

Proposed Response to Grand Jury Report:

Campaign Law Enforcement & Training: City and County of SD

IBA Report 16-19

Rules Committee, Item 2
August 3, 2016



Independent Budget Analyst



This Grand Jury report discusses issues related to the authority of and appointment process for the City's Ethics Commission.

- The Grand Jury filed this report on June 8, 2016.
- The report includes 5 findings & 5 recommendations directed to the Mayor and City Council for response.
- The IBA's Office worked collaboratively with the Mayor's Office to develop a proposed joint Council/Mayoral response.
- Due to the nearing legislative recess, an extension for submission of the response was requested/granted.
 - The response is now required to be provided to the Superior Court Presiding Judge by October 28, 2016.

Prescribed Grand Jury Responses

- For each Finding:
 - Agree
 - Disagree wholly or partially
- For each Recommendation:
 - Has been implemented
 - Has not yet been implemented, but will be
 - Requires further analysis
 - Will not be implemented because it is not warranted or is not reasonable

Highlights of Finding 01

Changes to the appointment process for SDEC commissioners could promote civic confidence in the SDEC and its effectiveness.

Proposed Response: **Disagree**

- Appointment process is consistent with that of approximately 40 City boards and commissions.
- Confirmations are at a public City Council meeting.
 - Members of the public can attend and speak to the qualifications of individual nominees.

Highlights of Finding 01

Proposed Response (continued)

- Municipal Code requirements help ensure a Commission that is qualified:
 - At least 2 attorneys in good standing;
 - At least 1 member shall have certain experience types related to an elective governmental office.
- Municipal Code also considers other factors:
 - protects against a predominance of Commission members from one political party;
 - requires that the Commission reflect the diversity of the City.

Highlights of Recommendation 16-60

Establish a procedure to appoint SDEC members that is independent of elected city officials.

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

- The response text refers to the same reasons that are cited in Finding 01.
- It also notes that the current process allows the public to hold elected City officials accountable for their choices.
 - Whereas an independent appointment body is not accountable to the City electorate.

Highlights of Finding 02 & Recommendation 16-61

Finding 02: *Revising the City Charter to remove the City Council's authority over the SDEC's existence would preserve SDEC as an independent body.*

- Proposed Response: **Agree**

Recommendation 16-61: *Establish SDEC as a permanent body through the City Charter.*

- Proposed Response: **The recommendation requires further analysis.**

Highlights of Recommendation 16-61

Proposed Response (continued)

- On Dec. 3, 2015, the Charter Review Committee recommended establishing the Ethics Commission via City Charter, rather than via ordinance, as is the current process.
- Establishing such Charter language entails:
 - Legal review and drafting by the City Attorney's Office;
 - Subsequent approval by the City Council to place the language on a citywide ballot;
 - Next available elections will be in 2018.

Highlights of Finding 03

Lengthening the term of commissioners could improve the commission's effectiveness.

Proposed Response: **Disagree**

- Agree that a longer serving Commissioner would improve his or her understanding of complex issues over time.
- Under the Grand Jury recommendation, the total time a Commissioner could serve is six years, reducing Ethics Commissioners' current potential service-time (of eight years) by two years.

Highlights of Recommendation 16-62

Change the current term limit for SDEC commissioners to one six-year term.

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

- The response text refers to the same reasons that are cited in Finding 03.
- It also notes disagreement with the Grand Jury that there is an issue with Commissioners being denied reappointment as retaliation for their decisions.

Highlights of Finding 04 & Recommendation 16-63

Finding 04: *Changing the name would more accurately reflect the commission's duties and responsibilities and avoid ambiguity.*

- Proposed Response: **Agree**

Recommendation 16-63: *Rename the SDEC to accurately reflect its function.*

- Proposed Response: **The recommendation requires further analysis.**

Highlights of Recommendation 16-63

Proposed Response (continued)

- On Dec. 3, 2015, the Charter Review Committee recommended renaming the Ethics Commission to the City of San Diego Fair Political Practices Commission.
 - Similar name to California body which serves a similar function statewide
- Establishing such Charter language entails:
 - Approval by the City Council to place the language on a citywide ballot;
 - Next available elections will be in 2018.

Highlights of Finding 05 & Recommendation 16-64

Finding 05: *Allowing subpoena power would enhance the investigative process and could shorten investigations.*

- Proposed Response: ***Disagree***

Recommendation 16-64: *Expand SDEC subpoena powers to include witnesses.*

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

Highlights of Finding 05 & Recommendation 16-64

Proposed Response (continued)

- The Ethics Commission has a proven track record of monitoring, administering, and enforcing the campaign and governmental ethics laws & effectively administering investigations.
- Furthermore, the degree to which investigations would be shortened by investigative subpoena power is not compelling enough for a change of powers.

Next Steps

We request the Rules Committee provide feedback and forward this item to the full City Council.