



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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November 9, 2020

To: Members of the Ethics Commission

From: Jeff Pierce, Director of Enforcement

Subject: **AGENDA ITEM 8: Enforcement Report for the November 13, 2020 Meeting**

Summary: This report highlights programmatic information and operational updates related to the Enforcement & Legal Affairs Division.

Action Requested: No action is required by the Commission, as this item is for informational purposes only.

Programmatic Updates

Controller's Public Corruption Reports

On Wednesday, October 28, 2020, the Enforcement Director joined Senior Policy and Legislative Affairs Counsel Pat Ford, staff from Supervisor Haney's office, and staff from the Controller's Office in discussing the findings and recommendations in the Controller's [second preliminary assessment](#). This second report, entitled *Gifts to Departments Through Non-City Organizations Lack Transparency and Create "Pay-to-Play" Risk*, the Controller's Office released in late September and presented before the Commission at its October meeting. Discussion focused especially on the Controller's recommendation to prohibit non-elected department heads and employees from soliciting donations from interested parties, absent authorization. The Enforcement Division looks forward to additional opportunities to review the Controller's findings, as with its third preliminary assessment to be presented at the Commission's November meeting, and to collaborate in identifying ways to implement the Controller's recommendations.

Interdepartmental Collaboration

On Tuesday, November 10, 2020, the Enforcement Director will join the City Attorney's Public Integrity Unit and the Controller's Office Whistleblower Program for a remote meeting with the Whistleblower Program's citywide departmental liaisons. The meeting will focus on issues related to the jurisdiction of our three agencies, how each of us receives and investigates complaints, and what remedies we may pursue under governing law. The panel will also encourage participants to consult with the Public Integrity Unit and the Ethics Commission when their departments internally investigate allegations of improper conduct within their respective departments. The Ethics Commission and the Public Integrity Unit are together

committed to the goal that the City might develop an increasingly shared understanding of the legal provisions that regulate the conduct of City officers and employees and that the City might increasingly coordinate case resolutions to ensure that like conduct receives like outcomes.

Docket Updates

The following tables compare the number and average age of the Commission’s enforcement docket to the same figures as reported one month ago and one year ago:

Table 1 – Number and Average Age of Matters in Preliminary Review

Month	November 2019	October 2020	November 2020
Number	56	36	40
Avg. Age (mo.)	6.9	10.3	9.8

Table 2 – Number and Average Age of Matters in Open Investigation

Month	November 2019	October 2020	November 2020
Number	92	66	68
Avg. Age (mo.)	17.7	20.4	20.7

Attachment 1 contains additional data on the type and age of matters under preliminary review. Attachment 2 contains additional data on open investigations.

Investigative Holds

Under San Francisco Charter section C3.699-13(a), whenever the Commission has reason to believe that a law within its jurisdiction has been violated it must forward a complaint and any relevant information to the City Attorney and District Attorney for their review. Since the Commission’s last regular meeting, the Enforcement Division has referred three new matters to the City Attorney and District Attorney.

In January 2017, the Commission adopted the [Investigation Suspension and Parallel Proceedings Policy](#). That Policy governs instances of overlapping jurisdiction. In relevant part, it provides that when the City Attorney or District Attorney requests that the Ethics Commission suspend administrative investigation, the Commission’s Enforcement Division will place an investigative hold on a matter for a period of 90 days. After those 90 days, the Enforcement Division may move forward with its investigation “unless the Executive Director determines otherwise.”

The following tables provide information about the status of any investigative matters for which either the City Attorney or District Attorney has indicated it will conduct a civil or criminal investigation.

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Table 3 – City Attorney Investigative Holds

1	Type	Ethics
	Length of Hold	23 months
	Statute of Limitations	October 2022

Table 4 – District Attorney Investigative Holds

1	Type	Ethics
	Length of Hold	10 months
	Statute of Limitations	November 2023
2	Type	Ethics
	Length of Hold	75 days
	Statute of Limitations	June 2024
3	Type	Ethics
	Length of Hold	5 days
	Statute of Limitations	November 2022

Referrals to Bureau of Delinquent Revenues

Under San Francisco Charter section C3.699-13(c)(i)(3), the Ethics Commission must refer to the Bureau of Delinquent Revenue penalties, including late fees, that the Commission has assessed but which remain unpaid after a specified period of time. The table below summarizes the status of accounts that the Bureau is handling on behalf of the Ethics Commission, as of November 5, 2020.

Committee/ Filer	Origin	Treasurer/ Responsible Officer	Referral Date	Original Amount Referred	Current Balance	General Status	Status
Chris Jackson for Community College Board 2012	Campaign finance late fees	Chris Jackson	7/12/13	\$6,601	\$5,101	Judgment	No record of employment. Order of Examination hearing continued by Superior Court for 8/30/2021.
Chris Jackson	Enforcement penalty: on stipulation, failure to file campaign statements; failure to maintain adequate records	Chris Jackson	9/26/16	\$6,100	\$6,100	Judgment	See above.
Committee to Elect Norman for Supervisor	Enforcement penalty: after hearing on the merits, found six counts of failure to file required semiannual campaign statements	Jacqueline Norman	5/1/15	\$9,000	\$9,000	Judgment	No record of employment. Order of Examination hearing continued by Superior Court for 8/30/2021.

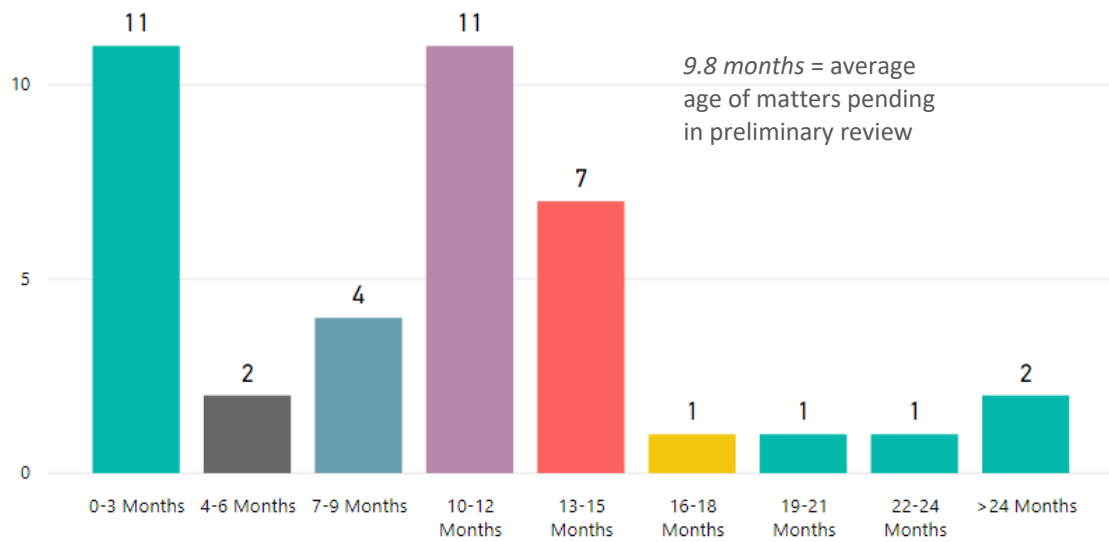
Committee/ Filer	Origin	Treasurer/ Responsible Officer	Referral Date	Original Amount Referred	Current Balance	General Status	Status
Isabel Urbano	Lobbyist late fees	Isabel Urbano	3/23/16	\$7,000	\$6,850	Agency Assignment	Unable to enforce collections (past statute of limitations).
Lynette Sweet	Enforcement penalty: after hearing on the merits, recordkeeping violation in publicly financed race for supervisor	Lynette Sweet	12/29/16	\$74,408	\$74,408	Bankruptcy	Client not responsive, Legal Department pursuing entry and enforcement of judgment.
SF Latino Democratic Club	Campaign finance late fees	Sarah Souza	6/21/19	\$10,979	\$10,979	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to send the Small Claims final demand letter.
San Franciscans for Democracy, Yes on D Committee	Campaign finance late fees	Jeremy Pollock	6/21/19	\$1,625	\$1,625	Response from Debtor	Per request of debtor, emailed copy of demand Small Claims suit filed. Hearing date continued by Superior Court until 8/19/2021.
Arlo Smith For Democratic County Central Committee	Campaign finance late fees	Arlo Smith	4/30/2019	\$1,750	\$1,750	Refuse to Pay	No record of employment. Small Claims suit filed. Hearing date continued by Superior Court until 4/15/2021.
Jeffrey Ubben	Campaign finance late fees	Jeffrey Ubben	1/28/2020	\$4,975	\$4,975	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to send the Small Claims final demand letter.
Joshua Arce for SFDCCC Member 2016	Campaign finance late fees	Andrew Sinn	1/28/2020	\$425	\$425	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to file Small Claims suit.
Richard Matthews	Enforcement penalty: on stipulation, three counts in violation of the prohibition on knowingly attempting to influence a governmental decision involving his own appointment for employment	Richard Matthews	1/28/2020	\$9,000	\$9,000	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to file Small Claims suit.
Yes on U, Working Families Fighting to Stay in San Francisco	Campaign finance late fees	Matthew Alvarez	1/28/2020	\$675	\$700	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to file Small Claims suit.
Yes on P, Competitive	Campaign finance late fees	Matthew Alvarez	1/28/2020	\$675	\$700	No response	Delinquency letter sent.

Committee/ Filer	Origin	Treasurer/ Responsible Officer	Referral Date	Original Amount Referred	Current Balance	General Status	Status
Bidding for City Contracts with Funding						from Debtor	
Bert Polacci	Lobbyist late fees	Bert Polacci	7/24/20	\$450	\$450	No response from Debtor	Upon removal of shelter in place order, pending the request for client's approval to send the Small Claims final demand letter.
Total:							\$132,063

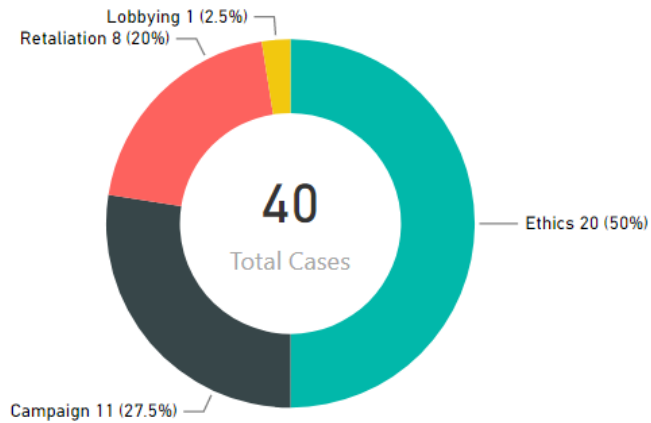
I look forward to answering any questions you might have at the upcoming Commission meeting.

Agenda Item 8, Attachment 1

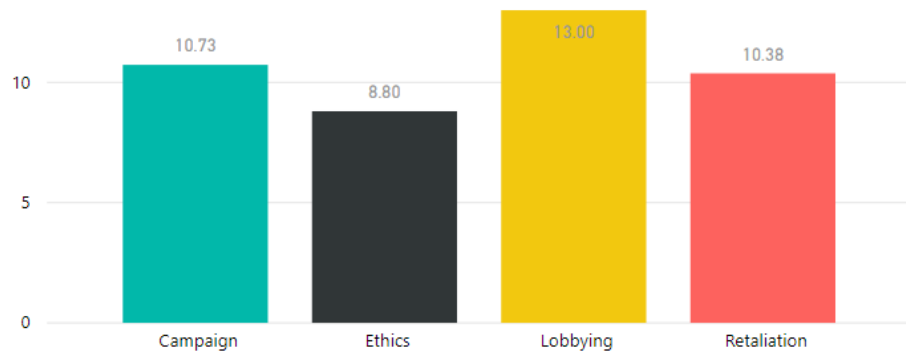
Age of Matters in Preliminary Review



Matters in Preliminary Review by Type

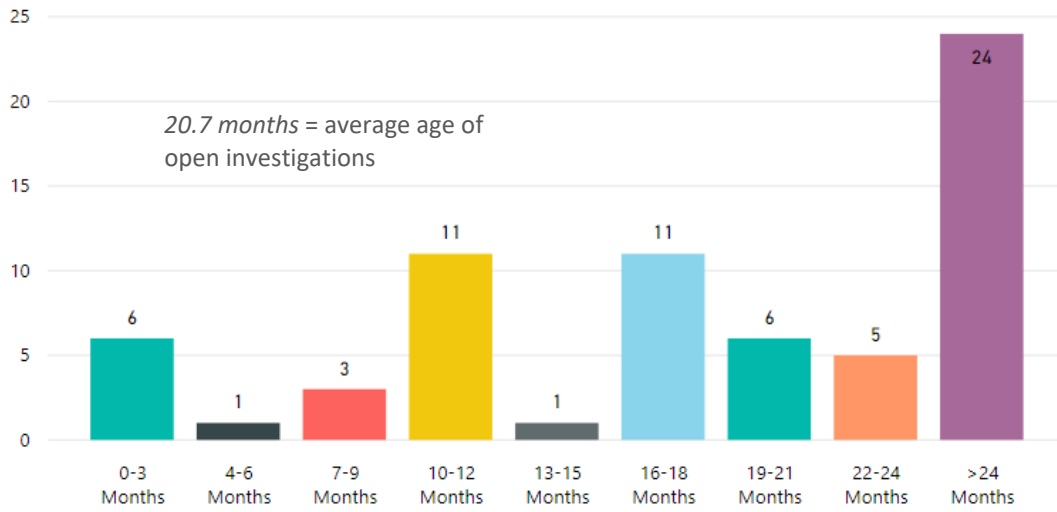


Average Age of Matters in Preliminary Review by Type

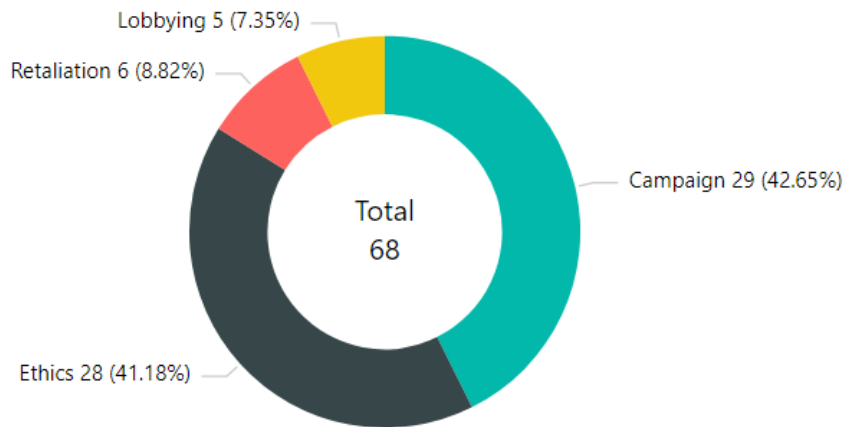


Agenda Item 8, Attachment 2

Age of Matters under Open Investigation



Open Investigations by Type



Average Age of Matters under Open Investigation by Type

