

OFFICE OF THE MAYOR
SAN FRANCISCO



LONDON N. BREED
MAYOR

September 16, 2019

The Honorable Garrett L. Wong
Presiding Judge, Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102

Dear Judge Wong,

In accordance with Penal Code 933 and 933.05, the following is in response to the 2018-2019 Civil Grand Jury Report, *Pedestrian Safety in the Era of Electric Mobility Devices*. We would like to thank the members of the Civil Grand Jury for their interest in public safety and emerging mobility options, and their efforts in making the City safe and livable by eliminating traffic fatalities.

Vision Zero SF is San Francisco's street safety policy, adopted in 2014, that commits the City to build better safety streets, educate the public on traffic safety, enforce traffic laws, and adopt policy changes to eliminate traffic fatalities and reduce severe injuries. Vision Zero integrates pioneering research, education, enforcement, and street engineering changes in order to change behavior and save lives. Using data collected, the City identifies trends and determines where safety projects are most urgently needed, and these streets are a top priority for engineering improvements to protect the most vulnerable road users, which are walkers and bikers.

The report focuses on ways to improve education and outreach for pedestrian and motorized device users, enforcement of existing ordinances and laws to help reduce injuries, injury data to capture and identify root causes, and contractual terms regarding liability and responsibility for injuries, device maintenance and repair. The City has invested in education and public outreach, including a safety awareness education campaign for scooter riders, and will continue to educate the public on traffic safety, enforce traffic laws, and make data-driven decisions. We welcome the Civil Grand Jury's findings and recommendations and will seek to incorporate them into the next steps of the project, as appropriate.

A detailed response from the Mayor's Office, Police Department, Municipal Transportation Agency, and Department of Public Health to the Civil Grand Jury's findings and recommendations is attached.

Each signatory prepared its own responses and is able to respond to questions related to its respective parts of the report.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

Sincerely,



London N. Breed
Mayor



Dr. Grant Colfax
Director, Department of Public Health



William Scott
Chief, Police Department



Tom Maguire
Interim Director, Municipal Transportation
Agency

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	F#	Finding (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Finding Response (Agree/Disagree)	Finding Response Text	R# [for F#]	Recommendation (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Recommendation Response (Implementation)	Recommendation Response Text
Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F1	The Pilot permits advocates for safe behavior education for riders through community events and their web sites. However, SFMTA has not provided its own concurrent, updated safety awareness campaign.	Mayor [September 15, 2019]	Disagree, wholly	The SFMTA conducted its own concurrent, updated safety awareness campaign, coinciding with the launch of the Pilot in October 2018. The campaign outreach included graphics that demonstrated safe and unsafe behaviors while riding a scooter, and "Dos and Don'ts" ads placed on the exterior and interior of MUNI buses and light rail vehicles. SFMTA distributed campaign information to Scoot and Skip, who shared them with users and the public, and shared the digital version with the Board of Supervisors and community partners. Also, SFMTA Taxi Enforcement staff distributed campaign information to the public while in the field issuing scooter citations.	R1	SFMTA in coordination with Vision Zero SF should design a public safety campaign regarding e-scooter use, laws, safety and helmet use. This campaign should include TNC participation and utilize various means of outreach including ads on MUNI trains, buses, shelters, social media, and TNC apps no later than June 30, 2020.	Mayor [September 15, 2019]	Has been implemented	The recommendation was implemented in October 2018. SFMTA conducted its own concurrent, updated safety awareness campaign, coinciding with the launch of the Pilot.
Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F2	The successful expansion of marked and protected bike lanes represents an opportunity to include signage indicating bike lanes are also for use by e-scooter riders. There is no signage currently indicating where e-scooters should ride, and insufficient signage to discourage riding on sidewalks.	Mayor [September 15, 2019]	Agree with the finding		R2	Signage, stencils, visual symbols illustrating e-scooters, and/or other messaging, should be provided to remind mobility device riders that these lanes are available for them to use. Further, additional visual symbols should be added on sidewalks and high-injury networks to discourage sidewalk use by e-scooters. The visual design(s) should be developed and implemented by SFMTA no later than June 30, 2020.	Mayor [September 15, 2019]	Requires further analysis	While scooters are permitted to use bicycle lanes, the lanes themselves are legislated as "bicycle lanes." SFMTA adheres to the California Manual on Uniform Traffic Control Devices (CA MUTCD), which provides for uniform standards and specifications for all official traffic control devices in California and governs signs and striping for all public roads in the state. CA MUTCD Section 3D.01 C. defines lane-use markings for bicycle lanes as follows: 1. "Bicycle lane—the preferential lane-use marking for a bicycle lane shall consist of a bicycle symbol or the word marking BIKE LANE (see Chapter 9C and Figures 9C-1 and 9C-3 through 9C-6)." 2. No additional lane-use markings—including scooter markings—are permitted in bicycle lanes at this time, per the CA MUTCD. 3. The CA MUTCD does not currently have signs or stencils for scooters; therefore, the recommended signs and stencils would not be allowed on public roads in San Francisco. Additionally, given that the City has approximately 160 miles of bicycle lanes, adding stencils and signage to all bicycle lanes would be cost prohibitive. SFMTA will investigate the feasibility of adding visual symbols on sidewalks and high-injury networks to discourage sidewalk use by e-scooters.
Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F3	SF Traffic Company enforcement efforts are currently limited to street vehicular traffic and do not include enforcement of moving violations occurring on sidewalks.	Mayor [September 15, 2019]	Disagree, partially	Traffic Company takes action if/when the officers witness a moving violation by a bicycle, pedestrian, or powered mobility device. However, the enforcement campaigns have focused on vehicular violations, as the vast majority of traffic fatalities are due to motor vehicle violations. Traffic Company's operation-based enforcement sends officers to high-injury corridors to focus on violations relating to speeding, violating pedestrian right-of-way in a crosswalk, running red lights, running stop signs, and failing to yield while turning.	R3	SFPD Traffic Company should implement one or more "Focus on Five" enforcement campaigns that target moving violations by motor vehicles as well as bicycles and powered mobility devices in all traffic lanes, with documented results no later than June 30, 2020.	Mayor [September 15, 2019]	Has been implemented	SFPD Traffic Company has already implemented "Focus on the Five" enforcement campaigns targeting motor vehicles. At the end of June 2019, the Traffic Company formed a team of four motorcycle units called the Vision Zero Enforcement Task Force. Since its inception, this specialized team has written over 400 citations, 99% of which were for Focus on the Five violations.

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F4	Injury data collected to-date by Zuckerberg San Francisco General Hospital (ZSFG), SF Department of Public Health (SFPDH), SF Police Department (SFPD), and Pilot permittees categorize types of injuries but not root causes such as damaged infrastructure (potholes or poorly marked lanes), education (inadequate safety and device training), or reckless use (speeding, distracted driving, and/or using sidewalks).	Mayor [September 15, 2019]	Disagree, partially	The City partially disagrees with the finding, as "root cause" data for powered scooter injuries is collected by SFPD on the primary and associated collision factors, which include speeding and other behaviors of people using scooters or driving that are analyzed by SFMTA and SFPDH. SFPD also collects data on inattention factors (distracted driving) and cell phone use, as determinable by the reporting officer. In addition, SFPD's Traffic Collision Investigative Unit, DPH, and SFMTA have implemented a rapid response system within 72 hours of fatal collisions to discuss cause(s) of collision and related factors. We agree that information on damaged infrastructure or education of device user is not readily captured from available injury data sources to inform analyses.	R4	ZSFG, SFPDH, SFPD, and TNCs should collectively improve injury data reporting to better support root cause analyses. SFMTA and the SFPDH should develop and oversee the revised data collection efforts and prepare a data acquisition plan for review by the above referenced organizations no later than June 30, 2020.	Mayor [September 15, 2019]	Will be implemented	SFPDH, SFMTA, and ZSFG will coordinate to develop a data acquisition plan to improve data collection on factors associated with injury not currently captured in injury data sources, including e-scooter user education and infrastructure factors, by June 30, 2020. The plan will include data sharing with SFPD, as permissible, to inform safety efforts.
Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F5	The Pilot terms between the City and permittees require them to indemnify the City from injury and damage claims. However, Scoot and Skip Terms of Service put responsibility for injury, damage, and equipment inspection on the User.	Mayor [September 15, 2019]	Disagree, partially	It is correct that the permittees in the City's Powered Scooter Share Pilot Program, including Skip and Scoot, are required to indemnify the City. While Scoot and Skip in their Terms of Service pass down responsibility for liability to their individual users, Scoot and Skip are still each primarily responsible to the City through the indemnity for any claims against the City related to activity authorized under the respective operator's permit with the City.	R5	SFMTA, City Attorney, and TNCs should review and if necessary modify the City-Permittee agreement, the TNC-User agreement, and any other related agreements to assure that responsibility for risk management is allocated to the party/parties best able to manage such risks. This review and potential modification of terms across all agreements should be initiated prior to the end of the existing Pilot. Any necessary revisions should be incorporated and implemented in all agreements for the replacement program to follow at the conclusion of the Pilot.	Mayor [September 15, 2019]	Has been implemented	The City Attorney's Office has reviewed, in consultation with SFMTA, the City permits, the agreements between the Powered Scooter Share Operators and their users, and the Skip Charger Agreement referenced in the report before the end of the existing Pilot Program. The City Attorney's Office has specifically reviewed, in consultation with SFMTA, whether to modify the permit terms to fill any potential gap in responsibility between the Powered Scooter Share Operators and their independent contractors. At the end of July 2019, SFMTA issued a new permit application for the replacement permit program, and SFMTA anticipates issuing the next round of permits with a term to commence after the Pilot Program concludes in mid-October 2019. The permit application contains anticipated terms and conditions for the new program, and includes the following new clause in the permit terms to address any potential gap in responsibility between permittee and its independent contractors for obligations under the permit: Permittee may subcontract or delegate portions of its obligations only upon prior written approval of SFMTA. Permittee is responsible for, and must supervise, its personnel and all subcontractors, including independent contractors, who perform obligations under the permit. Any agreement

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Pedestrian Safety in the Era of Electric Mobility Devices (July 17, 2019)	F6	Current terms and conditions in the Skip agreement expose a contractual gap that delegates initial responsibility for scooter inspection and maintenance to their independent contractors. Skip Rangers, who receive no specific training from Skip. Scoot, however, hires and trains its employees to provide the inspection and maintenance services.	Mayor (September 15, 2019)	Disagree, partially	While it appears that the Skip Charger Agreement referenced in the report does not contain an express training requirement, that omission does not necessarily mean that the Skip Rangers lack the requisite training or experience to properly inspect its scooters. Moreover, SFMTA understands that the Skip Rangers are made up of 80% independent contractors and 20% Skip employees, and that Skip employees are trained.	R5	SFMTA, City Attorney, and TNCs should review and if necessary modify the City-Permittee agreement, the TNC-User agreement, and any other related agreements to assure that responsibility for risk management is allocated to the party/parties best able to manage such risks. This review and potential modification of terms across all agreements should be initiated prior to the end of the existing Pilot. Any necessary revisions should be incorporated and implemented in all agreements for the replacement program to follow at the conclusion of the Pilot.	Mayor (September 15, 2019)	Has been implemented	The City Attorney's Office has reviewed, in consultation with SFMTA, the City permits, the agreements between the Powered Scooter Share Operators and their users, and the Skip Charger Agreement referenced in the report before the end of the existing Pilot Program. The City Attorney's Office has specifically reviewed, in consultation with SFMTA, whether to modify the permit terms to fill any potential gap in responsibility between the Powered Scooter Share Operators and their independent contractors. At the end of July 2019, SFMTA issued a new permit application for the replacement permit program, and SFMTA anticipates issuing the next round of permits with a term to commence after the Pilot Program concludes in mid-October 2019. The permit application contains anticipated terms and conditions for the new program, and includes the following new clause in the permit terms to address any potential gap in responsibility between permittee and its independent contractors for obligations under the permit: Permittee may subcontract or delegate portions of its obligations only upon prior written approval of SFMTA. Permittee is responsible for, and must supervise, its personnel and all subcontractors, including independent contractors, who perform obligations under the permit. Any agreement
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Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F1	The Pilot permittees advocate for safe behavior education for riders through community events and their web sites. However, SFMTA has not provided its own concurrent, updated safety awareness campaign.	Director, San Francisco Municipal Transportation Agency [September 15, 2019]	Disagree, wholly	The SFMTA conducted its own concurrent, updated safety awareness campaign, coinciding with the launch of the Pilot in October 2018. The campaign outreach included graphics that demonstrated safe and unsafe behaviors while riding a scooter, and "Dos and Don'ts" ads placed on the exterior and interior of MUNI buses and light rail vehicles. SFMTA distributed campaign information to Scoot and Skip, who shared them with users and the public, and shared the digital version with the Board of Supervisors and community partners. Also, SFMTA Taxi Enforcement staff distributed campaign information to the public while in the field issuing scooter citations.	R1	SFMTA in coordination with Vision Zero SF should design a public safety campaign regarding e-scooter use, laws, safety and helmet use. This campaign should include TNC participation and utilize various means of outreach including ads on MUNI trains, buses, shelters, social media, and TNC apps no later than June 30, 2020.	Director, San Francisco Municipal Transportation Agency [September 15, 2019]	Has been implemented	The recommendation was implemented in October 2018. SFMTA conducted its own concurrent, updated safety awareness campaign, coinciding with the launch of the Pilot. Some details on this campaign are as follows: 1. Graphics demonstrate safe and unsafe behaviors while riding a scooter. 2. Developed "Dos and Don'ts" exterior and interior ads on MUNI buses and light rail vehicles, which ran city-wide for at least one month, beginning in October 2018. 3. Total Impressions: 2,760,000 (metric measuring how many potential people saw the bus ad during the 4 week run). 4. Also developed printed collateral, printed 3,000 palm cards. 5. Distributed to Scoot and Skip, who then distributed them to users and the public. 6. SFMTA Taxi Enforcement staff also distributed them to the public while in the field issuing scooter citations. 7. Digital version distributed to Board of Supervisors and community partners (Lighthouse for the Blind, Independent Living Resource Center, Senior and Disability Action, DPW, Mayor's Office on Disability). 8. The scooter education campaign also ran on Vision Zero SF social media (Facebook and Twitter) and reached an additional 1,500 people.
Pedestrian Safety in the Era of Electric Mobility Devices [July 17, 2019]	F2	The successful expansion of marked and protected bike lanes represents an opportunity to include signage indicating bike lanes are also for use by e-scooter riders. There is no signage currently indicating where e-scooters should ride, and insufficient signage to discourage riding on sidewalks.	Director, San Francisco Municipal Transportation Agency [September 15, 2019]	Agree with the finding		R2	Signage, stencils, visual symbols illustrating e-scooters, and/or other messaging, should be provided to remind mobility device riders that these lanes are available for them to use. Further, additional visual symbols should be added on sidewalks and High-Injury Networks to discourage sidewalk use by e-scooters. The visual design(s) should be developed and implemented by SFMTA no later than June 30, 2020.	Director, San Francisco Municipal Transportation Agency [September 15, 2019]	Requires further analysis	While scooters are permitted to use bicycle lanes, the lanes themselves are legislated as "bicycle lanes." SFMTA adheres to the California Manual on Uniform Traffic Control Devices (CA MUTCD), which provides for uniform standards and specifications for all official traffic control devices in California and governs signs and striping for all public roads in the state. CA MUTCD Section 3D.01 C. defines lane-use markings for bicycle lanes as follows: 1. "Bicycle lane—the preferential lane-use marking for a bicycle lane shall consist of a bicycle symbol or the word marking BIKE LANE (see Chapter 9C and Figures 9C-1 and 9C-3 through 9C-6)." 2. No additional lane-use markings—including scooter markings—are permitted in bicycle lanes at this time, per the CA MUTCD. 3. The CA MUTCD does not currently have signs or stencils for scooters; therefore, the recommended signs and stencils would not be allowed on public roads in San Francisco. Additionally, given that the City has approximately 160 miles of bicycle lanes, adding stencils and signage to all bicycle lanes would be cost prohibitive. SFMTA will investigate the feasibility of adding visual symbols on sidewalks and high-injury networks to discourage sidewalk use by e-scooters.

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