings of our local government.

BACKGROUND

CGJs have historically stirred public discussion on sensitive issues leading to creative innovations and new ideas. This has helped local government break gridlock and make needed adjustments to practices that better serve the public. Bringing hidden or obfuscated matters of public concern into a sustained spotlight may be the single most important contribution the grand jury makes. However, the work of the CGJ is only as effective as government's willingness to implement its agreed-upon recommendations. To this end, effective government may well depend on the follow-up deemed necessary to insure that the CGJ's agreed-upon recommendations are, in fact, implemented.

Our review of prior CGJ Continuity Reports has shown that there has been a marked increase in interest, in recent years, in such a follow-up. This interest has been generated, in part, by the recognition that many recommendations take time and budget adjustments to fully implement. Consequently, many recommendations are not implemented during the year following the issuance of the CGJ report. Since there is no systematic follow-up beyond the one-year status report, it is difficult to determine the status of prior recommendations.

Past CGJs have done their best to provide information about the status of outstanding recommendations. However, these efforts have been selective in terms of what follow-up is deemed "important." Moreover, a prior attempt at providing an institutional review of all CGJ recommendations has not come to fruition.¹ Consequently the "current" status of any given previous recommendation is obscured. We believe that this does not serve the interests of CGJ, the City agencies that agreed to implement the recommendations, or the general public. With these comments as an overview, we present this year's Continuity Report.

This report is comprised of four parts. Part I is a "traditional continuity report," in which we monitored a sampling of prior CGJ reports that are still in the process of being implemented. Typically, in the past, a newly constituted CGJ updates in a "continuity report", the status of selected recommendations made by previous CGJs.² Part I of this report continues to do that. After reviewing various reports of past CGJs, we conducted interviews with a sampling of respondents to determine the status of implementation of agreed-upon recommendations.

Part II assesses City agencies' compliance with Penal Code Section 933.05 in their responses to the CGJ findings and recommendations. We illustrate, from among the agency responses over the past half-decade, a few of those we found legally inadequate. We documented and highlighted this inadequacy by quoting verbatim illustrative recommendations and the agencies' responses thereto. Our purpose is to encourage future statutory compliance by the respondents and make it easier for compliance to be tracked.

¹ A Report of the 2001-2002 Civil Grand Jury for the City and County of San Francisco, "Continuity Report (Released June 2002), Attachment 1.

² See, e.g. SFCGJ "Continuity Report" (June 2002). The report notes as follows: "A cherished tenet of a Civil Grand Jury has been that a jury may choose for study whatever it deems best, seeking advice from individuals and groups, but, in the ultimate choices, free of pressure from anyone. This freedom to choose, and thereby to ignore the work of its predecessors, may result in a failure to assure that previous CGJ work is completed. For the institution of CGJ to engender faith among the recipients of its recommendations - and to generate interest in and respect for its annual reports -there must be the assurance that CGJ recognizes the worth of the efforts of previous juries." Id. at p. 1

In our review of various past responses to CGJ recommendations, we observed that often either the exact words of the response or the spirit of the response is to “agree” with the recommendation. We note that the Penal Code only asks the respondent for “agreement or disagreement” with regard to findings and why, but not with regard to recommendations. As we discuss below, the verbiage that must accompany a response to recommendations focuses on the issue of “implementation.” It is clearly spelled out, in the Penal Code. However, for the purpose of this report, we have made an assumption: that in instances where either the words or the spirit of the response has been “to agree with the recommendation”, we consider this a representation that the respondent will implement the recommendation. For us to assume that “agree” means that the respondent does not intend to implement would mean that those respondents were evading and obfuscating the mandates of the Penal Code. We refer to these recommendations as “agreed-upon”.

Part III identifies agreed-upon recommendations where implementation has been either abandoned, or delayed. We have selected a sampling of these recommendations and focused our analysis on why they were still not implemented.

Part IV provides a detailed case study of one department’s unsuccessful attempts at implementing a CGJ’s prior recommendations. We analyzed funding, legal, and information technology obstacles, affecting ultimate implementation. We made updated findings and new recommendations to overcome these obstacles.

PART I: TRADITIONAL CONTINUITY STATUS REPORTS

The Investigative Process

CGJs have issued “Continuity Reports” that have reported on the status of recommendations made by previous CGJs.³ The 2004/2005 CGJ continues this tradition. A summary of City agency responses was compiled from the Controller's Annual Reports on the Status of Implementation of the Recommendations of prior CGJs. We selected three previously issued reports wherein agencies agreed to implement the CGJ’s recommendations for follow-up. Some of the recommendations could not be implemented immediately because they required additional funding. Others required staff reorganization or reallocation of duties and responsibilities that took time to implement. Our follow-up found that two of the three reports received significant attention from the agencies. The remaining report received little, if any, attention. Because our sampling was so small, we cannot draw any general conclusions as to the extent recommendations agreed-to-be implemented, are in fact implemented. We leave that discussion for Section III of this report.

³ See, e.g. Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury” (August 30, 2004) at pp. 231-236, and Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury” (July 10, 2003) at pp. 131-138.

Status Report: Tolerating Truancy- Inviting Failure: The San Francisco Unified School District (SFUSD) Fails to Enforce School Attendance (CGJ 2002/03)

All required responses were submitted and the Board of Supervisors held a hearing on this report in 2003. A substantial amount of progress on these recommendations has since been made. The CGJ met with officials of the SFUSD and reviewed numerous documents provided by the District. The District has conducted a comprehensive overhaul in its process of monitoring and addressing truancy in San Francisco.

Examples of SFUSD actions that address the implementation of recommendations

1. The SFUSD now has a Supervisor of Attendance whose responsibility is to supervise and coordinate attendance enforcement.
2. The SFUSD has standardized all truancy procedures.
3. The SFUSD has established Student Attendance Review Teams and Student Attendance Review Boards.
4. The SFUSD is aggressively seeking reimbursement from the State for truancy notices sent to students.
5. The SFUSD has been working with the S.F. District Attorney's Office to find alternatives to juvenile hall for habitual truants.
6. The SFUSD issues awards to students who maintain good or perfect attendance records.

Status Report: It's a Catastrophe: The State of Emergency Planning in San Francisco (CGJ 2002/03)

Substantial improvements have been made at the Office of Emergency Services (OES). The Mayor named a new Director. The OES has used the 2002/03 report as guidance to improve emergency preparedness, for the City and County of San Francisco.

The CGJ is pleased to conclude that, based on the observed changes within OES, the state of emergency planning and preparedness in San Francisco is no longer a "catastrophe." The OES is doing an admirable job, given its current federal resources and the limited amount of space at the current location. The OES has developed a comprehensive plan for dealing with numerous emergencies and disasters. Regular emergency drills are conducted within the City, as well as with surrounding communities. Also, programs are being developed with surrounding communities to share resources, equipment, and supplies for disaster coordination.

Examples of OES actions that address the implementation of recommendations

1. The OES has created and made available to all city officials an integrated and comprehensive emergency plan for the City and County of San Francisco.
1. The OES continues to educate the public, elected officials, and City employees on their duties and responsibilities, in case of an emergency.
2. The City and County have convened the Disaster Council on a regular basis.⁴
3. The City and OES conduct emergency drills on a regular basis.

⁴ The Disaster Council is chaired by the Mayor and includes members of the Board of Supervisors, City Department Heads, and non-profit partners in disaster preparedness. The Council adopted the current emergency plan January 11, 2005.

4. OES has a new web site (www.72hours.org) for information related to emergency preparedness.
5. The City and OES have been meeting with neighboring municipalities and conducting drills to evaluate their mutual aid plans.
6. The City has a new modern siren system that not only alerts, but also can be used as an outdoor emergency broadcast system.

Status Report: Preferential Treatment in a Department Marked by Political Pressures and a Leadership Void: CGJ Report on the Management of the Department of Building Inspection (CGJ 2002/03)

The above referenced report made 16 specific recommendations. Of these, the Department of Building Inspection (DBI) disagreed with five and indicated they would not be implemented. Nine of the recommendations either had been or would be implemented, at the time of the Controller’s report. In two instances, DBI did not understand the recommendation and therefore, could not respond properly.⁵

Examples of CGJ recommendations not yet implemented

1. *Develop a bar-coding system to track permits and plans.* Despite DBI’s assurance that it was “in the process of implementing bar code technology prior to the Grand Jury inquiry,” such a system still is not in place.
2. *Purchase equipment to allow DBI inspectors to remotely enter data from the field.* Despite DBI’s “intent to put out formal requests for information and vendor identification by the end of this year [2003],” no such requests have been made.
3. *Implement a Code of Professional Conduct.* While such a code was finally adopted in January 2005, there was no evidence that DBI personnel were made aware of it (other than posting the code on bulletin boards), or the consequences for violation.
4. *Conduct random secondary field inspections.* Management has indicated that while some inspections are taking place, there is no standardized process in place.
5. *Development of a “strategic plan.”* To date, no such plan has been developed. DBI now claims that necessary plans were in place, at the time of the 2002/03 CGJ report.

PART II: COMPLIANCE WITH PENAL CODE SECTION 933.05

Background

A review of the past six years of CGJ responses finds that in many instances the City’s responses are lacking compliance with the statutory mandate. Upon the submission of a final report by the CGJ, the identified respondents have 60 to 90 days in which to respond to the report.⁶ The Penal Code requires that, as to each **finding**, the responding party “**shall** indicate one of the following: (1) the respondent agrees with the finding or (2) the respondent disagrees wholly or partially with the finding, in which case the respondent **shall** specify the portion of the finding that is in dispute

⁵ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury” (August 30, 2004) at pp.173-200.

⁶ Penal Code Section 933(c)

and shall include an explanation of the reasons thereof” (emphasis added).⁷ Moreover, as to each **recommendation**, the statute requires the following:

"[T]he responding person or entity **shall** report one of the following **actions**:

- (1) The recommendation has been implemented, with a summary of the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with an anticipated timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of any analysis or study; and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or it is not reasonable, with an explanation thereof”(emphasis added).⁸

Our review finds a lack of compliance with the statutory mandates relating to responding to CGJ recommendations. Respondents, for the most part, have a tendency to respond to the recommendations as if they were responding to findings. That is, the majority of responses are in the “agree” or “disagree” format instead of compliance with the statutory “implemented” or “not implemented” requirement. Initially, this does not appear to be a significant departure. However, upon closer examination, what is lacking almost entirely from the nearly 500 responses that were examined was a timeframe in which wholly, or partially “agreed-upon” recommendations would be implemented.

Additionally, where respondents state that the recommendation requires further analysis, rarely do they describe the “scope and parameters” of that analysis, or comply with the six-month timeframe, within which to complete it. Finally, even when the respondents state that they will not implement the recommendation, in a significant number of instances, they fail to state in what way the recommendation is either not reasonable or not warranted. In our review, we often had to speculate or infer why the recommendation could not be implemented.

Examples of “agreed-upon recommendations” with no timeframe for implementation

POLICE DEPARTMENT

Recommendation (June 2000):

“Decibel levels should be standardized for all clubs and based upon up-to-date engineering criteria.”

Response (October 2000):

“Concerning the development of new noise regulations-the Police Department is moving forward with a redraft of the current ‘noise’ ordinances.”⁹

⁷ Penal Code Section 933.05(a)

⁸ Penal Code Section 933.05(b)

⁹ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 1999-2000 San Francisco Civil Grand Jury” (July 31, 2001) at p.13.

PUBLIC HEALTH DEPARTMENT

Recommendation (June 2000):

“The CGJ recommends the Public Health Department approach major software producers for their expertise and assistance in upgrading its computer system since a highly efficient and sophisticated computer system like Kaiser's and that of many neighborhood pharmacies would make dispensing medication more efficient.”

Response (September 2000):

“Since we will be working with a professional pharmaceutical benefit management organization, we will have access to a ‘highly efficient and sophisticated computer system,’ at no cost to the City.”¹⁰

MUNICIPAL RAILWAY

Recommendation (June 2000):

“The mayor, who has the power to hire and who can influence his or her appointed commissioners to fire department heads, has the ultimate responsibility for controlling overtime abuses. The cycle of overtime use, abuses and pension enhancement can be broken if the mayor exerts leadership by letting department heads know it is City policy that the need for overtime is an extraordinary event and is to be kept to a minimum. It should be the City’s goal to have appropriate staffing to fill the justifiable employee needs of the City, to budget for appropriate staffing, and to seek to reduce overtime as a way of life for City employees.”

Response (January 2001):

“We agree that overtime controls at Muni need to be strengthened and that we need to decrease our overall use of overtime. We have recently made a number of improvements to our performance in this area. However, controlling our overtime usage while striving to meet the level of service required by our riders and the service standards mandated under Proposition E, the Muni Charter amendment that was approved by voters in 1999, represents a significant challenge for our organization and we continue to focus our efforts toward meeting that goal.”¹¹

OFFICE OF CONTRACT ADMINISTRATION

Recommendation (June 2001):

“The CGJ recommends that Purchasing should receive a draft of all professional services contracts before they are sent to the supplier for signature. Earlier input should be sought from Purchasing on larger or unusual contracts.”

Response (May 2002):

“We agree with this recommendation. We would recommend that departmental personnel contact OSA’s proposed PSC Unit prior to drafting a PSC to: 1) identify other departments with similar PSCs to coordinate and share information; 2) ascertain and/or verify a proposed contractor's status and filings; and 3) ensure consistency with established PSC policies and procedures.”¹²

¹⁰ Id. at p.53.

¹¹ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 1999-2000 San Francisco Civil Grand Jury” (July 31, 2001) at pp. 200-201.

¹² Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury” (July 10, 2003) at p. 25.

Example where the respondent states “further analysis is required,” with no explanation of the scope and parameters of the analysis or time frame

MAYOR’S OFFICE OF EMERGENCY SERVICES

Recommendation (June 2003):

“MOES or the agency given overall security responsibility should conduct a vulnerability assessment of all City properties and identify any additional security measures that are necessary.”

Response (August 2003):

“This recommendation will require further analysis as it is based on Recommendation 6a.”[The latter being rejected by the respondent.]¹³

Examples of where no clear explanation of whether the recommendation will be implemented or not, and if not, why it is unwarranted or unreasonable.

DEPARTMENT OF ELECTIONS

Recommendation (June 2001):

“The CGJ recommends that the Department of Elections review secrecy envelope provisions to ensure ballot privacy for the Eagle system ballots.”

Response (August 2001):

“Each and every polling place is supplied with secrecy envelopes. Voters may keep their ballot in the envelope to maximize privacy until they enter the ballot in the Eagle. However, because the Eagle was new to voters and poll workers in the November and December elections, poll workers were instructed to have one of their colleagues stationed at the Eagle to assist voters and ensure the functioning of the machine. Poll workers are always instructed to ensure the greatest degree of privacy possible.”¹⁴

OFFICE OF CONTRACT ADMINISTRATION

Recommendation (June 2002):

“Purchasing should receive a draft of all professional services contracts before they are sent to the supplier for signature. Earlier input should be sought from Purchasing on larger or unusual contracts.”

Response (May 2003):

“One of the goals of the CGJ report is to increase efficiency and reduce inefficiency. Prior to your audit report published in April 2003, OCA has taken a lead role in oversight of the contracting process by issuing a Checklist for Professional Services Contracts, P-500, as well as a Checklist for Professional Services Contracts for Individual, P-501. These checklists were designed to lead the departments early in the process of drafting the contracts and lead the departments to comply with all City’s rules and regulations. They include guidelines to comply with regulations implemented by Civil Service Commission, Human Rights Commission, City

¹³ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury” (August 30, 2004) at pp. 112 and 110, respectively.

¹⁴ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2000-2001 San Francisco Civil Grand Jury” (August 1, 2002) at p. 25.

Attorney, and OCA itself. In essence, through this process, OCA has been involved in the early stages of preparing Professional Services contracts.”¹⁵

Examples of where no response was provided

OFFICE OF THE SHERIFF

Recommendation 1e (June 2004):

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

Response (September 2004):

None

Recommendation 1f (June 2004):

“A history of grievance against a deputy should be maintained and forwarded when the deputy moves to another facility.”

Response(September 2004):

None

Recommendation 1g (June 2004):

“The grievance form should be simplified.”

Response(September 2004):

None¹⁶

While we are not wed to the concept of form over substance, we are concerned by the frequency of non-compliance with the statutory mandates of Penal Code Section 933.05. To this end, it is up to each governmental respondent to insure that it is fully aware of its legal obligations and to discharge them in a responsible and meaningful way. In order to facilitate full compliance with Penal Code Section 933.05 governmental respondents may want to consider using a standardized protocol when responding to CGJ reports.¹⁷

2004/05 CGJ FINDINGS AND RECOMMENDATIONS

Findings

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

Required responses: Mayor’s Office (60 days), and Office of the Controller (60 days)

¹⁵ Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury” (July 10, 2003) at pp. 25-26.

¹⁶ Letter from Sheriff to Civil Grand Jury dated September 21, 2004, Ref: 04-086.

¹⁷ There is precedent in recommending that governmental entities be more responsive to CGJ reports. The 2000-2001 CGJ recommended “the Board of Supervisors develop a change in its ‘Rules of Order’ . . . regarding methods by which to provide written responses to CGJ reports.” That CGJ also recommended that the Board change its rules “to ensure that required hearings are held regarding CGJ reports.” A Report of the 2000-2001 Civil Grand Jury for the City and County of San Francisco, “Continuity Report” (Released June 2004) pp. 3-4. Moreover, as used herein, the term “protocol” may take a variety of different formats. We leave it to the Mayor’s Office to select the type that is most reasonable and effective. We have provided one such sample (Appendix A).

Recommendations

1. The Mayor's Office should develop a standardized protocol that comports with PC 933.05 for responding to CGJ reports.
Required response: Mayor's Office (60 days)
2. The Mayor's Office should require all City departments, offices, and agencies to use such a standardized protocol in their responses.
Required response: Mayor's Office (60 days)

PART III: RECOMMENDATIONS: DELAYED OR ABANDONED

Background

Section 2.10 of the San Francisco Administrative Code authorizes the Controller's Office to report annually to the Board of Supervisors, on the status of the implementation of the recommendations of the previous year's CGJ reports. In its report, the Controller's Audit Division summarizes the findings and recommendations of the previous year's reports, the responses to those recommendations, and the then current status of the implementation of those recommendations.¹⁸

As noted previously, since many of the recommendations that departments agree to implement do not have estimated timeframes associated with them, it is difficult to monitor their completion. Historically, the Controller's reports have been limited to reporting the actions that City agencies have undertaken during the past year. The Controller conducts no additional follow-up beyond the one-year "snapshot." In fact, since it appears that most of the "agreed-to-be-implemented" recommendations had not been implemented at the time of the Controller's report, it is hard to know when, if ever, the recommendations are implemented. For example, our review of the Controller's July 31, 2001 report to the Board of Supervisors found that of the 43, 1999/2000 CGJ recommendations agreed-to-be-implemented by respondents, only twelve, or less than 28% had been implemented, at the time of the report.

As noted by the California Grand Jury Association, "[I]ack of continuity widens the crack between the outgoing and incoming grand juries, and accountability has a way of slipping through that crack and disappearing forever if Responses are not followed up. Entire grand jury reports have been known simply to vanish, and no one is the wiser for it."¹⁹ To get a sense of whether this lack of systematic follow-up is problematic, we selected a sampling of prior CGJ reports covering the years 1999 to 2003. We selected reports with recommendations that were, in our opinion, relatively straightforward and did not appear to involve significant departmental changes. To our surprise, we found in each report at least one recommendation that had either been abandoned or was still not implemented. Set forth below, are examples of the lack of implementation or abandonment of agreed-upon recommendations.

¹⁸ See, e.g., Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury" (August 30, 2004) at cover letter and preface.

¹⁹ California Grand Jurors Association, "Grand Juror Training Manual" (July & August 2004) Ch. 5, at p. 12.

MAYOR'S OFFICE ON DISABILITY

Recommendation (April 2002):

Maintain a complete complaint log of ADA complaints

Response (May 2002):

A "new database for uniform tracking of ADA complaints" will be created.²⁰

Status of implementation (December 2004):

Two years after a new database for tracking ADA complaints was promised, there has been no progress towards developing such a database. The Office now considers the recommendation low priority.

PLANNING DEPARTMENT

Recommendation (April 2002):

Conduct a Citywide count and permit history of every existing billboard sign.

Response (May 2002):

I strongly agree with the need for this inventory. The Code Enforcement staff is trying to design a survey in part using interns not paid with City funds.²¹

Status of implementation (December 2004):

Despite verbal assurances that the Planning Department is "trying," no significant progress has been made towards conducting a comprehensive inventory of existing billboards.

Staffing vacancies were frozen over the past year and funding was not available to provide personnel to take on extra duties. The Planning Department's current priority is to catch up on cleaning up its permit backlog as well as addressing other Planning Commission priorities of higher order. The timeline for implementation remains uncertain.

DEPARTMENT OF ELECTIONS

Recommendation (May 2003):

Consolidate the operations of the Department of Elections into a single site.

Response (June 2004):

Agrees with the recommendation. However, implementation requires the assistance from other City agencies, i.e., Department of Administrative Services.²²

Status of implementation (December 2004):

No progress towards implementation, to date. A reassessment of the recommendation has been made and unless consolidation would result in maintaining operations in City Hall, it is in the best interest of operations not move out of City Hall. Consolidating certain operations other than those that traditionally occur at City Hall is still under consideration.

OFFICE OF THE SHERIFF

Recommendation (June 2000):

Ventilation at the County jails should be corrected.

Response (October 2000):

²⁰ Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2000-2001 San Francisco Civil Grand Jury" (August 1, 2002) at p. 21

²¹ Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury" (July 10, 2003) at p. 44.

²² Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury" (August 30, 2004) at pp. 24-25.

The Sheriff would like to see this recommendation implemented immediately. The Hall of Justice, where the jail is located, is maintained by the Department of Public Works (DPW), which has placed a low priority on the item.²³

Status of implementation (December 2004):

While improvement to the ventilation system has still not been done, DPW is requesting funds for this improvement in the FY 2005-2006 budget.

PUBLIC UTILITIES COMMISSION

Recommendation (June 2000):

Consideration should be given to installing an electronic-operated system to open and close valves that control the amount of water released at O'Shaughnessy Dam.

Response (October 2000):

A project is already underway to automate Valves #3 and #5 this fall. The other valves are scheduled for automation over the next 2 years.

Status of implementation (December 2004):

The Commission only automated the three valves that "tend to be used. The others are used so rarely that automating them is not a priority at this time."²⁴

We are not the first to find that City agencies have not implemented agreed-upon recommendations, in a timely manner. In its Continuity Report issued in June 2002, the CGJ identified three items as meriting detailed follow-up and additional investigation: the Sheriff's Department's jail phone system, the Department of Elections, and Special Assistants. Of the four specific recommendations that were followed up, only one was fully implemented.²⁵ The 2003 Continuity Report reviewed all the reports issued by the 2001/02 CGJ as well as a sampling of other reports from prior years. While the 2003 Continuity Report noted that, in many instances, agencies had fully implemented the recommendations agreed upon, it also found numerous instances where they had not. In closing, the 2003 CGJ implored the following CGJ

"to continue to be vigilant about prior years' reports and responses required, and ensure that departments and agencies responsible for responding to the Reports . . . actually implement the changes and improvements they agree to initiate. Only in this way can we all be better assured that our commitment and hard work will result in positive changes and outcomes for the people of San Francisco."²⁶

Finally, the findings in the June 2004 CGJ Continuity Report mirror a similar conclusion. While some of the previously agreed-upon recommendations have been carried out, there were many that are still outstanding.²⁷

²³ Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 1999-2000 San Francisco Civil Grand Jury" (July 31, 2001) at p. 213.

²⁴ SFPUC letter to SF CGJ, November 12, 2004, at p.2.

²⁵ Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury" (July 10, 2003) at pp. 131-138.

²⁶ Office of the Controller, Financial Audits, "Board of Supervisors: Status of the Implementation of the Recommendations of the 2002-2003 San Francisco Civil Grand Jury" (August 30, 2004) at p. 215

²⁷ A Report of the 2003-2004 Civil Grand Jury for the City and County of San Francisco, "Continuity Report," (Released June 2004) at p. 2-4.

Given the sheer volume of prior CGJ reports and recommendations, it is beyond the scope of this report to assess exactly the extent of the failure of City agencies to implement recommendations, previously agreed upon. Suffice it to say, without a mechanism in place to allow for systematic follow-up, the concerns raised by the California Grand Jurors Association cited above, may well become a truism.²⁸ Without a method for following the progress of City agencies in implementing agreed-upon recommendations, CGJ reports may be forgotten as soon as the headlines die down.

We note that past CGJs have issued reports that received significant press and publicity. Some of the recommendations in those reports were not ripe for implementation until some uncertain later date. Even where the respondent agreed to implement all the recommendations of the report, the public had no certain assurance that implementation would come to fruition, since there is no effective ongoing monitoring of implementation. Experience has shown that relying solely on the agency does not ensure implementation. Moreover, future CGJs are limited in what they can do to compel agencies to fulfill their prior promises. Therefore we need a more effective on-going monitoring procedure to follow-up on the status of prior agreed to be implemented CGJ recommendations.

It is our opinion that the “governmental oversight function” of the CGJ is best served if City agencies are held accountable for the implementation of recommendations with which they have agreed. Moreover, only through a comprehensive and systematic review will the spotlight continue to shine on those recommendations that are still outstanding and continue to merit implementation. Such a review can help focus on the obstacles to implementation, be they financial, managerial, legal, or otherwise. For those recommendations that are no longer reasonable or warranted due to changed circumstances, that fact should be reported and the effort dropped. We make no value judgments in this section of the report about the merits of whether City agencies should or should not implement previously agreed-upon recommendations. We simply point out that there are a significant number of outstanding recommendations that have not been implemented and that there is currently no effective mechanism in place that would allow anyone to track the extent of the non-implementation and the reasons why.

2004/05 CGJ FINDINGS AND RECOMMENDATIONS

Findings

1. There are a number of previously agreed-to-be-implemented CGJ recommendations that City agencies have not yet implemented.
Required responses: Mayor’s Office (60 days), and Office of the Controller (60 days)
2. After the first year's Controller's Report, there is no systemic follow-up that enables the public or City management to have a clear picture of the status of whether previously agreed-to-be-implemented CGJ recommendations have, in fact, been implemented.

²⁸ Some would argue that there already is a system in place and that is the “continuity function” of the Civil Grand Jury. Our experience has shown, however, that such a “system” is inadequate at best. It is unrealistic to expect the CGJ to monitor every recommendation that agencies have agreed to implement.

Required responses: Mayor's Office (60 days), Office of the Controller (60 days), and Board of Supervisors (90 days)

Recommendations

1. The Controller should provide to the Mayor and the Board of Supervisors an on-going annual status report of the agreed-to-be-implemented CGJ recommendations. Each agree-to-be implemented recommendation should be reported on, until the respondent indicates it is fully implemented or abandoned because it is no longer reasonable or warranted. Such a report should include suggestions of ways to (a) accelerate the implementation of the open items or (b) revise the implementation of the recommendation, if need be, based on changed circumstances. The Controller's annual status report should be submitted to the Mayor and the Board in sufficient time to allow for budgetary consideration for each upcoming fiscal year. Required responses: Office of the Controller (60 days), Board of Supervisors (90 days), and Mayor's Office (60 days)
2. The Board of Supervisors should hold an annual hearing on all outstanding recommendations, where implementation is pending.
Required response: Board of Supervisors (90 days)

PART IV: AN OPPORTUNITY FOR MOVING STALLED IMPLEMENTATION FORWARD

Background

The 2001/02 CGJ issued a report entitled "Outdoor Advertising Signs (Billboard) Enforcement." The report came on the heels of an 80% voter approval of a ballot measure requiring the City to get "tougher" on illegal billboard advertisement. The report found, among other things, that:

"Code enforcement of signs without permits and illegally altered signs was insufficient during the decade of the 1990s due to Department budget and staffing shortages, and to the more lax nature of previous planning codes and city laws. Over the same period new technology evolved, making the installation of very large wall signs faster and cheaper, and the colors more vivid and eye catching. Combined with the hot economy, this spawned a proliferation of new billboards, an undetermined percentage of which are without valid permits. The Board of Supervisors passed legislation, effective June 2001, giving added strength and incentive to the Planning Department for billboard regulation."²⁹

In addition to the CGJ report, the City's Budget Analyst issued a critical report as well, concluding that:

²⁹ A Report of the 2001-2002 Civil Grand Jury for the City and County of San Francisco, "Outdoor Advertising Sign (Billboard) Enforcement" (Released April 2002) at pp. 1-2.

“The Enforcement Unit of the Planning Department is insufficiently staffed to effectively manage the Planning Code enforcement workloads of new cases, servicing the current caseload of approximately 732 cases, and bringing a measure of control to the existing approximately 3,350 inactive complaint cases. We estimate the Enforcement Unit would need an additional four planners and additional vehicles for at least a two-year period in order to achieve control of its existing workloads and new cases.”³⁰

Yet, despite these two critical reports, the Department has done little since to request sufficient staff to address code enforcement generally and billboard enforcement specifically. Even now, management acknowledges that its new budget request of one more planner is inadequate to deal with the ever-mounting backlog of code violation complaints.³¹

The CGJ report made seven specific recommendations, all of which were agreed-upon by the then Planning Director. After three years, the Department has not taken any steps toward implementation on four of the recommendations. The specific recommendations and their current status are set forth below.

Recommendation 1:

“Additional funds could be generated for enforcement by requiring annual renewal of permits and by inspection of existing billboard signs, with a yearly charge per sign. This would facilitate and pay for discovering sites without permits, illegally altered sites, and illegal new installations.”³²

Response (May 2002):

“Your recommendations are very important to implementation of the March 2002 ballot measure banning all new general advertising billboard construction and the June 2001 statute strengthening code enforcement for illegal general advertising. My code enforcement staff is already working with the City Attorney and Board of Supervisors to draft such legislation. I understand there is similar legislation being developed in the City of Los Angeles.”³³

Status of Implementation (December 2004):

Not implemented because there has been no legislation as yet presented to the Board of Supervisors.

Recommendation 2a:

“Assign a separate and distinct numerical designation to all existing, active, legal outdoor advertising sign permits (to distinguish them from all other sign permits) for entry into the computer system. Flag each for automatic periodic site reviews by CPD.”³⁴

³⁰ San Francisco Budget Analyst Report “The Management Audit of the San Francisco Planning Department (June 2002) at p. 167.

³¹ The backlog of code enforcement cases has risen from 735 in the spring of 2002 to 2,668 by Feb 2005.

³² Office of the Controller, Financial Audits, “Board of Supervisors: Status of the Implementation of the Recommendations of the 2001-2002 San Francisco Civil Grand Jury” (July 10, 2003) at p.42.

³³ Id. at p 43.

³⁴ Ibid.

Response (May 2002):

“The Planning Department Information Services staff continues to work closely with the Department of Building Inspection staff to improve coordination of data and tracking permits.”

Status of Implementation (December 2004):

Nothing has been or will be done until pending work to integrate Department of Building Inspection and Planning Permit Tracking systems is completed. No timeline for that to occur.”³⁵

Recommendation 2b:

“Conduct a city-wide count and permit history of every existing billboard sign. Many of the originally grandfathered [sic] signs (prior to 1966) have no permits on file. Researching ownership (which may have changed repeatedly over time); checking the existence of permits or verifying legal status with other evidence, such as dated photos; and entering this information into the database, under the applicable numerical code, would allow staff a way to monitor continued use and to eliminate billboards without permits in a timely manner.”³⁶

Response (May 2002):

“I strongly agree with the need for this inventory . The Code Enforcement staff is trying to design a survey in part using interns, not paid with City funds. Workload of the existing six-person code enforcement staff, which has one unfilled Planner/Code Enforcer position presently frozen, makes this a very challenging task. There is an increasing backlog of other types of planning code enforcement complaints.”³⁷

Status of Implementation (December 2004):

Nothing has been done.

Recommendation 3:

“The Planning Director should hire a temporary staff person . . . with special expertise to conduct a city-wide survey of all extant billboards . . . to enter the information into the electronic database described in Recommendation 2a. Under the direction of a professional who has knowledge of San Francisco’s billboard history, collegiate Urban Planning interns who are periodically invited to train in the CPD might assist with the accurate, professional completion of such an effort at minimum cost to the City.”³⁸

Response (May 2002):

“I agree this is very desirable and hope that enactment of annual renewal fees would facilitate feasibility of funding such a position.”³⁹

Status of Implementation (December 2004):

No progress made, since no funding for position was available.

In fairness to the Planning Department, it has recently suffered from significant vacancies. Of the approximately 140 FTE positions, 21 are still vacant. The Planning Department intends to fill these positions within the next four months. However, this will only have a minor impact on the issue of billboard code enforcement, since in the Planning Department’s current budget, it has

³⁵ Ibid.

³⁶ Id. at p. 44

³⁷ Ibid.

³⁸ Ibid.

³⁹ Id. at p. 45

requested only one FTE Planner/Code Enforcer. One staff person will, at best, slow the rate of increase in the backlog of outstanding complaints of all types of planning code violations. It is expected that this will have little, if any, impact on the billboard code enforcement backlog, given Planning Departmental priorities. Planning Department correspondence indicates that adding two additional staff dedicated to billboard code enforcement for about three years, would provide adequate staffing to eliminate the growing billboard code enforcement backlog. It should also be noted that given the overall services that the Planning Department is expected to deliver, and the limited staff with which to provide those services, billboard code enforcement is a relatively low Planning Departmental priority.

We investigated and analyzed the identifiable obstacles impeding implementation of agreed-upon recommendations by the Planning Department. They were lack of funding, lack of adequate enforcement laws, and insufficient information technology.

Lack of Funding

A primary obstacle to implementation of billboard enforcement is management's lack of pursuit of funding for implementation of the voter-adopted proposition. This is especially puzzling because, unlike other line items in the budget, code enforcement of all types should be self-sustaining. Fees and penalties should be able to cover all the costs of staffing a comprehensive code enforcement program.

We reviewed the last seven annual budgets, submitted by the Planning Department. We found that while the code enforcement program was reintroduced in the goals and objectives of the Planning Department, in the late 1990's, the request for funding fell short of the amount needed to achieve effective enforcement. A desirable level was to involve 6 FTE Planner/Enforcers at a cost of approximately \$624,000 per year.⁴⁰ Only in 2001/02 and 2002/03 was there a request for that much staff.⁴¹ A review of Planning Departmental budgets from 1999 to the present appears to reveal that management was counting on the collection of monies from the enforcement process to fund the majority of the positions. However, we find no documentation that such fees and penalties ever materialized. The enforcement envisioned covered nine categories, with billboard code enforcement being only one of them. The lack of adequate resources being committed to code enforcement generally, and billboard enforcement specifically, has meant ever-increasing backlogs of complaints of all types.

The Planning Director has indicated his priority goal is to restore the public's confidence and trust in the Planning Department. To accomplish this will require a larger and more energetic code enforcement effort than currently exists.

Unfortunately, the 2005/06 Planning Department's budget submittal reveals that adequate personnel needed to implement general code enforcement or billboard code enforcement, in particular, once again are not being requested.⁴² Therefore, unless resources can be identified to

⁴⁰ See discussion in San Francisco Budget Analyst Report "The Management Audit of the San Francisco Planning Department (June 2002) at p. 31.

⁴¹ See Appendix 3.

⁴² San Francisco Planning Department "The 2005-2006 Proposed Work Program and Budget" (March 2005) It is recognized that given the demands for services and the staff available to provide those services it is understandable

cover the startup costs of billboard code enforcement, non-permitted billboards will continue to proliferate and it is questionable whether the Planning Department's improved stature and effectiveness, in the eyes of a public, will be realized. If the funding issue is not resolved, history shows us the lack of code enforcement will cause further flouting of the law.

Inadequate Enforcement Laws

In 2002/03, the Planning Department requested dedicated cost-recovery legislation, as a way to specifically fund its billboard enforcement program. This resulted in an ordinance, amending the San Francisco Planning Code. The purpose of Section 610 is as follows:

- a. "Substantially increase the penalties for violation of regulations governing General Advertising Signs."
- b. "By amending Article XIII of the San Francisco Code to add Section 10.100-166, establish a Planning Code Enforcement Fund."
- c. "Authorize that the administrative penalties and fees collected, relating to commercial signs, be placed in a Sign Enforcement Fund, with the use restricted to sign regulation enforcement."⁴³

Planning Code Section 610 has an elaborate scheme for "administrative penalties assessed against Responsible Parties" in amounts ranging from \$1000 to \$2500 per day. However, that very same legislation and the City Attorney and Planning Department's interpretation of it, undermines funding for enforcement. Section 610(b)(1) of the Ordinance provides that "penalties and fees shall not accrue for 15 days after the date of the notice required in Subsection (b)(1) above and during the pendency of any request for reconsideration . . . and for a five day period after the Director's final decision has been mailed or hand delivered to the Responsible Party". This Section has been interpreted to allow violation of the sign ordinance without penalty if the violator is ultimately willing to abate the violation. Moreover, a violator who avails himself of an appeal hearing challenging the legality of the City's notice, and subsequently loses his appeal, can nonetheless cure the violation, within the 15-day grace period, and thereby have the penalty provision waived.⁴⁴ Two of the rationales behind such an interpretation are (1) the need to provide "due process" to alleged violators and (2) the primary purpose of the Ordinance is to remove illegal billboards, not to punish the violator or collect revenue for the City.⁴⁵

In order to insure enhanced code enforcement, a way must be found to secure dedicated funds to cover the costs of such effort. Additional monies are not likely to be provided to the Planning Department through the normal budgetary process. Therefore, fines and penalties must play a larger role in funding enforcement. The City does not even collect the fees to which they are

why billboard enforcement is a low Departmental priority. We point out, however, that billboard enforcement should essentially be a financially, self-supporting enterprise. We found little that the Department has done to position itself so that it can perform aggressive enforcement and collect sufficient fines and penalties to support "revenue neutral" enforcement.

⁴³ San Francisco Planning Code, Section 610.

⁴⁴ The losing party would only be obligated for the nominal cost of the administrative hearing, a sum that usually does not exceed \$1000.

⁴⁵ We find the due process argument puzzling. While we recognize a party's right to challenge an allegation of wrongdoing before fines can actually be imposed, we see no logical purpose for not fining the violator, *ab initio*, once due process rights have been exhausted and the violator has lost.

entitled.⁴⁶ This would require a reinterpretation of the existing Ordinance or the drafting of an amendment to the existing ordinance that makes violators more fiscally responsible. If such amendment is drafted, it should at a minimum require the violator, after losing an appeal, to pay for fines and penalties covering the violation period as well as disgorging any income received from the illegal billboard from the time of notice to him. Specific code enforcement laws are the result of communities reacting to the behavior on the part of some that is antithetical to the general interest of the many. However, the laws are only as effective as the will of the people to abide by them. Fiscal disincentives are needed if we want to tip the result in favor of the many rather than the few. In their absence, there is little, if any, incentive to abide by the law.

Insufficient Information Technology

In order to carry out code enforcement duties as efficiently as possible it becomes important for the Planning Department to have the most up-to-date information possible. The problem of information transfer, in terms of code enforcement, is complicated because there are a number of City agencies involved in establishing and using the data base upon which the enforcement program is based.⁴⁷ In the past, what has been lacking is a uniform way of transferring information amongst those various agencies. This would appear to make enforcement that much more difficult.

Recently, the Department of Building Inspection and the Planning Department have started to identify the computer upgrading that is needed to facilitate the sharing of information. The Planning Department must have, in one place, all the needed information to identify code infractions that can be accessed quickly by the various departments requiring information. Within the next few months, specifications to purchase the needed software and additional hardware will be ready to be put out to bid. The results of this effort will commence in November 2005 and should start to be in place within the next 15-18 months.

2004/05 CGJ FINDINGS AND RECOMMENDATIONS

Findings

1. The ordinance, amending San Francisco Planning Code Section 610, has had unintended consequences. According to the present interpretation of Section 610, the violator is allowed to remedy an adjudicated violation without penalty. Consequently, no funds have been generated, through fees or penalties, to pay for billboard code enforcement.

⁴⁶ San Francisco Budget Analyst Report "The Management Audit of the San Francisco Planning Department (June 2002), cover letter to Supervisor McGoldrick from Budget Analyst at p. 5.

⁴⁷ The following City Agencies all have some role in code enforcement: OES, Health Department, Fire Department, Police Department, Public Works, DBI, and CPD.

2. Presently, thousands of reported code violations have accumulated. From June 2004 to February 2005 the number increased by 438. Two new sign violations were reported for every billboard enforcement case that was closed, during the period.
3. Code enforcement requires the integration of databases at least between Department of Building Inspection and the Planning Department. In addition, there must be a coordinated use of personnel resources between the two departments. This necessitates seamless software capability and a broad exchange of information. Billboard code enforcement will continue to be limited and violations will fall further behind, unless there is a marked improvement in the required information flow and technology integration.
4. DBI, working with Planning Department management, is spearheading an analysis of how all the contributing departments can coordinate their computer systems and information exchange to maximize their effectiveness. The analysis is an essential first step in elimination of a barrier impeding the involved departments' performances.
5. In the past three years, implementation of four of the seven agreed-upon recommendations, identified in the billboard sign report of the 2001/02 Grand Jury, have yet to be started.
6. Lack of funding for the staff to carry out the work is an oft-repeated excuse for lack of action. Until budget constraints are loosened or the Planning Department identifies and procures a dedicated funding source to enable billboard code enforcement to pay for itself, increased staffing to reduce a buildup in sign code enforcement backlogs will remain minimal.
7. The budget request for 2005/06, submitted by the Planning Department management, is inadequate for billboard enforcement or other code enforcement actions to reduce the current backlog for the coming year. At best, with only one additional FTE, the department might reduce the rate of growth of the list of still-to-be-acted-upon code complaints of all types.

Required responses: Planning Department (1 through 7) (60 days)

Recommendations

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

Required responses: Planning Department (60 days), Department of Building Inspection (60 days)

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

Required responses: Planning Department (60 days), Mayor's Office (60 days), and Board of Supervisors (90 days).

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

Required response: Board of Supervisors (90 days)

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

Required responses: Board of Supervisors (90 days), Department of Building Inspection (60 days), and Planning Department (60 days)

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

Required responses: Mayor's Office (60 days) and Board of Supervisors (90 days)

⁴⁸ In addition to charging an annual permit fee for all legal billboards, properties, with additional post-Prop 13 billboards, should be reviewed by the Tax Assessor to determine whether such improvements warrant a revised assessment of their present property taxes. After all, billboard income can have a significant impact on the income generation of commercial buildings. Such improvements should affect the value of the building and the city should be compensated accordingly.

SOURCES OF INFORMATION

Interviews

1. San Francisco Unified School District Management Staff
2. Office of Emergency Planning Management
3. Planning Department Management
4. Office of the Mayor Staff
5. Controller's Office Auditing and Budget Personnel
6. "San Francisco Beautiful" Directors and Staff
7. Budget Analyst Staff
8. City Attorneys
9. The Department of Elections Management and Staff
10. Medical Examiners Office Staff
11. Sheriff's Department Management and Staff
12. Office of Contract Administration Management and Staff

Documents

1. San Francisco Unified School District
 - a. Student Attendance comparison sheet for 2003-2004 and 2004-2005.
 - b. School Health Programs Department (Tips and Activities)
 - c. Pupil Services Organization Chart (meeting schedule)
 - d. SFUSD Flow Chart of Procedures for Truancy Prevention
 - e. Parent's Verification of Absences (English, Chinese, and Spanish)
 - f. SFUSD 2003-2004 Notification of Truancy Count
 - g. Comparison of 2003-2004 and 2004-2005 Referrals to the Dropout Prevention Office
 - h. Four Truancy Letters (English, Chinese, Spanish)
 - i. Mandated Cost by Schools for 2003-2004
 - j. School Attendance Review Team (Matrix sheet)
 - k. Sample of Merit Award Presented to Schools for
 - l. Increased Percent of Students Present as Compared to 2003-2004
2. Office of Emergency Planning
 - a. Emergency Operations Plan, Part I: Basic Plan
 - b. San Francisco's Earthquake Risk
 - c. San Francisco and Homeland Security, Office of emergency Services
3. Planning Department: Budget Proposals 1999-2005
4. Office of the Controller: Status of Implementation of Recommendations of CGJ Reports from 1997-2003
5. Prior CGJ Reports 1997-2004
6. Management Audit of San Francisco Planning Department – June 2002
7. Code Enforcement Statutes
8. DBI Report Correspondence
9. Prop G of the Voters Pamphlet – March 2002

GLOSSARY OF ACRONYMS AND TERMS

ADA- American with Disabilities Act

CGJ – CGJ

DPW – Department of Public Works

OES – Office of Emergency Services

FTE – Full Time Equivalent (Staff)

MOES – Mayor’s Office of Emergency Services

OCA – Office of Contract Administration

PSC – Personal Service Contracts

CPD – City Planning Department

DBI – Department of Building Inspection

APPENDIX A

Exhibit H Response to Grand Jury Reports

Response to Grand Jury Reports

Report Title: [TITLE]

Report Date: [DATE]

Response by: _____ Title: _____

FINDINGS

I (we) agree with findings numbered: _____

I (we) disagree wholly or partially with the findings numbered: _____

(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

RECOMMENDATIONS

Recommendations numbered _____ have been implemented. (Attach a summary describing the implemented actions)

Recommendations numbered _____ have not yet been implemented, but will be implemented in the future. (Attach a time frame for the implementation)

Recommendations numbered _____ require further analysis. (Attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)

Recommendations numbered _____ Will not be implemented because they are not warranted or are not reasonable. (Attach an explanation)

Date: _____ Signed: _____

Number of pages attached: _____

rev 9/24/2004

Source: Mendocino County Grand Jury, "Rules of Procedure for the Production and Publication of the 2004-2005 Grand Jury Report." (9/24/2004)

APPENDIX B

Year of Work Plan	Findings from Work Plan	Budgeted Amount (if specified)	Funding Source (if specified)
1999/2000	Work with neighborhood groups to focus implementation of enforcement program on specific neighborhood issues and on commission actions.	\$198,000	\$28,000 from fees
2000/2001	Work with neighborhood groups to focus implementation of enforcement program on specific neighborhood issues and on commission actions.	\$389,000	\$267,000 from fees
2000/2001	Special Projects – Prepare legislation for neighborhood based and citywide zoning amendments including such quality of life zoning controls as limiting general advertising signs, etc.	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	From General Fund
2000/2001	Provide Computer Support Services – Upgrade the network infrastructure to further decrease reliance on Building Inspection Department network, thereby increasing performance and improving reliability by March 2001.	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	All from fees
2001/2002	Enhance Department enforcement program, a fully dedicated enforcement team with necessary support resources and equipment, including a devoted vehicle, to allow field investigation.	\$624,000	\$457,000 from fees
2002/2003	Continue Department Enforcement Program, a fully dedicated enforcement team with necessary support resources, including a devoted vehicle, to allow field investigations. Work with Board of Supervisors, City Attorney, and Mayor's Office to prepare and enact cost recovery legislation for code enforcement activities.	\$644,000	\$457,000 from fees
2002/2003	Facilitate the public's access to Department information and data as required by the Sunshine Ordinance (Prop G).	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	All from fees
2002/2003	Develop customized software application to ensure compliance with Measure G, the Sunshine Ordinance and to enhance public and media access to data requested under this ordinance and track these activities.	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	All from fees
2003-2004	Maintain Department Enforcement Program at reduced staff level.	\$476,000	All from fees
2003-2004	Facilitate the public's access to Department information and data as required by the Sunshine Ordinance (Prop G).	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	All from fees
2003-2004	Develop customized software application to ensure compliance with Measure G, the Sunshine Ordinance and to enhance public and media access to data requested under this ordinance and track these activities.	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	All from fees
2004/2005	Maintain Department Enforcement Program at reduced staff level. Conduct hearings with Administrative Law Judges.	\$402,376 (4.29 FTEs)	Percentage from fees - unspecified
2004/2005	Facilitate the public's access to Department information and data as required by the Sunshine Ordinance (Prop G).	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	
2005/2006	Maintain Department Enforcement Program at reduced staff level. Conduct hearings with Administrative Law Judges.	\$521,832 (5.29 FTEs)	Percentage from fees - unspecified
2005/2006	Participate in department efforts to integrate the Case tracking database with DBI's Permit Tracking System.	The amount of dollars is unknown because the item has been bundled with others in the overall work plan	Percentage from fees - unspecified