



## COUNTY OF SAN MATEO

### INTERDEPARTMENTAL CORRESPONDENCE

**To:** Honorable Board of Supervisors  
**From:** Supervisor Adrienne J. Tissier and Supervisor Jerry Hill  
**Subject:** Recommended Approach to Oversight of Official Conduct of Elected Officials  
**Date:** July 17, 2008

At its meeting on April 22, 2008, the Board directed County Counsel to report back with information concerning actions that the Board might take to provide more oversight of the conduct of County elected officials. County Counsel has now submitted this report to the Board. As reflected in that report, the Board has the authority to supervise the official conduct of all County officers and to see that they faithfully perform their duties. The Board is authorized to appoint commissions or committees of citizens to study problems of general or special interest to the Board and to make reports and recommendations to the Board.

We believe that a process should be set out ahead of time to guide the Board, as well as other County elected officials, if such issues were to arise again. This process, which would be contained in a new ordinance, would provide for the appointment of a citizen review panel that would investigate allegations of serious misconduct of County elected officials and make recommendations back to the Board. This review panel would be appointed by the Board only on an as needed basis. It would not be a permanent panel.

The proposed ordinance would provide for the following:

**Appointment and Membership of the Panel:** Upon a majority vote, the Board can appoint a five member Citizens' Review Panel, with the option of appointing either a three member or seven member panel, if deemed appropriate at the time of appointment. The panel will be comprised of individuals from among the following categories: retired judges; former county or city administrators; former grand juror forepersons; or former county counsels, city attorneys or district attorneys. A selection process for the panel would be established in order to ensure that it is done on a random basis from a list of individuals from the above listed categories. Less than a quorum of the panel may be members chosen from surrounding Bay Area counties. The panel shall select one of its members to be the Chair. Applicable open meeting requirements of the Brown Act will apply.

**Duties and Authority:** Upon referral by the Board, the Citizens' Review Panel would plan and conduct an appropriate investigation of allegations of serious misconduct by an elected County officer and report back to the Board with recommendations. The Board would retain responsibility for taking final action.

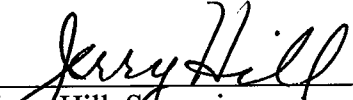
To assist the panel in its determination as to whether an alleged action by the elected County officer constituted serious misconduct, the panel could look for guidance to the various internal rules of conduct relating to the conduct of County employees, such as the County's Civil Service Rules, or other such similar departmental and administrative practices and procedures.

The recommendations could include but would not be limited to: a vote of censure or "no confidence"; referral to appropriate law enforcement agency; or referral to a civil grand jury for its determination of whether removal from office is warranted under existing law. The manner and scope of the investigation will be determined by the panel consistent with the directions given by the Board. Any investigation could not interfere with the constitutionally and statutorily designated investigative and prosecutorial functions of the District Attorney or Sheriff.

In order to carry out its duties, the panel would have subpoena power to call witnesses and to obtain documents. The Chair of the panel would be authorized to retain investigative and other expert assistance to the panel as deemed necessary. County Counsel would be directed to provide assistance to the panel as requested by the Chair.

Throughout the investigative process, to protect the legitimate privacy interests of persons being investigated, all involved parties would treat the allegations and related information, including information gathered and prepared in the course of the investigation of the matter, as confidential, unless otherwise necessary to conduct the investigation or unless disclosure is required by state law.

  
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Adrienne J. Tissier, Supervisor  
District 5

  
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Jerry Hill, Supervisor  
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