



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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December 10, 2020

To: Members of the Ethics Commission

From: Jeff Pierce, Director of Enforcement

Subject: **AGENDA ITEM 8: Enforcement Report for the December 14, 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

Fixed Penalty Policy Revision Project

By way of background, Enforcement Staff presented at the August 2019 Commission Meeting an [overview of process improvements](#) Staff were then undertaking to increase the efficiency and effectiveness of the Commission's enforcement program. Among other improvements, Staff proposed to expand the Commission's [Fixed Penalty Policy](#). This policy provides that enumerated violations of law may be resolved through a fixed penalty schedule, providing a level of standardization and predictability designed to reduce the uncertainty and time that negotiating a settlement might otherwise entail. The Commission directed Staff to move forward with its proposal and take steps to bring forward a revised policy for its consideration.

Consistent with the [preliminary process outline](#) Staff proposed at the Commission's September 2019 meeting, Enforcement Staff conducted internal and external consultation, hosted in November 2019 initial [Interested Persons Meetings](#) regarding the scope and substance of the review project, and began to develop a regulatory proposal based on Staff's collective effort and internal and external consultation. In the [Performance Audit Report](#) the Budget and Legislative Analyst (BLA) issued on August 10, 2020, the BLA likewise recommended that Commission Staff continue to develop the expanded policy and to present it for consideration to the Commission by January 2021 to enable streamlined resolution of an expanded portfolio of investigations.

While the timeline for further progress this year has been impacted by competing organizational demands, including as a result of COVID-19 emergency operations and ongoing

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staffing constraints, Staff are finalizing over the next week the development of the proposed expanded Policy and the framework for the new Streamlined Administrative Resolution Program that will govern it.

For purposes of the Commission’s December 14 meeting, Staff will provide an overview of the new streamlined program’s structure and flow. Attachment 1, below, presents a visualization of this proposed process.

To gather more detailed stakeholder input on the expanded Policy’s proposed provisions and refine any procedural elements of the new streamlined program, Staff have planned two Interested Persons meetings to take place the first week of January. Following the Commission meeting during the week of December 14, Staff plans to distribute notice of the Interested Persons Meetings, which will include the draft regulations to enable comments from stakeholders in January on the substantive proposal Staff has developed.

Following those meetings, and consistent with the process Staff proposed in September 2019, Staff will revise its proposed regulations as appropriate and bring the revised regulations before the Commission at a subsequent meeting for the Commission’s discussion and potential adoption. Because the January monthly meeting of the Commission falls on January 8, 2021, Staff anticipates presentation of the final draft policy for consideration and action by the Commission at the February Commission meeting. At that time, as recommended in the BLA Audit, the presentation will also include an evaluation of the portion of investigations that we anticipate would fall under the expanded Fixed Penalty Policy and a discussion of estimated case timeline reductions the revised Policy and new streamlined program are designed to help achieve as we continue to implement approaches that ensure broad accountability across our program areas while also preserving vital investigative resources to pursue more serious and complex investigations, including of the kind implicated by the ongoing public corruption allegations.

Hiring Update

We are pleased to report that we have made significant progress in our FY21 hiring efforts, as reflected in this month’s Executive Director’s Report. A detailed position description for the opening of 1822 Investigator has now been finalized and will be available this week. That description can be found on the [Commission’s Jobs page](#), and includes a link that directs prospective applicants to the Department of Human Resources Jobs Portal with full application information.

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	December 2019	November 2020	December 2020
Number	45	40	39
Avg. Age (mo.)	6.8	9.8	10.9

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

Month	December 2019	November 2020	December 2020
Number	90	68	67
Avg. Age (mo.)	18.0	20.7	20.8

Attachment 2 contains additional data on the type and age of matters under preliminary review. Attachment 3 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 one additional matter 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.

Table 3 – City Attorney Investigative Holds

1	Type	Ethics
	Length of Hold	24 months
	Statute of Limitations	October 2022

Table 4 – District Attorney Investigative Holds

1	Type	Ethics
	Length of Hold	3.5 months
	Statute of Limitations	June 2024
2	Type	Ethics
	Length of Hold	35 days
	Statute of Limitations	November 2022
3	Type	Ethics
	Length of Hold	20 days
	Statute of Limitations	September 2024

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 December 10, 2020.

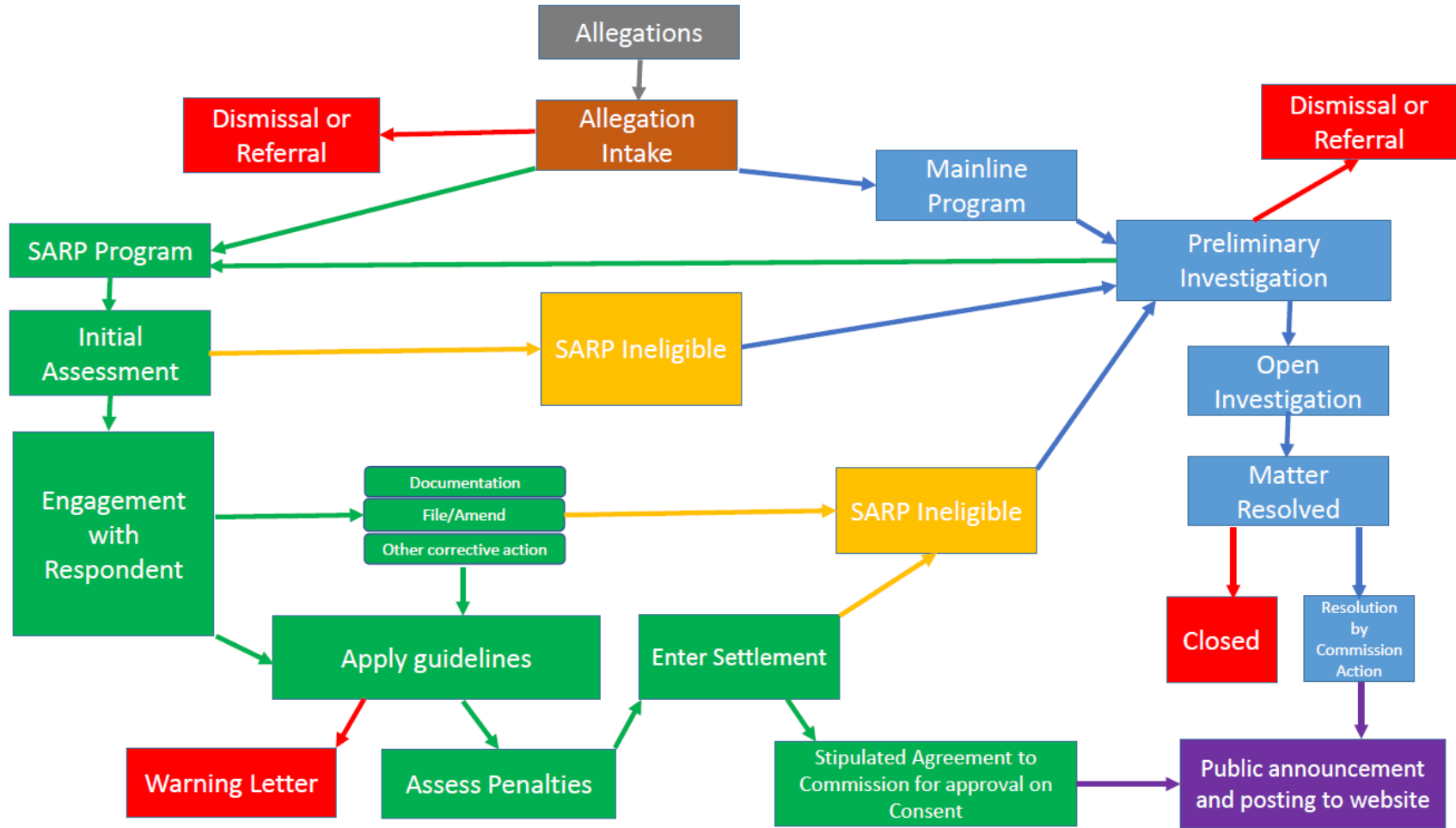
Committee/ Filer	Origin	Treasurer/ Responsible Officer	Referral Date	Original Amount Referred	Current Balance	General Status	Status
Chris Jackson for Community College Board 2012	Campaign finance late fees	Chris Jackson	7/12/13	\$6,601	\$5,101	Judgment	No record of employment. Order of Examination hearing 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.
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	Debtor 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	4/30/19	\$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	1/28/20	\$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.

Committee/ Filer	Origin	Treasurer/ Responsible Officer	Referral Date	Original Amount Referred	Current Balance	General Status	Status
Joshua Arce for SFDCCC Member 2016	Campaign finance late fees	Andrew Sinn	1/28/20	\$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	1/28/20	\$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	1/28/20	\$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 Bidding for City Contracts with Funding	Campaign finance late fees	Matthew Alvarez	1/28/20	\$675	\$700	No response from Debtor	Delinquency letter sent.
Bert Polacci	Lobbyist late fees	Bert Polacci	7/24/20	\$450	\$75	Partial Payment	Debtor made partial payment of \$400.00, on 10/28/2020 to Ethics Commission. Emailed debtor for \$75.00 balance.
Total:							\$131,688

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

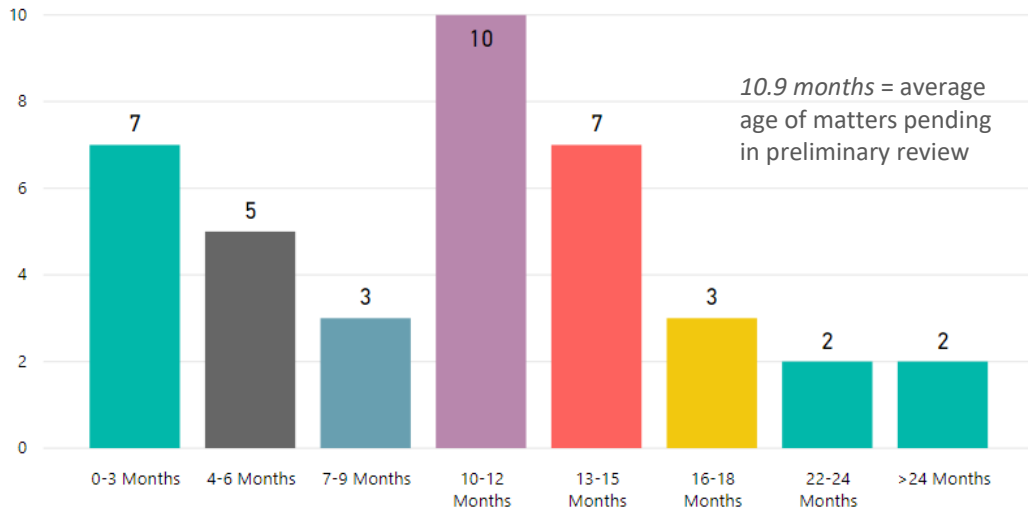
Agenda Item 8, Attachment 1

Enforcement Process Overview Anticipating Implementation of Streamlined Administrative Resolution Program

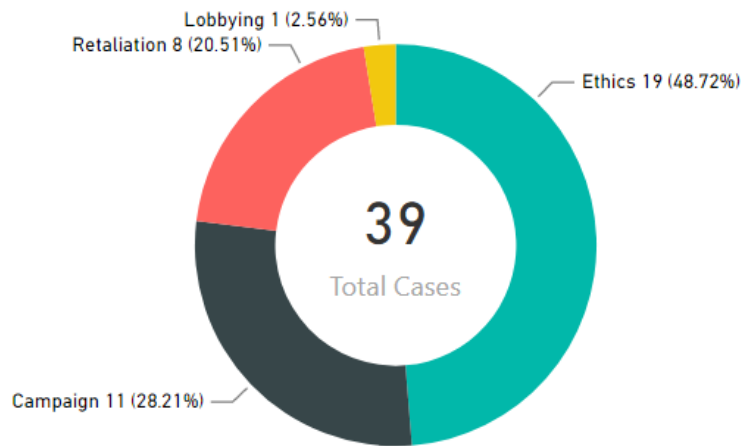


Agenda Item 8, Attachment 2

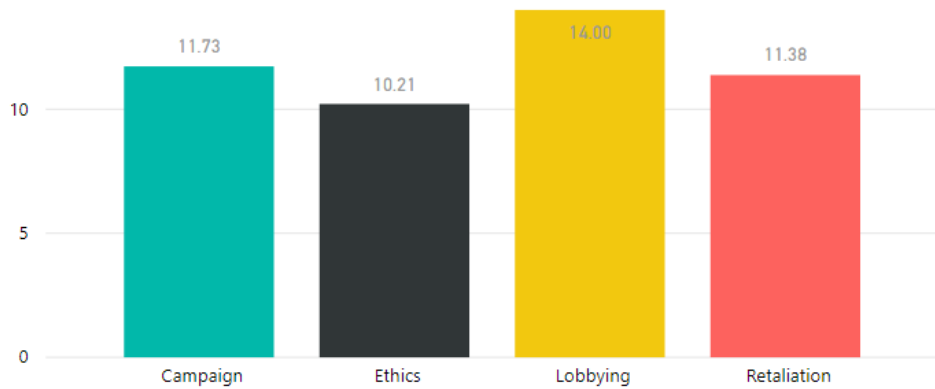
Age of Matters in Preliminary Review



Matters in Preliminary Review by Type

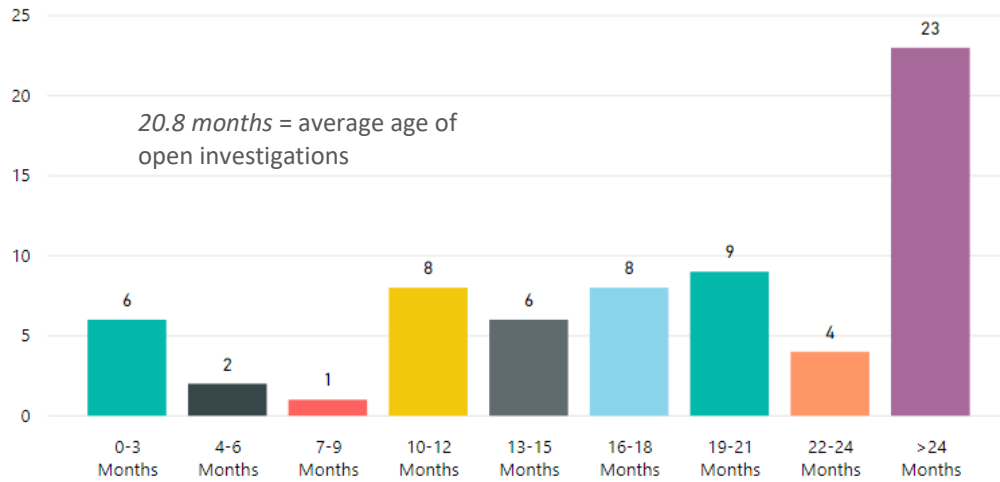


Average Age of Matters in Preliminary Review by Type

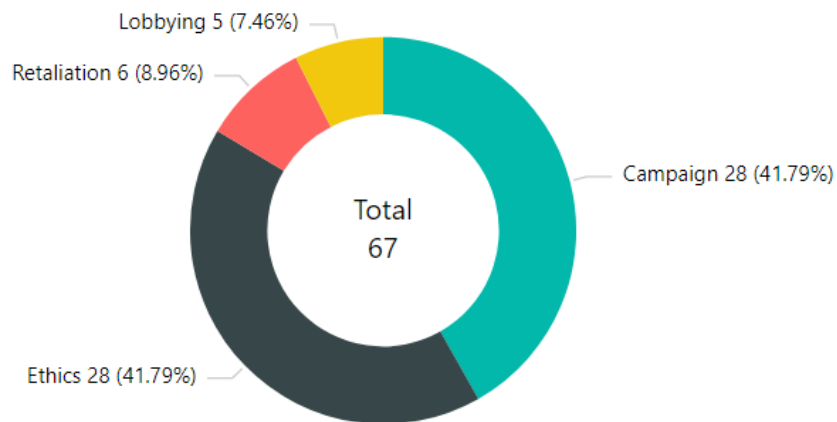


Agenda Item 8, Attachment 3

Age of Matters under Open Investigation



Open Investigations by Type



Average Age of Matters under Open Investigation by Type

