



## THE CITY OF SAN DIEGO

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### OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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**Date Issued:** September 27, 2023

**IBA Report Number:** 23-27

**Community and Neighborhood Services Meeting Date:** October 5, 2023

**Item Number:** TBD

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# Proposed Response to Grand Jury Report “Downtown Area Public Restrooms in the City of San Diego: Stop Kicking the Can Down the Road”

On May 24, 2023, the San Diego County Grand Jury filed a report, titled “Downtown Area Public Restrooms in the City of San Diego: Stop Kicking the Can Down the Road.” This report focuses on issues concerning the lack of available public restrooms in Downtown San Diego.

The Grand Jury report included eight findings and eight recommendations, all of which are directed to both the Mayor and the City Council. The proposed joint Mayoral and Council response— see Attachment 1 – covers these findings and recommendations.

Per the Grand Jury report, the Mayor and Council is required to provide comments to the Presiding Judge of the San Diego Superior Court on the applicable findings and recommendations within 90 days. However, the Council President’s office requested and received an extension for the response to November 10, 2023.

In responding to each Grand Jury finding, the City is required to either (1) agree with the finding or (2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation (1) has been implemented; (2) has not yet been implemented, but will be implemented in the future; (3) requires further analysis; or (4) will not be implemented because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.

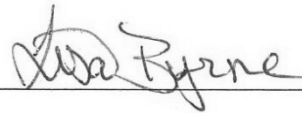
For this Grand Jury report, various departments assisted the IBA in the development of the proposed Council response, including Compliance, Homeless Strategies and Solutions, City

Planning, Development Services, Economic Development, Performance and Analytics, City Attorney's Office, and the Mayor's Office. We request that the Community and Neighborhood Services Committee provide feedback and forward its approved proposed response to the full City Council.

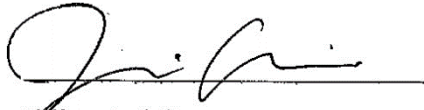
It should be noted that, while this is a joint Mayoral and Council proposed response, the Council may choose to amend or change this response. If the final response that the Council approves is agreeable to the Mayor, then the joint City response will be sent to the Presiding Judge. Otherwise, the Council and Mayor will send separate responses.



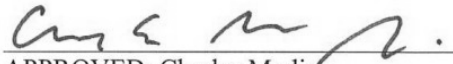
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Attachments:

1. Proposed City Response to San Diego County Grand Jury Report titled "Downtown Area Public Restrooms in the City of San Diego: Stop Kicking the Can Down the Road"
2. San Diego County Grand Jury Report titled "Downtown Area Public Restrooms in the City of San Diego: Stop Kicking the Can Down the Road"

**City of San Diego Response to  
San Diego County Grand Jury Report Titled  
“Downtown Area Public Restrooms in the City of San Diego:  
Stop Kicking the Can Down the Road”**

Pursuant to California Penal Code Section 933(c), the City of San Diego Mayor and City Council provide the following responses to the findings and recommendations included in the above referenced Grand Jury Report.

**RESPONSE TO FINDINGS:**

**Finding 01:** *Current restroom facilities in the downtown San Diego area are inadequate to provide 24/7 public access.*

**Response: The Mayor and City Council agree with the Grand Jury’s finding.**

There are currently 15 public restrooms in the downtown area<sup>1</sup> with 24/7 public access, as shown on this map: <https://www.sandiego.gov/restroom>. Restroom icons are color-coded based on their hours of operation. Restroom facilities are adjusted (added, removed, repositioned) in response to need, construction impacts, and health concerns. Additionally, the City provides access to bathrooms for our unsheltered population as part of our City-funded shelter network.

Because the 24/7 restrooms in the downtown area are primarily utilized by the City’s unsheltered population, the City agrees that the current number of these restrooms is insufficient. The City is committed to addressing the core issue of homelessness by providing more shelter options, as referenced in the Comprehensive Shelter Strategy released in June 2023. Through the expansion of these resources, the City anticipates both improving access to 24/7 restrooms citywide for the City’s unsheltered population and reducing the need for those 24/7 restrooms.

**Finding 02:** *There is no comprehensive plan for restroom siting or assuring best practices are instituted for current and future restroom facilities in the downtown San Diego area.*

**Response: The Mayor and City Council agree with the Grand Jury’s finding.**

The City does not have a single comprehensive plan for restroom siting downtown because downtown public restroom use and requirements vary depending upon the needs of the different populations served. Instead, the City's approach to downtown restrooms has several components, including plans maintained in connection with facilities in parks, and as part of its sheltering strategies. The City also works with development projects in downtown to site accessible restrooms as part of their projects, including Faultline Park, Horton Plaza Park (lease executed, in permitting, and soon will be under construction), Portland Loo at Park & Market (reopened 2022), Children’s Park, the East Village Green (under construction), and the Homeless Resource Center. Additionally, the City utilizes available reports and data, including

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<sup>1</sup> The 15 public restrooms are those included in the downtown area as outlined in Figure 1 of the Grand Jury report. There are 19 public restrooms with 24/7 public access in the downtown area when counting two restrooms east of I-5 and two restrooms south of Commercial Street.

Get It Done, to site restrooms in areas of need. Further, the City Planning Department is currently updating the City's General Plan and will include updated policies to address the need for public restrooms.

**Finding 03:** *The City has not recently brought together partners including academia, private business groups, community associations, or homeless individuals/advocates to explore solutions for better access to public restrooms.*

**Response: The Mayor and City Council partially disagree with the Grand Jury's finding.**

The City of San Diego has consistently engaged with service providers, community stakeholders, other government agencies, and academic institutions, including the University of California San Diego (UCSD) and City College, around the deployment of temporary restrooms and the development of permanent restrooms in downtown San Diego. These meetings with potential partners help support and clarify the different restroom plans mentioned in the response to Finding 02.

**Finding 04:** *Adequate public restrooms may help mitigate outbreaks such as hepatitis A, shigella, and COVID-19.*

**Response: The Mayor and City Council agree with the Grand Jury's finding.**

**Finding 05:** *Open, clean, and secure public restrooms are hard to locate throughout the San Diego downtown area.*

**Response: The Mayor and City Council partially disagree with the Grand Jury's finding.**

The City has created online resources such as [sandiego.gov/restroom](https://sandiego.gov/restroom) for members of the public to locate open restrooms. Restroom facilities have been strategically deployed downtown based on data indicating potential need. Many restrooms have on-site security and lighting to improve safety for users; cleaning frequency for each restroom facility occurs between two to six times per day. In addition, downtown San Diego has a wayfinding program that includes over 200 vehicular signs, pedestrian signs, and kiosks that include location maps with public restroom information. As discussed in the City's response to Recommendation 23-36, the wayfinding program recently received a SANDAG Smart Growth Incentive grant to provide additional and updated signage including the locations of recently installed public restrooms. The new maps will be installed by the end of 2023.

**Finding 06:** *The City has encountered barriers in following its 1987 policy to site and encourage public restrooms in specific types of facilities in the downtown area.*

**Response: The Mayor and City Council partially disagree with the Grand Jury's finding.**

The City of San Diego Council Policy 800-07 notes that the City will *encourage* non-residential developers to locate public restrooms in each project where appropriate. The City has had some success with various projects providing public restrooms including Faultline Park, Horton Plaza Park (lease executed, in permitting, and soon will be under construction), Portland Loo at Park & Market (reopened 2022),

Children's Park, the East Village Green (under construction), and the Homeless Resource Center. The City recognizes that there are some limitations to this approach and has proposed additional incentives for the siting of public restrooms as described in the response to Recommendation 23-38.

**Finding 07:** *City policies and agreements need to be followed and enforced to assure accessible and adequate public restrooms.*

**Response: The Mayor and City Council agree with the Grand Jury's finding.**

City policies and agreements are only effective in achieving desired outcomes for accessible and adequate public restrooms if they are implemented and enforceable.

**Finding 08:** *The City has not performed a comprehensive economic analysis on the costs of constructing, securing, and maintaining public restrooms, which would include current costs attributable to not having adequate restrooms (e.g., sidewalk cleaning, municipal code enforcement.)*

**Response: The Mayor and City Council partially disagree with the Grand Jury's finding.**

The City has information on the costs of constructing, securing, and maintaining public restrooms but has not conducted an analysis that includes a review of costs attributable to not having adequate restrooms.

#### **RESPONSE TO RECOMMENDATIONS:**

**Recommendation 23-32:** *In the first half of the 2023-2024 fiscal year, form a team of government officials, to include the County of San Diego, the San Diego Unified Port District, Metropolitan Transit System, as well as homeless services providers, representatives of downtown residents and businesses, academic institutions, and concerned members of the public to develop a comprehensive plan and budget for siting, security, maintenance, and funding of permanent public restrooms with hand-washing access in the downtown and contiguous areas of the City of San Diego.*

**Response: The recommendation will not be implemented because it is not warranted.**

The City suggests that this recommendation be reviewed and studied by the County of San Diego. The County of San Diego serves as the lead Health and Human Services Agency for the region and is best suited to convene a multi-agency group to develop a comprehensive plan to address public health matters, including the budget for siting, security, maintenance, and funding of permanent public restrooms with hand-washing access. The City is willing to participate and collaborate in this group, when it is established. The City currently provides portable restrooms based, in part, on direction given by County Public Health.

**Recommendation 23-33:** *Develop a cost-tracking system for public restroom-related expenditures including contracts, maintenance, City staffing, security, and capital outlays.*

**Response: The recommendation has been implemented.**

The City is able to track costs associated with public restrooms, including rental costs, maintenance fees, and security expenses through its enterprise resource planning system.

**Recommendation 23-34:** *Include and enforce in all agreements with downtown and contiguous area developers, directives in accordance with the relevant community plans and City policies, including City Policy 800-07, for siting and the long-term security and maintenance of public restrooms.*

**Response: The recommendation has been implemented.**

Council Policy 800-07 provides guidance on public restroom facilities but has not been updated since 1986. This Council Policy, as well as community plans, are not regulatory by nature.

Council Policy 800-07 states that the policy of the City Council is “to actively encourage all ... public and private entities within the City that have facilities that meet the criteria [of the Policy] to provide public restroom facilities...” To that end, the City has incentivized, developed, and, when appropriate, taken enforcement actions, with respect to several City-owned properties, including but not limited to:

- Faultline Park
- Horton Plaza Park (lease executed, in permitting, and soon will be under construction)
- Portland Loo at Park & Market (reopened 2022)
- Children’s Park
- East Village Green (under construction)
- Homeless Resource Center

The City Planning Department is currently updating the City’s General Plan and will include updated policies to address the need for public restrooms. It is anticipated that these changes will be proposed by the Mayor and considered by the City Council in early 2024.

**Recommendation 23-35:** *Study public restroom programs in other U.S. cities, and in other countries, to provide best practices and lessons learned for San Diego planning and implementation including adoption of new restroom design and innovative technologies.*

**Response: The recommendation has not been implemented but will be implemented in the future.**

Prior to proposing updates to the City’s General Plan and associated policies discussed in the City’s response to Recommendation 23-34, City staff will study public restroom programs in other U.S. cities and countries to provide best practices and lessons learned for San Diego.

**Recommendation 23-36:** *Develop or enhance physical signage to direct the public to available restrooms which includes the following:*

- Standardizing signage elements throughout the downtown area via collaboration with the County, Port, MTS and other relevant partners.

- *Adding resources for sign development and maintenance in contracts with partnering groups and working with them to facilitate approval for new signs.*

**Response: The recommendation has been implemented.**

While the City does not have the jurisdiction to standardize signage elements across agencies, the City has made significant progress toward developing and enhancing signage programs. The City implemented a downtown San Diego wayfinding program funded by the SANDAG Transnet Smart Growth Incentive Program and parking meter revenue. This program includes over 200 vehicular signs, pedestrian signs, and kiosks that include location maps. The installation of the wayfinding signs and kiosks was completed in 2015 and includes key destinations and attractions including the locations of public restrooms. The wayfinding program recently received another SANDAG Smart Growth Incentive grant and is currently adding additional and updated signage including the locations of recently installed public restrooms. The new maps will be installed by the end of 2023.

In addition, on August 1, 2023, the Council adopted an ordinance with a ten-year corporate partnership agreement with the Downtown San Diego Partnership and IKE Smart City, LLC to pilot a digital wayfinding system in downtown San Diego. This digital wayfinding system will install at least 50 digital kiosks that will include information related to downtown public restroom access. IKE and the Downtown San Diego Partnership will have three years to identify and set up the 50 kiosks per their agreement.

**Recommendation 23-37:** *Enhance the City restroom/hand-washing wayfinding system to direct the public to available restrooms, which includes the following:*

- *Regularly updating the City's restroom website information, including days/hours of operation and points of contact for problems with usage.*
- *Assure access in at least English and Spanish.*
- *Leverage existing wayfinding systems, e.g., MTS PRONTO application.*

**Response: The recommendation has been implemented.**

The City has created online resources such as [sandiego.gov/restroom](https://sandiego.gov/restroom) for members of the public to locate open restrooms and handwashing stations. Restroom icons are color-coded based on their hours of operation. Restroom facilities are adjusted (added, removed, repositioned) and updated on the website in response to need, construction impacts, and health concerns. The website is available at [sandiego.gov/baño](https://sandiego.gov/baño) and [sandiego.gov/bano](https://sandiego.gov/bano) and is available in both English and Spanish.

Further, as mentioned in the response to Recommendation 23-36, the City implemented the downtown San Diego wayfinding program which was funded by the SANDAG Transnet Smart Growth Incentive Program and parking meter revenue, as well as entered into a ten-year corporate partnership agreement with the Downtown San Diego Partnership and IKE Smart City, LLC to pilot a digital wayfinding system in downtown San Diego. Information in the digital kiosks, including downtown public restroom access, will be available in multiple languages.

Finally, while the City is not able to unilaterally change other agencies' wayfinding systems, the City is open to having discussions with other agencies about leveraging their existing wayfinding systems to the extent that would be fiscally and technologically appropriate for the City.

**Recommendation 23-38:** *Explore and create financial incentives or other innovative mechanisms for business owners to make their restroom facilities available to all persons upon request.*

**Response: The recommendation has been implemented.**

As part of the 2022 Land Development Code Update, the City adopted new regulations (SDMC 156.0309(d)(2)) to incentivize the inclusion of public restroom facilities in private developments located within the Downtown Community Planning Area. Specifically, any development which includes a public restroom containing a minimum of two stalls receives a significant Density Bonus consisting of an additional 6.0 of Floor Area Ratio. This new incentive is intended to increase public restroom availability throughout Downtown. As part of the Annual Land Development Code Update process, staff will monitor the success of this recently-enacted incentive program and propose modifications and/or additional incentive programs based on the results.

While current City funding to incentivize existing business owners is limited, the City has incentivized the development of several City-owned properties to make public restrooms available to all persons, including but not limited to:

- Faultline Park
- Horton Plaza Park (lease executed, in permitting, and soon will be under construction)
- Portland Loo at Park & Market (reopened 2022)
- Children's Park
- East Village Green (under construction)

**Recommendation 23-39:** *Explore mechanisms to fund public restroom infrastructure including development impact fees.*

**Response: The recommendation has been implemented.**

The City currently collects Development Impact Fees that fund parks, mobility improvements, libraries, and fire stations. The California Government Code defines a development impact fee as a monetary exaction imposed on a specific project for the purpose of defraying the cost of public facilities related to the development project (Cal. Gov't Code 66000(b)). For any fees imposed, the City must determine that there is a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed per Cal. Gov't Code 66001(b). The City must also determine that there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed, and that there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed (Cal. Gov't Code 66001(a)(3)-(4).) A fee shall not include the costs attributable to existing deficiencies in public facilities (Cal. Gov't Code 66001(g).)



In order to impose a development impact fee on new development for public restrooms, the City would be required to show a reasonable relationship between a new development project and the need for public restrooms. The need for public restrooms is largely an existing deficiency. To the extent that new development would contribute to the need for downtown public restrooms, a nexus study would be required, and it is unlikely that a significant nexus could be shown that results in funding anywhere close to sufficient to meet the need for public restrooms that would serve the greater downtown area. There is a clear nexus between downtown development and the need for increased park spaces, however. Part of the provision of new parks is a need for public restrooms to serve park users. While the City finds that a development impact fee would not be useful in this circumstance, the City believes that the better course of action is to work with new development to incentivize the construction of onsite park facilities, and to encourage the provision of public restrooms within those facilities where feasible.

# ***DOWNTOWN AREA PUBLIC RESTROOMS IN THE CITY OF SAN DIEGO***

## ***Stop Kicking the Can Down the Road***

### ***SUMMARY***

The 2022/2023 San Diego County Grand Jury (GJ) recommends that during fiscal year 2023-2024 the City of San Diego (City) finalize a plan, with benchmarks and budget, for adequate public restrooms in the downtown and contiguous areas (Figure 1). A lack of accessible, safe, and well-maintained restrooms, with accompanying hand-sanitation access, provides an environment that discounts the importance of dignified access to such services, increases the likelihood of human waste being found in public spaces, and has been a factor in the spread of infectious disease.

The City prides itself on being America's Finest City and was recently selected as the co-host of the 2024 World Design Organization's World Design City celebration. In keeping with the City's forward-thinking posture, it's important to incorporate innovations and fundamental planning principles to assure residents, visitors, and the downtown workforce have access to clean and safe public restroom facilities.

Since 2003, four GJs have highlighted problems with adequacy of downtown restrooms. The 2022-2023 GJ found that the City has no comprehensive plan to establish, maintain and fund public restrooms. The need for safe and well-maintained public restrooms is especially acute in the downtown San Diego area. The lack of such facilities downtown and in contiguous areas not only affects persons experiencing homelessness in the City, but visitors, residents, and workers as well.

The Mayor of the City of San Diego has set a goal of having a public restroom within a five-minute walk of anywhere downtown. While this may initially seem reasonable, further reflection raises questions including how the metric was determined, how many stalls are needed within that five-minute walk, and who assessed how far different people can walk in five-minutes. The GJ is mindful that empaneling a group to look at any issue can be perceived as delaying "action".

However, in the case of public restrooms it appears resolution of the longstanding, inadequate status quo will require input, and possibly resources, from a variety of governmental and non-governmental entities that are knowledgeable and interested in developing timely and achievable goals.

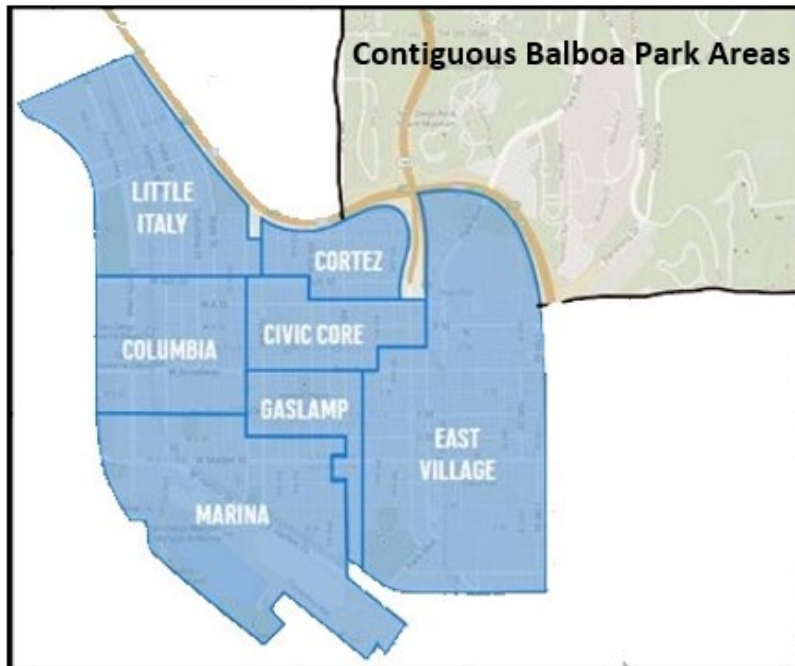
The County of San Diego (County) and the San Diego Unified Port District (Port) maintain several public restrooms in the City's downtown area and are integral partners in designing solutions and bringing innovative ideas to the forefront. The GJ is recommending that the City develop a comprehensive and benchmarked plan to fund construction, security, and maintenance of existing and additional public restrooms, and perform an economic analysis of the resources

currently allocated. Planning and implementation should be in collaboration with the County and the Port, but also include business owners in affected communities, academia, community planning groups, advocates for persons experiencing homelessness and other relevant partners.

As part of the plan, the City should:

- Develop permanent public restrooms with hand-washing access in strategically determined locations in the Downtown, East Village, and contiguous Balboa Park areas (Figure 1).
- Require public and privately developed spaces to have permanent restrooms in accordance with City Policy 800-07<sup>1</sup> and existing community plans<sup>2</sup>, and not permit developers to waive siting of restrooms nor pass maintenance responsibility of these facilities to tenants or the public.
- Create innovative signage and wayfinding (i.e., web-based, cell phone accessible, QR code enabled) systems in English and Spanish indicating locations and up-to-date hours of operation of public restrooms.
- Ensure restroom-related costs are incorporated into future budgets and expenditures are identifiable as a line item in City and partners' financial documents.
- Identify best practices in other U.S. cities including siting, security, financing, staffing and maintenance and incorporate those in the City's planning effort.

Figure 1: Downtown San Diego and contiguous Balboa Park areas



<sup>1</sup>Council Policy PUBLIC RESTROOM FACILITIES, City of San Diego, Sep 8, 1986, [cpd 800-07.pdf \(sandiego.gov\)](https://www.sandiego.gov/sites/default/files/cpd_800-07.pdf)

<sup>2</sup>San Diego Downtown Community Plan, Centre City Dvlpt Corp, April 2006, <https://www.sandiego.gov/sites/default/files/downtown-community-plan-all-1.pdf>

## ***INTRODUCTION***

Despite recommendations of Grand Juries in 2003-2004<sup>3</sup>, 2004-2005<sup>4</sup>, 2009-2010<sup>5</sup>, and 2014-2015<sup>6</sup> and some attempts by the City of San Diego to address the adequacy of public restrooms, a person walking through the downtown area can still be confronted by the unmistakable sight and odor of human waste. Finding an open and well-maintained public restroom remains difficult in many parts of downtown and surrounding areas, especially in evening hours.

Other large cities have tackled this issue and have clearly acknowledged how it affects a variety of residents and visitors. The 2022 report from Washington, D.C, Public Restroom Facilities Installation and Promotion Working Group Recommendations, noted, "...often when a resident is running errands or commuting or when a resident experiencing homelessness, pregnant person, or a tourist is in need of a restroom, the only viable option may be a restroom in a business and the person may need to patronize the business in order to use its restroom."<sup>7</sup>

The lack of restrooms remains a sanitation issue that has been cited as a health hazard, most pointedly during the 2021 shigella and the 2017 hepatitis A outbreaks in San Diego. The 2017 hepatitis A outbreak took 20 lives and sickened hundreds and more recently, hepatitis A again caused concerns in San Diego.<sup>8</sup> During the 2017 outbreak, the County of San Diego noted, "In the U.S., person to person transmission through the fecal-oral route is the primary means of HAV transmission...common source outbreaks and sporadic cases can also occur from exposure to fecally contaminated food or water".<sup>9</sup> Moreover, the inadequacy of public restrooms is not in keeping with the image of San Diego as America's Finest City, nor with the HOME values espoused by San Diego's 2024 World Design City organizers of Human-centered, Open, Multidisciplinary/Multicultural and Experimental<sup>10</sup>.

The cost of siting new facilities, maintaining and providing security for new and existing public restrooms is a critical and difficult issue, since many other less contentious infrastructure priorities, such as pothole repair and road safety, compete for resources. However, it is also

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<sup>3</sup> America's Finest City is Not Always America's Cleanest City, 2003-2004 San Diego County Grand Jury, [https://www.sandiegocounty.gov/grandjury/reports/2003\\_2004/AmericasFinestCity.pdf](https://www.sandiegocounty.gov/grandjury/reports/2003_2004/AmericasFinestCity.pdf)

<sup>4</sup> Automatic Public Toilets in the City of San Diego, 2004-2005 San Diego County Grand Jury, [AutomatedPublicToilets.doc \(live.com\)](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/02-10-23.pdf)

<sup>5</sup> Homeless in San Diego, 2009-2010 San Diego County Grand Jury, [10\\_73aattachment2.pdf \(sandiego.gov\)](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/03-10-17.pdf)

<sup>6</sup> The Ongoing Need for Downtown Public Restrooms, 2014-2015 San Diego County Grand Jury, [TheOngoingNeedforDowntownPublicRestrooms.pdf \(sandiegocounty.gov\)](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/02-10-23.pdf)

<sup>7</sup> Public Restroom Facilities Installation and Promotion Working Group Recommendations, Washington D.C. Public Restrooms Working Group, February 2022 [RC24-0171-Introduction.pdf \(dccouncil.gov\)](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/02-10-23.pdf)

<sup>8</sup> CAHAN San Diego, Health Advisory: Increase in Hepatitis A Virus Infection including Persons Experiencing Homelessness in San Diego; Feb 10, 2023;

[https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications\\_documents/02-10-23.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/02-10-23.pdf)

<sup>9</sup> CAHAN San Diego, Hepatitis A virus outbreak associated with homelessness, drug use in San Diego County; March 10, 2017;

[https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications\\_documents/03-10-17.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/cahan/communications_documents/03-10-17.pdf)

<sup>10</sup> San Diego-Tijuana World Design Capital 2024, World Design Organization, Nov 2021, <https://home2024.com>

important to identify the resources already being spent by the City and its partners, for additional street and sidewalk cleaning, enforcing public “soiling” infractions, and maintenance of the existing but inadequate restroom facilities. Less direct but of critical importance, the costs of disease transmission should also be accounted for as well as the costs to human dignity. Finally, the reputational costs to San Diego as a tourist destination should be part of any calculation. Downtown commercial entities and residents, report that business owners are often challenged by requests to use their restrooms and would generally be supportive of addressing the issue in a thoughtful and comprehensive manner. Some “quick wins” could be implemented like assuring the City’s online map<sup>11</sup> of restrooms and handwashing stations is up to date to reduce the challenge for residents and visitors to find open, clean, and secure public restrooms in the downtown and surrounding areas, especially in evening hours.

Current solutions from the City rely on assertions that the problem will mostly fix itself by solving homelessness and temporizing through the vague goal of having a public restroom within a five-minute walk from anywhere downtown.<sup>12</sup> These “solutions” are reasonable as political-speak, but are not plans based on a needs assessment, timelines, economic analyses, and user input. The GJ is not suggesting a blue-ribbon panel to study the issue for years, nor a consultant to write an attractive report, but rather a focused workgroup made up of action-oriented governmental and non-governmental entities charged with developing time-specific steps and achievable goals. The GJ acknowledges, and heard throughout its investigation, that negative public opinion drives governmental leaders to tread lightly on this issue. But the time has come for our government officials, who are vocally and progressively at the forefront of quality-of-life issues in our region, to bring the same aggressive attention to the public restroom issue. The City of San Diego is called upon to provide the leadership required to foster partnerships, critical thinking, and data-informed solutions for this most basic of human needs.

## ***METHODOLOGY***

Members of the Grand Jury conducted 13 interviews from various public agencies and community partners.

Members of the Grand Jury reviewed:

- Reports from San Diego State University’s Project for Sanitation Justice
- Reports from City of San Diego on complaints and service requests re: public restrooms
- Citations for Municipal Code 56.55<sup>13</sup>

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<sup>11</sup> Handwashing Stations, Restrooms, and Public Libraries, City of San Diego,

<https://webmaps.sandiego.gov/portal/apps/webappviewer/index.html?id=dc8bf0d749784fe58326b21f71c4be83>

<sup>12</sup> San Diego Still Can’t Solve Its Public Restroom Problem, Voice of San Diego, Bella Ross, Nov 23,2021, [San Diego Still Can’t Solve Its Public Restroom Problem | Voice of San Diego](#) and Gloria: ‘Quit Acting a Fool’ So the City Can Get More Public Toilets, Lisa Halverstadt, Oct 11, 2022, [Gloria: ‘Quit Acting a Fool’ So the City Can Get More Public Toilets | Voice of San Diego](#)

<sup>13</sup> San Diego Municipal Code Chapter 5: Public Safety, Morals and Welfare, 56.55 Urinating/Defecating in Public Prohibited, Jan 22, 1952 <https://docs.sandiego.gov/municode/MuniCodeChapter05/Ch05Art06Division00.pdf>

“No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, beach, public building or publicly maintained facility, or in

- Letters to the City from University of California at San Diego and community groups re: public restrooms
- Grand Jury Reports: 2003-2004: *America's Finest City is Not Always America's Cleanest City*; 2004-2005: *Automatic Public Toilets in the City of San Diego*; 2009-2010: *Homeless in San Diego*; 2014-2015: *The Ongoing Need for Downtown Public Restrooms*
- City Council meetings, where the topic of public restrooms was discussed including: Response to GJ report '14- '15 (Sep 22, 2015)<sup>14</sup> and GJ report follow-up by the Public Safety and Livable Communities Committee (Mar 8, 2017)<sup>15</sup>, Tailgate Park development vote (Apr 19, 2022)<sup>16</sup> and Horton Plaza development vote (Dec 6, 2022)<sup>17</sup>
- Media items from the Voice of San Diego, San Diego Union Tribune, and NBC
- City website that includes information on public restrooms
- Selected downtown restroom facilities to assess their condition and hours of operation
- On-line information from other cities re: public restrooms, including San Francisco, California, Washington DC, and Sydney, Australia

## ***DISCUSSION***

### **Previous Grand Jury Reports on Public Restrooms**

1 - The 2003-2004 Grand Jury report, *America's Finest City is Not Always America's Cleanest City*, focused on sidewalk cleaning, an issue related to public restrooms, and determined that responsibility for maintaining clean downtown sidewalks was complex and recommended the City, "Develop, implement, and enforce a solution to rid the downtown area of unclean and unhealthy sidewalk conditions."

The City responded that the municipal code made property owners responsible for maintaining public walkways abutting their property. As a result, the San Diego Downtown Partnership's

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any place open to the public or exposed to public view. This section shall not apply to urination or defecation which is done in any restroom or other facility designed for the sanitary disposal of human waste."

<sup>14</sup> Item 330: Proposed Response to Grand Jury Report: "The Ongoing Need for Downtown Public Restrooms", Council of the City of San Diego, Sep 22, 2015. Minutes of the Council of the City of San Diego for the Regular Meeting of Tuesday, September 22, 2015; City of San Diego;

[https://sandiego.hylandcloud.com/211agendaonlinecouncil/documents/viewdocument/-\\_minutes\\_-\\_9-22-15](https://sandiego.hylandcloud.com/211agendaonlinecouncil/documents/viewdocument/-_minutes_-_9-22-15) and Resolution Number R-309993; approving the city council's response to the 2014-2015 San Diego Grand Jury report titled "The Ongoing Need for Downtown Public Restrooms, City of San Diego, Sep 22, 2015;

[https://www.sandiego.gov/sites/default/files/14-15.downtownpublicrestrooms\\_0.pdf](https://www.sandiego.gov/sites/default/files/14-15.downtownpublicrestrooms_0.pdf)

<sup>15</sup> Item 4: Report from the Office of the Assistant Chief Operating Officer and Civic San Diego regarding STATUS UPDATE TO THE GRAND JURY REPORT: "THE ONGOING NEED FOR DOWNTOWN PUBLIC RESTROOMS", City of San Diego Public Safety and Livable Neighborhoods Committee Meeting, Mar 8, 2017 [Public Safety & Livable Neighborhoods \(granicus.com\)](http://PublicSafety&LivableNeighborhoods.granicus.com)

<sup>16</sup> Item 334: East Village Quarter (Tailgate Park) Disposition and Development Agreement - Padres Development Team, San Diego City Council meeting, Apr 18, 2022, <https://www.sandiego.gov/blog/people%E2%80%99s-business-%E2%80%93-april-18-2022>

<sup>17</sup> Item S503: Resolution Authorizing Execution of Lease and Related Agreement with SCP Park Services for City-Owned Property Commonly Known as Horton Plaza Urban Park in Downtown San Diego, San Diego City Council meeting, Dec 6, 2022, <https://www.sandiego.gov/blog/people%E2%80%99s-business-%E2%80%93-december-6-2022>

Downtown Property and Business Improvement District's (PBID) Clean and Safe Program was formed to "accept responsibility for the cleanliness of the sidewalk areas." The PBID can increase assessments on property owners if additional clean-up services are needed. The City noted \$95,000 per year was provided to PBID for clean-up work, but the City would take a more active role going forward in monitoring complaints about sidewalk waste and helping to respond to "emergency situations".

However, PBID responded they were "operating in a very restricted environment and finding it difficult to adequately perform sidewalk cleaning" and cited "the lack of public restrooms to accommodate the homeless population...and inadequate enforcement of San Diego Municipal Code 56.55..." as some of the issues. PBID also felt it was "unreasonable to place the sole burden of removing these conditions on property owners" and concluded by saying "a task force should be established..."

2 - The 2004-2005 Grand Jury report, *Automatic Public Toilets (APTs) in the City of San Diego*, explored the issue of APTs, their financing in other US cities and recommended exploring revenue generating signage options to provide additional public restrooms. The City responded that in 1998, it had issued a Request for Proposals for APTs in the downtown area with costs to be paid through advertising revenue, but the project was never implemented. The City rejected the GJ recommendation to grant a variance from its Sign Code Ordinance for encased, discreet ads within APTs noting that "advertising in the public-right-of-way is in direct conflict with the City's Sign Code Ordinance.". There was no offer to pursue an amendment to the Code.<sup>18</sup>

The City agreed with the GJ finding that additional public restroom facilities were needed but determined that providing more public restrooms in the downtown area would not be implemented due to the financial challenges (e.g., APT cost up to \$250,000 for procurement and installation with annual operating costs of \$65,000).

The City's Corporate Sponsorship Office also assessed interest among corporate leaders to help fund such a project and found that businesses interested in sponsoring City projects were not keen on the idea of associating their brand with toilets. The response concluded by saying "If the resources are available in the future, the City will revisit the idea to invest in additional public restrooms in the downtown area." The City noted it had established Council Policy 800-07 (Sept 1986)<sup>19</sup>, entitled "Public Restroom Facilities" requiring certain City facilities to have public restrooms and encouraging other public and private entities to provide such facilities to meet the need for public restrooms. The response did not clarify how many additional public restrooms had been sited in such facilities in the 19 years since the adoption of Council Policy 800-07.

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<sup>18</sup> Response to the San Diego County Grand Jury 2004-2005 Report entitled "Automatic Public Toilets in the City of San Diego", San Diego City Manager P. Lamont Ewell, August 31, 2005, [citysandiego04-05response4.pdf](https://www.citysandiego.org/citymanager/04-05response4.pdf) ([sandiegocounty.gov](https://www.sandiegocounty.gov))

<sup>19</sup> Council Policy, PUBLIC RESTROOM FACILITIES, 800-07, City of San Diego, Sep 8, 1986, [cpd\\_800-07.pdf](https://www.sandiego.gov/cpd/800-07.pdf) ([sandiego.gov](https://www.sandiego.gov))

3 – The 2009-2010 Grand Jury report, *Homeless in San Diego*, noted the continuing problem of unsanitary street conditions from human urine and feces in the downtown area and again called for additional permanent public toilets in City-owned parks and properties, and suggested funding mechanisms. The report acknowledged PBID’s Clean and Safe program, but suggested current efforts were insufficient and noted an outbreak of illness due to these conditions could be a liability for the City.

After the report, the City encumbered \$700,000 from the Centre City Development Corporation’s FY2011 budget to develop a plan, research alternatives, and solicit public comment. Spurred by the report, in 2013, the City empaneled the Downtown Public Restrooms Task Force, a coalition of groups such as Civic San Diego, The Girl’s Think Tank (now Think Dignity), East Village residents, and business owners, and mobilized \$450,000 from the City for restrooms<sup>20</sup>. These actions resulted in siting two Portland Loos<sup>21</sup>, a type of prefabricated toilet unit connected to sewer and water services, by the end of 2014. However, by February 2016, the San Diego Union Tribune reported that the Loo at 14<sup>th</sup> and L was removed due to cost and community complaints.<sup>22</sup>

4 - The 2014-2015 GJ report, *The Ongoing Need for Downtown Public Restrooms*, recounted the continued inadequacy of public restrooms in downtown San Diego and recommended the City:

1) develop, fund and implement a plan to provide additional 24 hour accessible, safe and well-maintained downtown public restrooms, 2) establish an adequate budget for the purpose, and 3) establish a “way-finding” system for the public to locate downtown public restrooms including those operated by the County and the Port District.

Again, the City agreed additional restrooms were needed downtown but noted that many projects competed for limited funding. The City indicated that the Downtown Community Plan had “standards for providing public restrooms” and there were mechanisms to look for opportunities to site downtown restrooms on public sites. But there was no specific response to the recommendation for the City to develop a public restroom plan.

The City’s response noted the addition of new restroom facilities in the previous few years: two operated by the Port, one operated by the County, and one at Faultline Park operated through an agreement with a private entity. The City noted that facilities at Horton Plaza Park, 13th and G Streets, and at 7th Avenue and Market Street were planned, and future public projects at Park and Market, 7th and Market, and East Village Green would incorporate public restrooms.

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<sup>20</sup> Should Public Toilets in Downtown San Diego Stay or Go, KPBS Evening Edition, Claire Trageser, July 28, 2015. [Should Public Toilet In Downtown San Diego Stay Or Go? | KPBS Public Media](#)

<sup>21</sup> The Portland Loo, 2023, [The Portland Loo - Designed by the city, for the city](#)

<sup>22</sup> San Diego yanks problem Portland Loo, San Diego Union Tribune, David Garrick, Feb 5, 2016 [San Diego yanks problem Portland Loo - The San Diego Union-Tribune \(sandiegouniontribune.com\)](#)



The City further cited it was working with private developers to locate public restrooms, and cited, as an example, that a public restroom was to be sited in the Piazza Famiglia project in Little Italy<sup>23</sup>. It was stated that funding for City-owned and operated public restrooms is incorporated into the annual budget proposed by the Mayor and approved by the City Council and those for City-owned but privately-operated downtown public restrooms, like Faultline Park and Horton Plaza Park, are included in agreements with the private entity responsible for the operation of the park and that changes to funding levels could be made through the annual budget process or amendments to private agreements. There was no offer to do an economic analysis to establish budget needs for current or future restroom infrastructure.

As to the recommendation to develop adequate “way-finding”, the City was non-responsive, only noting that in March 2016 CivicSD completed a \$1.9 million upgrade of the Downtown San Diego Wayfinding Signage Program. There was no indication that restroom locations were included and there was no funding in Fiscal Year 2016 to install or maintain signage specifically for public restrooms.

At the City’s Public Safety and Livable Neighborhoods Committee meeting on March 8, 2017, during discussion of the City’s response to the 2014-2015 GJ report, the City’s Assistant Chief Operating Officer reported the matter was considered closed unless the City wanted to add specific funds and direction to his department to pursue further planning for public restrooms.

However, during public comment a business owner, whose lease required upkeep of the Faultline Park restroom, stressed the inadequacy of the terms passed to his business from the original developer and the impossibility of maintaining his business with current costs of restroom upkeep. After other comments from the community, Council Member Chris Ward informally asked the Independent Budget Analyst for “...what a proper budget would be to be able to implement a more robust plan that addresses security and adequately provides sufficient restroom facilities downtown.”<sup>24</sup> The GJ was unable to locate such an analysis during our investigation.

### **Relevant City of San Diego Policies, Documents and Community Input**

- In 1986, the City passed Council Policy 800-07<sup>25</sup> for siting public restrooms. The Policy notes: “The continued development of San Diego into a major metropolitan center has demonstrated the need for public restroom facilities throughout the City for use by all citizens. Requiring specified City facilities to have public restroom facilities and encouraging other public and private entities to provide such facilities will help meet the

<sup>23</sup> Piazza Famiglia was built in Little Italy by H G Fenton Company and opened in 2018. No public restrooms were installed and none are there to date as per City website:

<https://webmaps.sandiego.gov/portal/apps/webappviewer/index.html?id=dc8bf0d749784fe58326b21f71c4be83>

<sup>24</sup> Status Update to the Grand Jury Report: Ongoing Need for Downtown Public restrooms, Item 4, Report from the Office of the Assistant Chief Operating Officer and Civic San Diego, March 8, 2017.

[Public Safety & Livable Neighborhoods \(granicus.com\)](#)

<sup>25</sup> Council Policy, PUBLIC RESTROOM FACILITIES, 800-07, City of San Diego, Sep 8, 1986, [cpd\\_800-07.pdf \(sandiego.gov\)](#)

need for public restrooms.” It further specifies that all City “... governmental office facilities designed after the adoption of this Policy and exceeding 20,000 square feet in size shall have public restroom facilities...accessible and publicly signed from the street or building lot elevation level.” The Policy allows “the requirement shall be waived if...such restroom facility is prohibited by unmitigable design constraints...or if... found by the City Council to constitute a significant financial burden to the City...” The Policy also advises “...the City Council to actively encourage all other public and private entities within the City that have facilities which meet the criteria above to provide public restroom facilities as described in this Council Policy.” The Policy gives responsibility to the City Manager for City buildings and to the Planning Department for non-City projects “to ensure implementation of this Policy”.

- Requirements are likely "waivable, meaning any development or construction could've included something in their design projects that would allow them to not follow the requirement." “It is unclear how City Police [800-07] is currently being applied or enforced”. The Grand Jury requested a list of City and non-City facilities where restrooms had been sited based on 800-07, but the list had no such facilities.<sup>26</sup>
- The GJ reviewed a list of 413 citations, from July 4, 2020 to July 24, 2022, for Municipal Code 56.55, Urinating/Defecating in Public. Twenty-seven percent (113) were in the downtown zip code 92101. These infractions may not always be prosecuted but can result in fines or community service obligations.
- The City of San Diego’s FY2023 Strategic Plan<sup>27</sup> includes the mission statement, “Every day we serve our communities to make San Diego not just a fine city, but a great city”. One of the five priority areas of focus, Protect & Enrich Every Neighborhood offers that “...every San Diegan should have access to a safe and secure environment, along with a variety of core amenities that improve quality of life.” The plan also lays out four operating principles, all with relevance to the public restroom issue: customer service, engagement, equity, and transparency. For example, the customer service principle states, “We value our residents, customers, and employees by designing solutions and services that put people first.” And the transparency principle importantly notes, “We value transparency by using data to make better-informed decisions...”.
- Many of the City’s public restrooms are in parks, including in the areas of focus for this report. The City of San Diego’s Parks and Recreation Department has responsibility for their development and maintenance in downtown and contiguous areas. In 2021, the Department conducted public outreach to learn community views about the park

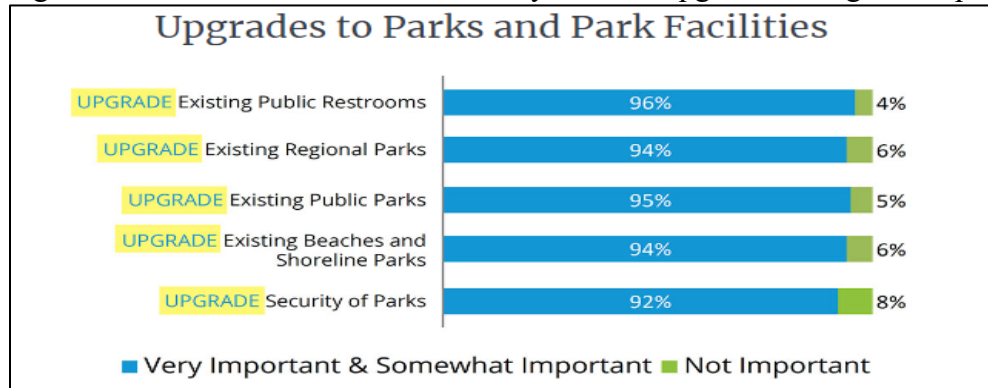
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<sup>26</sup> The list showed recent City-wide restroom-related budget requests for items such as fixing stained countertops. Only two listed items were for downtown restrooms: one from FY22 asking for \$350,000 for more security for the downtown library restrooms and one from FY23 requesting new security for the Gaslamp Square restroom.

<sup>27</sup> City of San Diego Strategic Plan 2022, page xvii, Copyright 2022-2023; [Strategic Plan Dashboard | The City of San Diego](#)

services.<sup>28</sup> Upgrades to existing public park restrooms was a top concern, cited by 96% as being “very or somewhat important” (Figure 2).

Figure 2: Parks and Park Facilities Survey results: Upgrades of highest importance to the public.



- The most recent San Diego Downtown Community Plan, adopted 16 years ago, mentions restrooms twice.<sup>29</sup> First in the context of parks and public spaces, 4.1-P-16 *Public spaces of half a city block or more in size should have well-maintained public restrooms*, and then in the human services facility section, 12.2-P-1 *Require a plan to demonstrate operations, facilities, and protocols to avoid off-site impacts from clients such as litter, out-door toileting, camping and outdoor lines*.
- Public comments about public restrooms in downtown parks that were provided at City Council meetings were reviewed including those regarding Faultline Park on March 8, 2017, Tailgate Park on August 19, 2022, and Horton Plaza on December 6, 2022. In each case, the public speakers expressed concern about the adequacy of new public restroom siting, and existing restroom maintenance and security. (See footnotes on page 4, Methodology). At the December 6 Council meeting, two community speakers noted that past agreements with private developers to site and maintain public restrooms (i.e., Faultline Park and the Portland Loo) had proved inadequate to assure safe and accessible facilities. They also voiced concern that the proposed restrooms would only be open during “open park hours”, which apparently remained unspecified in the lease agreement.
- In October 2022, the Downtown Community Planning Council (DCPC) sent a letter to San Diego’s Mayor, City Council and Planning Department requesting “that the East Village Quarter/Tailgate Park development incorporate welcoming, clean, and safe 24/7 gender neutral public toilets”.<sup>30</sup> It was further noted that “...DCPC rejected the notion

<sup>28</sup> Parks Master Plan, City of San Diego, Copyright 2022-2023; [Parks Master Plan | City of San Diego Official Website](#)

<sup>29</sup> San Diego Downtown Community Plan, Centre City Development Corporation, Apr 2002, [downtown-community-plan-all-1.pdf \(sandiego.gov\)](#)

<sup>30</sup> Downtown Community Planning Council (San Diego), Letter signed by DCPC Board of Directors, Oct 2022, <https://docs.google.com/document/d/1CDJ8FahZ1jjo29t9JzssOsyykrTashrLjbWPkAjL5ng/edit>

that public toilets within a “5-minute walk” was a ‘reasonable accommodation’ that exempted the development from including restrooms.”

### **Academic Studies Regarding Public Restrooms**

San Diego State University launched the Project for Sanitation Justice (PSJ) in 2020 with the goal of driving action towards more just and equitable decision-making around public restrooms in San Diego County. The multi-disciplinary group is committed to providing data-informed recommendations to strategically improve access to public restrooms across San Diego County.<sup>31</sup>

In December 2022, the group released another in their series of reports, this one focusing on the public restroom situation in downtown San Diego.<sup>32</sup> Among other findings, PSJ noted “...grimly low levels of accessible public restroom facilities – especially overnight – that are crucial for both public health and basic dignity. Our interviews with San Diegans experiencing homelessness confirm the public health peril this poses to our community health: in the absence of restrooms where and when they are needed, people practice open defecation. Of the permanent public restroom facilities that do exist in Downtown San Diego, only 2 are available 24 hours a day, 7 days a week, and these are distanced a 30-minute walk apart.”<sup>32</sup>

In December 2021, the University of California at San Diego (UCSD) Dean of the Division of Extended Studies, wrote to Mayor Todd Gloria, the City Council, and City Attorney Mara Elliot indicating that an existing Portland Loo located “...very near the University’s new downtown educational cultural facility...” would “pose unnecessary and concerning risks” to their students.<sup>33</sup>

The letter outlined that UCSD had acquired the property from a developer who, in 2016, had entered into an agreement with the City as part of its development approval, to have a public restroom on the site and “...fund its operation and maintenance for a period of 55 years.” While objecting to having the restroom at its current location, UCSD noted, “The University engaged a team of experts on homelessness from its Department of Urban Studies and Planning to explore best practices implemented in other cities as well as areas within downtown San Diego...” UCSD attached a copy of that Urban Studies report<sup>33</sup> and noted they “remain available and interested in engaging in further discussions” on the restroom topic.

### **Other Cities**

Several US cities have confronted the public restroom issue and there may be models that San Diego could replicate or learn from. The Port of San Diego regularly trades ideas with other cities and enhanced its asset allocation system based on these discussions. This has resulted in a robust method of assigning costs, including restroom expenditures and staff time tracking.

<sup>31</sup> The Project for Sanitation Justice, San Diego State University, Mar 2022, <https://bathrooms.sdsu.edu/>

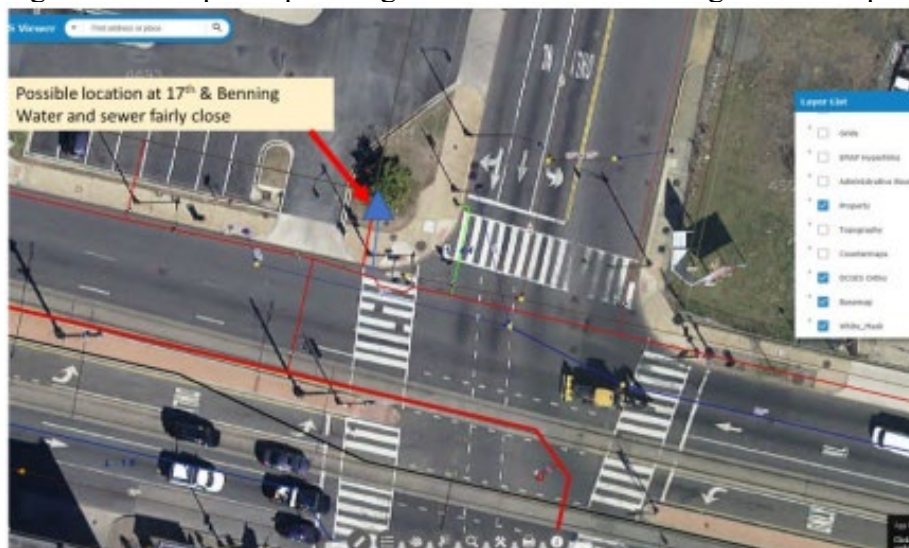
<sup>32</sup> Public Restroom Access in Downtown San Diego, Project for Sanitation Justice, Megan Welsh Carroll et al, Dec 2022, <https://drive.google.com/file/d/1pnUDgJSUvN7mTUvvhbXQhcTE0JTxFm3Vi/view>

<sup>33</sup> Letter from UCSD Division of Extended Studies, Hugo O. Villar, Dec 9, 2021, [UC-San-Diego\\_12-09-21.pdf](https://uc-san-diego.org/voiceofsandiego.org/UC-San-Diego_12-09-21.pdf)

San Francisco's Pit Stop program, operated by that city's Department of Public Works since 2014, was the most well-known by interviewees but had not been directly investigated by any.<sup>34</sup> Pit Stop currently operates 33 public toilets, with on-site attendants, in 13 neighborhoods via contracts with non-profit organizations.

Washington, D.C. convened a Public Restrooms Working Group to provide city leaders with the tools to determine how to provide broader access to those in need of a safe and clean restroom. The group met for a brief six months, June-November 2021 and included city departments, public health officials, as well as community groups and private business representatives. Mayor Muriel Bowser conveyed the final report to the D.C. City Council in May 2022. Their process, including assessments of potential sites (Figure 3), could be a model for a similar effort in the City of San Diego.<sup>35</sup>

Figure 3: Example of planning schematic from Washington D.C. report



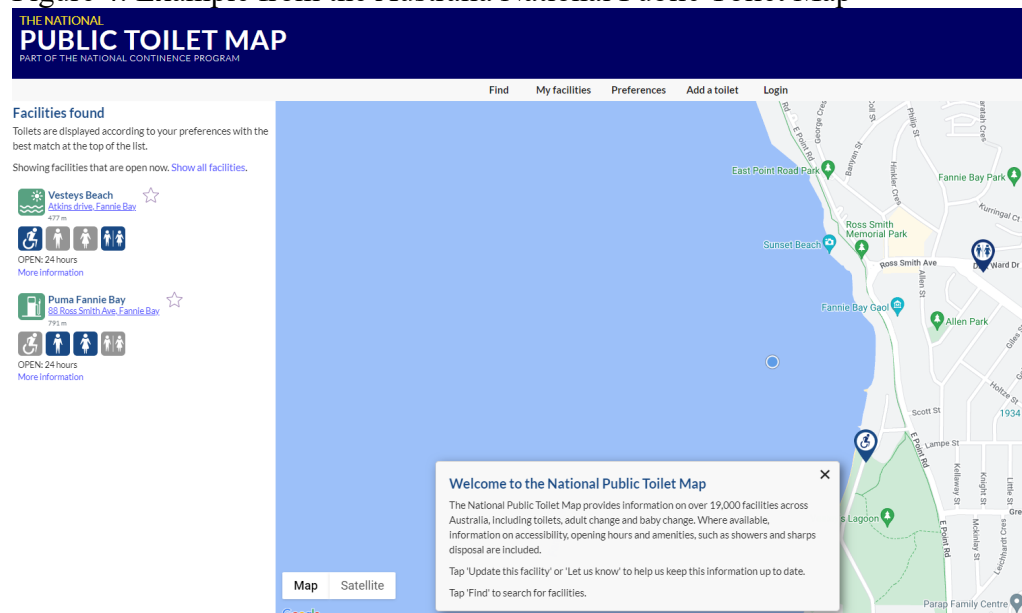
The only other city public restroom model evaluated was Sydney, Australia. Reasons for specifically evaluating Sydney's model or specific elements being considered for adoption were not clarified, but several elements are intriguing, e.g., a wayfinding system, which allows public input for updating maps (Figure 4)<sup>36</sup>

<sup>34</sup>San Francisco Pitstop, City of San Francisco Public Works, [Pit Stop Program \(sfpublicworks.wixsite.com\)](https://sfpublicworks.wixsite.com/pit-stop)

<sup>35</sup> Public Restroom Facilities Installation and Promotion Working Group Recommendations, Washington D.C. Public Restrooms Working Group, February 2022 [RC24-0171-Introduction.pdf \(dcccouncil.gov\)](https://dcccouncil.gov/RC24-0171-Introduction.pdf),

<sup>36</sup> Public Toilets, City of Sydney, Australia, [Public toilets in Sydney - City of Sydney \(nsw.gov.au\)](https://www.cityofsydney.nsw.gov.au/public-toilets)

Figure 4: Example from the Australia National Public Toilet Map



### **Current Status of Public Restrooms in Downtown San Diego**

Mayor Todd Gloria “has set an initial goal to provide restrooms within in five-minute walk of all areas downtown”<sup>37</sup> The GJ finds that the five-minute walk metric does not take into account a variety of real-life factors since the built environment is not laid out in radial spokes nor does it account for people with physical disabilities, medical conditions, or young children. It also does not address how many individual toilets are needed per five-minute walk. City officials acknowledged the five-minute goal was an attempt to balance an improvement in service level with what was feasible to implement, and that five minutes was chosen because it seemed a reasonable length of time for most people to walk when they needed a restroom. It was understood that the metric probably was not adequate for everyone but would be an improvement on the current situation.

Unfortunately, the five-minute goal has been used to avoid siting restrooms. In April 2022, the Tailgate Park development team explained to the City Council why they did not need a public restroom in the park (Figure 5) by showing a rendering of six restroom facilities within a five-minute walk of the project. The relevant community plan specifies that restrooms should be included in all parks of at least half a block in size.<sup>38</sup> When pressed on the issue by the Council committee chair, the developers asserted that there are “lots of restroom opportunities in the

<sup>37</sup>Gloria Wants Public Restrooms Within a Five-Minute Walk of Anywhere Downtown, Voice of San Diego, Lisa Halverstadt, Voice of San Diego, Dec 8, 2021, [Gloria Wants Public Restrooms Within Five-Minute Walk of Anywhere Downtown | Voice of San Diego](#)

<sup>38</sup> San Diego Downtown Community Plan, Centre City Development Corporation, Apr 2002, [downtown-community-plan-all-1.pdf \(sandiego.gov\)](#)

area”.<sup>39</sup> They failed to mention that one of the restrooms is in St Vincent de Paul’s and another is a set of port-a-potties near St Vincent’s, another is the downtown library which is closed on Sundays, that the one in Faultline Park requires finding a guard to open, and the one near Petco is generally open only during events.

Figure 5: From Tailgate Park Development Team presentation



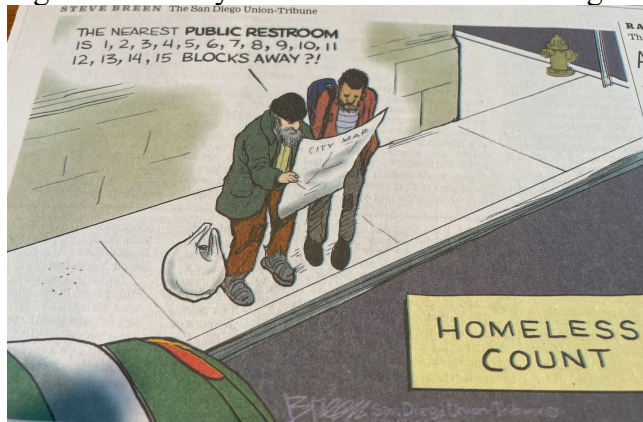
The GJ found widespread agreement, among those interviewed, that there are not enough restrooms in the downtown area and no interviewee considered the five-minute walk metric adequate to guide restroom development. The City does not have a comprehensive plan for siting, maintaining, and providing security for public restrooms. Interviewees felt a long-term plan and investment strategy was needed and that their organizations would be interested in helping the City to develop such a plan. However, most asserted that a short-term focus on adequately maintaining and securing existing restrooms was also essential.

The lack of accessible public restrooms may be an esoteric or irrelevant issue to many San Diego residents. But as noted in Figure 6, the issue can suddenly become important, if not urgent, when one spends time in urban areas for reasons beyond a trip to a restaurant, entertainment venue, or shopping excursion.<sup>40</sup>

<sup>39</sup> Item 334 - East Village Quarter (Tailgate Park) Disposition and Development Agreement - Padres Development Team, Apr 18, 2022, [EVQ City Council Presentation.pdf \(hylandcloud.com\)](https://www.hylandcloud.com/evq-city-council-presentation.pdf)

<sup>40</sup> Cartoon, Steve Breen, San Diego Union Tribune; January 28, 2023, <https://www.sandiegouniontribune.com/opinion/steve-breen/gallery/steve-breens-recent-cartoons>

Figure 6: January 2023 cartoon from San Diego Union Tribune



According to PSJ’s December 2022 report<sup>41</sup>, there are 22 permanent public restroom facilities in downtown San Diego, six managed by the City of San Diego, 12 by the Port of San Diego, two by the County of San Diego, and two by St Vincent de Paul. Only two 24/7 facilities (nine stall total) were available, deemed “low by any standard” for the estimated 1,500 unsheltered persons and others needing facilities during nighttime hours according to one interviewee.

The City was responsive to some restroom related issues such as implementing a public information campaign about sanitation during disease outbreaks and developing their restroom website. A review of the City website showed the site to be easy to access and use, yet it shows facilities that are not currently open, does not indicate which have specific requirements for entry<sup>42</sup>, fails to list hours of operation for most, does not delineate port-a-potties from permanent restrooms, and fails to identify two existing sites.

The problem of poor restroom maintenance is often characterized as an inevitable result of too many people relying on too few facilities. This results in inadequate maintenance which causes closures and places even more pressure on the fewer open sites. Unsheltered persons put pressure on restroom facilities, but like any other resident they also value clean and safe facilities. The PSJ December 2022 report contained interview results from homeless users of downtown facilities, which highlighted “the limitations and challenges of existing public restroom facilities” and “emphasized the need for both more public restrooms as well as improved cleanliness, safety...”<sup>41</sup>

The GJ identified that holding private entities accountable for siting new restrooms, in accordance with community plans and City policy, is difficult. The financial burden for

<sup>41</sup>Public Restroom Access in Downtown San Diego, Project for Sanitation Justice, Megan Welsh Carroll et al, Dec 2022, <https://drive.google.com/file/d/1pnUDgJSUvN7mTUvvhbXQhcTE0JTxFm3Vi/view>

<sup>42</sup> Some facilities require users to leave belongings outside the restroom, call an attendant, spend ten minutes or less in the stall, and other restrictions.



maintenance seems to be a primary reason that private entities are not eager to have public restrooms designed into their projects. Faultline Park is an example of how financial responsibility for a public restroom, which was part of the development agreement, quickly passed to a business tenant who became overwhelmed by maintenance duties and cost. There are frequent complaints about the lack of access to this restroom prompting further investigation of the site, which revealed that the current Faultline Park restroom is always locked and only available by calling a posted number and waiting for a security guard. Although most public-private partnerships have not proved to be a solution thus far, downtown residents and business/advocacy groups believe there are models that could work and are willing to engage in finding solutions.

Many existing restroom facilities are decades old, which adds to maintenance and security issues. New designs, such as having outside sinks, self-contained permanent units not requiring sewer access, and innovative ideas for frequently vandalized items such as soap dispensers and toilet seats need to be researched and implemented as part of future planning. Similarly, new maintenance technology, like drain macerators, should be explored for their utility in reducing cost and reducing restroom downtime.

The use of portable restrooms (i.e., port-a-potties) is also a controversial issue. Business owners and residents dislike having these placed near their locations, even during public health emergencies, due to their ugliness and public perception. However, some government officials consider permanent port-a-potties essential from a maintenance and security perspective in some locales.

The GJ investigation revealed that cost is a primary reason the public restroom issue has not been comprehensively addressed. It was expressed that many other priority issues demand government funds, that permanent public restrooms require continual and expensive maintenance and security expenditures, and that new facilities are expensive to design and construct. At the same time, this investigation revealed that that portable restroom rentals are a significant current cost, that being reactive to the hepatitis and other public health outbreaks had been extremely costly, and that older restroom facilities need replacement.

GJ investigation revealed that while lack of restrooms may not have been the originating event in the 2017 hepatitis A or 2022 shigella outbreaks, it was a cause of continued spread. Some noted that when the City and County came together to provide more restrooms and sanitation, among other interventions, a downturn ensued in the number of cases and further loss of life (for hepatitis A).

During this investigation the issue of vandalism and how to balance security with public access was raised repeatedly. Vandalism and public misuse of restroom facilities (e.g., for illicit activities) was cited as producing staff fatigue and demoralization, and as a main reason for public pushback on adding new public restrooms. This issue has also led to limiting the hours that some restrooms are open and adding key-required access to others. Perspectives on how to

best provide security at restrooms varied from using armed security guards, to relying on innovative design elements, to hiring persons with lived experience as restroom attendants.

### **Publicizing Available Restrooms in Downtown San Diego**

Public restroom signage in the downtown area remains inadequate. This is a long-standing issue and reasons for lack of progress are unclear. Downtown businesses support physical signage for restrooms since they regularly receive public inquiries. Ideas like adding QR codes or other restroom information to existing downtown wayfinding signs seem easily adoptable and adding bathroom information to the signs would not be insurmountable. City municipal codes are restrictive and complicate adding signage in public rights-of-way. However, downtown groups expressed interest in developing improved physical signage if costs were offset and facilitated through the approval process by the City. There are examples of excellent restroom signage in tourist heavy areas like Seaport Village and in the City of Coronado, which could be used as models beyond tourist-focused areas.

The City's restroom website is a simple method to help individuals locate a public restroom using their mobile device. The GJ found, however, that the site is not kept fully up to date. Improving the accuracy and type of information on the website is a small matter but it would require collaboration with the County, and other entities that have public restrooms, to assure their most up to date information was also reflected.

### **Criminalization**

Criminalization of basic human functions is another aspect of inadequate restroom availability. In the City of San Diego, between July 2020 and July 2022, there were 413 citations for Municipal Code 55.60 violations, 27% in the downtown area. The violations especially burden unsheltered persons who can lose opportunities for sheltering and other services by having these violations in their record. While not all incidents and violations would be addressed by adequate restrooms, this could be an important factor.

### **Finding Solutions**

Bringing together the many groups and agencies that have interest in the public restroom issue would add value and perspective for the City. Community groups could assist with reaching out to downtown businesses and residents to garner support for expanding public restroom capacity.

The Clean and Safe program is already a model for how a community group representing private businesses can work with the City to affect enhancements of the downtown environment. Academic institutions could help develop metrics, perform economic assessments, research innovative designs, and explore public opinion. Advocates for unsheltered persons and individuals with lived experience as an unsheltered person could provide perspectives on effective restroom design, security considerations, and staffing. The County, Port, and the Metropolitan Transit System could share their experience with cost tracking, infrastructure resource acquisition, and design innovations.

It was identified that the City, the County, and Port had previously partnered to create the City's interactive restroom map and could renew joint efforts to assure up-to-date information is maintained. Importantly, the group could also work to mobilize resources from a variety of sources including government, private business, and infrastructure grants. Currently, the City is promoting state legislation to permit pay-toilets, banned for the past 50 years, to offset some of the cost of public restrooms.<sup>43</sup> While not likely to be a part of a near-term solution, this type of leadership is precisely what the GJ calls on the City of San Diego to undertake to creatively address the persistent issue of inadequate public restrooms in America's Finest City.

### ***FACTS AND FINDINGS***

**Fact:** Access to a restroom is a basic human need.

**Fact:** The local government agencies maintaining public restrooms in downtown San Diego are the City of San Diego, the County of San Diego, and the Port of San Diego.

**Fact:** There are not enough public restrooms in the downtown San Diego area.

**Fact:** The cost of construction, security and maintenance of public restrooms are among the top concerns of the City of San Diego, the County of San Diego, and the Port District of San Diego when considering additional facilities.

**Finding 01:** Current restroom facilities in the downtown San Diego area are inadequate to provide 24/7 public access.

**Finding 02:** There is no comprehensive plan for restroom siting or assuring best practices are instituted for current and future restroom facilities in the downtown San Diego area.

**Fact:** Academic institutions, such as SDSU and UCSD, have capacity to engage with government and to assist in development of data-driven plans for restrooms.

**Fact:** Downtown groups representing businesses, residents and economic development have interest in working with government to develop workable plans for downtown public restrooms.

**Fact:** Advocacy groups for unsheltered populations have lived experience that add value to planning for access to public restrooms.

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<sup>43</sup> San Diego leaders looking to lift state ban on pay toilets, CBS 8 San Diego, Jan 23, 2023, <https://www.cbs8.com/article/news/local/san-diego-looking-to-lift-state-ban-on-pay-toilets/509-e29e4ecd-60f4-4bc4-b019-e51036eeb1f>

**Fact:** The last effort to bring together a wide array of stakeholders on the issue of downtown public restrooms was in 2013.

**Finding 03:** The City has not recently brought together partners including academia, private business groups, community associations, or homeless individuals/advocates to explore solutions for better access to public restrooms.

**Fact:** The 2009-2010 GJ report, *Homeless in San Diego*, warned of disease outbreaks due to lack of adequate public restrooms,

**Fact:** Poor sanitation is linked to spread of several infectious pathogens and has been cited as contributing to the hepatitis A and shigella outbreaks since the last Grand Jury report.

**Fact:** The hepatitis A outbreak in 2017 was a factor in the deaths of twenty people.

**Fact:** The hepatitis A outbreak cost over \$12 million dollars and required ad hoc sanitation equipment rental, enhanced environmental cleaning and other costs.

**Finding 04:** Adequate public restrooms may help mitigate outbreaks such as hepatitis A, shigella, and COVID-19.

**Fact:** Access to convenient, safe, and well-maintained restrooms in the downtown area is important to tourists, local visitors, persons experiencing homelessness, and families.

**Fact:** It is difficult to locate clean, open public restrooms in downtown San Diego due to the lack of adequate signage.

**Fact:** The City's web-based information regarding public restrooms is not updated often enough and does not contain enough information to reflect conditions in the field.

**Finding 05:** Open, clean, and secure public restrooms are hard to locate throughout the San Diego downtown area.

**Fact:** The 2014-2015 GJ recommend, develop, fund and implement a plan for additional 24-hour downtown public restrooms, establish and implement an adequate budget for safety and maintenance, and to establish a way-finding system.

**Finding 06:** The City has encountered barriers in following its 1987 policy to site and encourage public restrooms in specific types of facilities in the downtown area.

**Fact:** Private developers are not proactively siting, maintaining, and providing safe access to 24/7 public restrooms.

***Finding 07:*** City policies and agreements need to be followed and enforced to assure accessible and adequate public restrooms.

**Fact:** There is no average cost per restroom available, since different public restroom facilities have varying structures and services (i.e., security or not, city vs contract staff, maintenance needs, private agreements).

**Fact:** City of San Diego restroom costs are hard to evaluate since expenditures are spread over different line items and different departments.

***Finding 08:*** The City has not performed a comprehensive economic analysis on the costs of constructing, securing, and maintaining public restrooms, which would include current costs attributable to not having adequate restrooms (e.g., sidewalk cleaning, municipal code enforcement)

### ***RECOMMENDATIONS***

**The 2022/2023 San Diego County Grand Jury recommends that the Mayor of the City of San Diego and the San Diego City Council:**

- 23-32:** In the first half of the 2023-2024 fiscal year, form a team of government officials, to include the County of San Diego, the San Diego Unified Port District, Metropolitan Transit System, as well as homeless services providers, representatives of downtown residents and businesses, academic institutions, and concerned members of the public to develop a comprehensive plan and budget for siting, security, maintenance, and funding of permanent public restrooms with hand-washing access in the downtown and contiguous areas of the City of San Diego.
- 23-33:** Develop a cost-tracking system for public restroom-related expenditures including contracts, maintenance, City staffing, security, and capital outlays.
- 23-34:** Include and enforce in all agreements with downtown and contiguous area developers, directives in accordance with the relevant community plans and City policies, including City Policy 800-07, for siting and the long-term security and maintenance of public restrooms.
- 23-35:** Study public restroom programs in other U.S. cities, and in other countries, to provide best practices and lessons learned for San Diego planning and implementation including adoption of new restroom design and innovative technologies.
- 23-36:** Develop or enhance physical signage to direct the public to available restrooms which includes the following:

- **Standardizing signage elements throughout the downtown area via collaboration with the County, Port, MTS and other relevant partners.**
- **Adding resources for sign development and maintenance in contracts with partnering groups and working with them to facilitate approval for new signs.**

- 23-37: Enhance the City restroom/hand-washing wayfinding system to direct the public to available restrooms, which includes the following:**
- **Regularly updating the City’s restroom website information, including days/hours of operation and points of contact for problems with usage.**
  - **Assure access in at least English and Spanish.**
  - **Leverage existing wayfinding systems, e.g., MTS PRONTO application.**
- 23-38: Explore and create financial incentives or other innovative mechanisms for business owners to make their restroom facilities available to all persons upon request.**
- 23-39: Explore mechanisms to fund public restroom infrastructure including development impact fees.**

### ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
  - (3) The recommendation requires further analysis, with 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 head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame 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 is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<b><u>Responding Agency</u></b>	<b><u>Recommendations</u></b>	<b><u>Date</u></b>
<b>City of San Diego, Mayor</b>	<b>23-32 through 23-39</b>	<b>7/24/2023</b>
<b>City of San Diego, City Council</b>	<b>23-32 through 23-39</b>	<b>7/24/2023</b>