

Management Audit

of the

**San Francisco First Offender Prostitution
Program**

Prepared for the

Board of Supervisors
of the City and County of San Francisco

by the

San Francisco Budget Analyst

September 15, 2009

CITY AND COUNTY



OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET ANALYST

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September 15, 2009

Supervisor David Chiu, President,
and Members of the Board of Supervisors
City and County of San Francisco
Room 244, City Hall
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San Francisco, CA 94102-4689

Dear President Chiu, and Members of the Board of Supervisors:

The Budget Analyst is pleased to submit this *Management Audit of the First Offender Prostitution Program*. On February 12, 2008 the Board of Supervisors adopted Motion 08-0041 (File No. 08-0234) directing the Budget Analyst to conduct a management audit of the First Offender Prostitution Program (FOPP), pursuant to its powers of inquiry defined in Charter Section 16.114.

FOPP is a court diversion program administered by the District Attorney's Office. Under FOPP, men who are arrested for the first time for soliciting prostitution are eligible to participate in a one-day education program rather than face court proceedings. FOPP participants pay a sliding scale fee of up to \$1,000 to participate in the one-day education program. The San Francisco Police Department (SFPD) Vice Unit conducts undercover decoy operations, arresting solicitors of prostitution. Subsequently, the District Attorney's Office determines if the arrested solicitors are eligible to participate in a one-day education program. The District Attorney's Office also administers the FOPP budget. A non-profit organization SAGE (Standing Against Global Exploitation) coordinates the one-day education program through a contract with the District Attorney's Office.

The City's FY 2008-09 FOPP expenditures were \$178,147, paid from fee revenues charged to men arrested for soliciting prostitution and participating in FOPP's one-day education program as discussed in Section 3 of this report. These expenditures included (1) \$94,010 for the District Attorney's costs for administering FOPP; (2) \$41,048 for the District Attorney's contract with

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SAGE to coordinate the one-day education program and provide social services to women who work as prostitutes, and (3) \$43,089 to reimburse the SFPD for the costs of conducting FOPP decoy operations.

The purpose of this management audit was to evaluate the effectiveness and efficiency of FOPP. The scope of the management audit included (1) the District Attorney's Office and SFPD planning and performance management of FOPP, (2) the District Attorney's Office and SFPD allocation of resources and operational oversight of FOPP, and (3) FOPP fee revenues and expenditures. The management audit was conducted in accordance with *Government Auditing Standards, 2007 Revision*, issued by the Comptroller General of the United States, U.S. Government Accountability Office, as detailed in the Introduction to this report.

Overall, this *Management Audit of the First Offender Prostitution Program* includes three findings and eight recommendations. The Budget Analyst's recommendations are attached to this transmittal letter.

The District Attorney's Office and the SFPD have submitted responses to this management audit, which are attached to this report beginning on page 25. The District Attorney's Office and the SFPD agree with seven and disagree with one of the management audit recommendations.

The following sections summarize our findings and recommendations.

Management Audit Findings

1. The First Offender Prostitution Program's Goals

FOPP is intended to address the problem of prostitution by (1) targeting men soliciting prostitution instead of prosecuting women working as prostitutes and (2) diverting first time male offenders from prosecution through participation in a one-day education program. However, FOPP lacks well-defined goals. Although the District Attorney's Office, which administers the program, has various documents stating that FOPP (1) reduces the demand for prostitution through educating men about the consequences of prostitution, (2) reduces recidivism, or (3) assists women to leave prostitution, the District Attorney's Office lacks a single document, such as a mission statement or strategic plan, that defines the specific purpose of FOPP and the goals to be achieved.

FOPP is not a sufficiently comprehensive program to be effective in reducing recidivism or assisting women to leave prostitution. According to the District Attorney's Office, the District Attorney's Office lacks resources to measure reductions in recidivism. Further, SAGE, which provides social services to prostitutes, does not track the number of women who have left prostitution. FOPP is designed to achieve the much more limited goals of providing (1) education on the consequences of prostitution to men arrested for solicitation, and (2) social services to women arrested for prostitution through the Early Intervention Prostitution Program (EIPP) operated by SAGE. FOPP does not meet the National Institute of Justice's criteria for

programs to reduce recidivism, which include providing intensive services, long term intervention, and follow up with men who solicit prostitution. Nor does FOPP provide sufficiently comprehensive services to assist women in leaving prostitution.

In the absence of a specifically defined purpose and goals consistent with FOPP's program design, the District Attorney's Office cannot determine if FOPP is an effective program.

2. The First Offender Prostitution Program's Role in Arresting Solicitors of Street and Internet Prostitution

Neither the District Attorney's Office nor the San Francisco Police Department (SFPD) have made any formal evaluation of the effectiveness of FOPP since FOPP's implementation in 1995. While various studies and reports suggest that much of the solicitation of prostitution has moved to the internet, the SFPD Vice Unit conducts only approximately four internet operations per year, compared to approximately 100 street-based decoy operations per year.

In 2005 the SFPD arrested an average of 6.8 men in each FOPP decoy operation but in 2008 the SFPD arrested an average of 4 men in each FOPP decoy operation. Therefore, the number of arrests of men soliciting prostitution from the SFPD's street-based decoy operations has decreased by approximately 41 percent from 2005 through 2008. However, the District Attorney's Office has improved procedures to recruit eligible men to the FOPP education program, partially offsetting the decline in arrests. In 2005 an average of 2.47 men who were arrested in each decoy operation attended the FOPP education program and in 2008 an average of 2.34 men who were arrested in each decoy operation attended the FOPP education program, a decrease of only approximately 5 percent as compared to the approximately 41 percent decline in arrests per decoy operation.

The SFPD and District Attorney's Office have yet to define the specific goals of the SFPD decoy operations and then determine if a larger number of decoy operations conducted by SFPD should be moved from street-based decoy operations to the internet. While street-based decoy operations may be effective in reducing the impact of street prostitution on neighborhoods, such decoy operations have become less effective in arresting men who solicit prostitutes. The SFPD and the District Attorney's Office need to better define FOPP's goals, whether reducing the impact of street prostitution on neighborhoods, arresting men soliciting prostitution, or both, and then determine if more FOPP decoy operations should move to the internet.

3. The First Offender Prostitution Program's Revenues and Expenditures

FOPP program costs exceed fee revenues, especially costs incurred by the SFPD. The FOPP fees are based on a sliding scale, with the full fee capped at \$1,000 in accordance with the California Penal Code. Only approximately 60 percent of men arrested for soliciting prostitution and participating in FOPP pay the maximum fee of \$1,000. The Budget Analyst estimates that each FOPP participant would have had to pay fees of approximately \$1,908 in FY 2008-09 to ensure that the program's costs were fully recovered.

In fact, in FY 2008-09, the FOPP fee revenues were \$129,266 and FOPP expenditures were \$178,147, resulting in a revenue shortfall of \$48,881.

In the Memorandum of Understanding (MOU) between the District Attorney's Office and the SFPD, the SFPD is to conduct 8 FOPP decoy operations per month. Because each decoy operation yields fewer arrests, reduced from an average of 6.8 arrests per decoy operation in 2005 to an average of 4 arrests per decoy operation in 2008, the District Attorney's Office and SFPD should revise the MOU, including the frequency, timing, and staffing of decoy operations to ensure that conducting these operations is cost-effective and results in the maximum number of arrests for the number of police officers assigned to these decoy operations.

Prior to 2006, the District Attorney's Office paid all FOPP expenditures incurred by the District Attorney's Office, SAGE, and SFPD irrespective of fee revenues collected. The District Attorney has reimbursed FOPP expenditures with monies from other projects when FOPP fee revenues fell short of expenditures¹. In 2006 the District Attorney's Office identified the lack of FOPP budget controls and instituted an "earn and spend" financial plan for the program, reducing the annual revenue shortfall from \$105,993 in FY 2005-06 to \$16,611 in FY 2007-08. However, due to decreased FOPP fee revenues in FY 2008-09 compared to expenditures, the revenue shortfall in FY 2008-09 increased to \$48,881.

The District Attorney's Office's and SFPD Vice Unit's Written Responses

The District Attorney's Office's and SFPD Vice Unit's written responses are attached to this management audit report beginning on page 25. According to the written responses, the District Attorney's Office and SFPD Vice Unit agree with 7 of the 8 recommendations, or approximately 87.5 percent and disagree with one recommendation, Recommendation 2.2.

The District Attorney's Office Response to Recommendation 2.2

The District Attorney's Office disagrees with Recommendation 2.2 which states: "The Chief of Police and District Attorney should, in accordance with Recommendation 2.1, develop a work plan prior to December 31, 2009, including allocation of SFPD Vice Unit resources, for conducting internet decoy operations".

Recommendation 2.1 recommends that the Chief of Police and the District Attorney "Define the specific goals of FOPP. This definition should consider whether the goal of FOPP is either to primarily reduce the impact of prostitution on neighborhoods or to target men soliciting

¹ The First Offender Prostitution Program is a project within the District Attorney's Special Revenue Fund that includes three projects: (1) FOPP, (2) Civil Litigation Fund, and (3) Proposition 64 Consumer Protection Enforcement.

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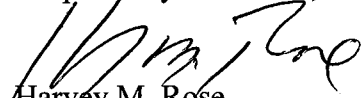
prostitution in order to reduce demand for internet as well as street-based prostitution". According to the SFPD Vice Unit's written response, "The San Francisco Police Department is cognizant of the prostitution activity on the internet, and Vice Crimes will explore options and best practices regarding using the internet for FOPP customer arrests..."

According to the District Attorney's Office's written response to Recommendation 2.2, "The District Attorney disagrees with this recommendation as the allocation of resources and determination of appropriate investigations is totally within the discretion of the Police Department."

While the Budget Analyst agrees that the SFPD is solely responsible for allocation of SFPD resources, the SFPD and District Attorney's Office have an MOU in which the SFPD is to conduct 8 FOPP decoy operations per month. This MOU currently specifies how SFPD will allocate resources to the 8 monthly FOPP decoy operations. The Budget Analyst continues to recommend that the SFPD and the District Attorney's Office work cooperatively in order to define the specific goals of FOPP, including whether FOPP should target men soliciting prostitution on the internet, and develop a work plan that includes how SFPD will allocate resources to internet decoy operation as part of FOPP.

We would like to thank the management and staff of the San Francisco District Attorney's Office and the San Francisco Police Department Vice Unit for their cooperation and assistance throughout this management audit.

Respectfully submitted,


Harvey M. Rose
Budget Analyst

cc:	Supervisor Alioto-Pier	Cheryl Adams
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Recommendations

Based on the management audit findings, the Budget Analyst has made 8 recommendations. These recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to December 31, 2009. The District Attorney's Office and/or San Francisco Police Department (SFPD) should submit information on implementation of these recommendations to the Board of Supervisors Government Audit and Oversight Committee prior to December 31, 2009.

1. The First Offender Prostitution Program's Goals

In order to improve the effectiveness of the First Offender Prostitution Program and the Early Intervention Prostitution Program, the District Attorney should:

- 1.1 Define the goals of the First Offender Prostitution Program consistent with the program's design.
- 1.2 Define the First Offender Prostitution Program and Early Intervention Prostitution Program performance measures and identify data necessary to measure performance, in conjunction with the Chief of Police.
- 1.3 Direct staff responsible for the First Offender Prostitution Program to track and report annually to the District Attorney and to the San Francisco Police Commission on the performance measures for the First Offender Prostitution Program and Early Intervention Prostitution Program.
- 1.4 Incorporate Early Intervention Prostitution Program performance measures into the contract between the District Attorney's Office and SAGE, a non-profit organization (Standing Against Global Exploitation).

2. The First Offender Prostitution Program's Role in Arresting Solicitors of Street and Internet Prostitution

In order to increase the efficiency of SFPD Vice Unit decoy operations, the Chief of Police and District Attorney should:

- 2.1 Define the specific goals of FOFP. This definition should consider whether the goal of FOFP is either to primarily reduce the impact of prostitution on neighborhoods or to target men soliciting prostitution in order to reduce demand for internet as well as street-based prostitution.
- 2.2 In conjunction with Recommendation 2.1, develop a work plan, including allocation of SFPD Vice Unit resources, for conducting internet decoy operations prior to December 31, 2009.

Recommendations

3. The First Offender Prostitution Program's Revenues and Expenditures

In order to increase the cost-effectiveness of the First Offender Prostitution Program, the District Attorney and the Chief of Police should:

- 3.1 Evaluate the costs and effectiveness of the SFPD decoy operations when negotiating the Memorandum of Understanding between the District Attorney's Office and the SFPD, including determining the frequency, timing, and staffing of decoy operations and whether these operations should include the internet (see Recommendation 2.1).

In order to reduce the First Offender Prostitution Program monies owed to other City accounts, the District Attorney should:

- 3.2 Develop a plan to reimburse these accounts with First Offender Prostitution Program fee revenues.

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Introduction

On February 12, 2008 the Board of Supervisors adopted Motion 08-0234 directing the Budget Analyst to conduct a management audit of the First Offender Prostitution Program (FOPP), a diversion program implemented by the District Attorney's Office, the San Francisco Police Department (SFPD), and the non-profit organization Standing Against Global Exploitation (SAGE).

Purpose and Scope

The focus of this management audit is to evaluate FOPP's objectives, activities, effectiveness, and financial management. The Budget Analyst reviewed information relating to FOPP's goals and objectives, coordination of activities, planning, and financial management, as described below.

Audit Methodology

The Budget Analyst performed the following management audit procedures in accordance with Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office:

- The Budget Analyst held audit entrance meetings with individuals involved in management and operation of FOPP including the District Attorney's Office, SFPD Vice Unit, and SAGE to discuss the audit's purpose, gather background information, and respond to questions.
- The Budget Analyst also conducted fieldwork to develop a more detailed understanding of FOPP. Fieldwork included reviewing the National Institute of Justice 2008 *Final Report on the Evaluation of the First Offender Prostitution Program*;¹ discussions with one of its main evaluators; additional interviews with selected staff from the District Attorney's Office, SFPD Vice Unit, and SAGE; collecting and reviewing key documents, legislation, resolutions, and policies; and analysis of quantitative and financial data.
- The Budget Analyst prepared a draft report and held an exit conference with representatives from the District Attorney's Office and SFPD Vice Unit to discuss the draft report on May 15, 2009. Based on information provided in the exit conference and after obtaining updated information for FY 2008-09, the Budget Analyst submitted a revised draft report to the District Attorney's Office and the SFPD on July 29, 2009. The District Attorney's Office and SFPD provided a written response to the report on September 10, 2009.

¹ The National Institute of Justice, which is an agency within the U.S. Department of Justice, awarded a grant to Abt Associates, a private research and consulting firm in September 2005 to evaluate the First Offender Prostitution Program.

The First Offender Prostitution Program

The First Offender Prostitution Program was implemented in 1995 by the District Attorney's Office, the San Francisco Police Department Vice Unit, and SAGE with the goal of reducing the demand for prostitution through education programs. The First Offender Prostitution Program has two main components:

- Men who are arrested for soliciting prostitution ("solicitors") for the first time can avoid criminal prosecution by paying a fine and attending a one-day educational program on the consequences of prostitution.
- Women who have less than three prior prostitution convictions can participate in the Early Intervention Prostitution Program (EIPP), receiving 25 hours of services provided by SAGE, including housing, mental health and substance use, and vocational services.

Under the First Offender Prostitution Program, the San Francisco Vice Unit conducts undercover decoy operations, arresting solicitors violating California Penal Code 647(b) or Penal Code 653.22 (loiter in any public place with the intent to commit prostitution). According to the District Attorney, the 647(b) offense "deems every person, who solicits another to engage in prostitution or agrees to engage in prostitution with specific intent to do so, guilty of a misdemeanor." If an individual has identification and no outstanding warrants, then he or she receives a citation at the scene. If the individual does not have a criminal record, the case is referred to the District Attorney's Office Misdemeanor Intake Unit. The First Offender Prostitution Program Coordinator determines program eligibility for the individual, who has ten days to respond to the notification letter, after which he must sign up for the one-day education program. If the individual does not respond to the District Attorney's Office within ten days, the First Offender Prostitution Program Coordinator files the case with the Superior Court.

Education Program

The First Offender Prostitution Program curriculum is based on the idea that prostitution solicitors will resist reoffending if informed of:

- The negative dynamics that may lead individuals to pursue prostitution, and
- The detrimental legal and health consequences they may face engaging in soliciting.

SAGE administers the education program through a contract with the District Attorney's Office. SAGE, the District Attorney's Office, and the SFPD provide presentations to the education program classes, offered six Saturdays a year. The education program consists of seven modules:

- Prostitution Law and Street Facts

- Health Education (emphasis on HIV, sexually transmitted diseases, and risk reduction)
- Effect of Prostitution on Prostitutes/Testimonials
- Dynamics of Prostitution (emphasis on pimp tactics, minors as prostitutes)
- Prostitution Effects on Communities
- Sexual Addiction
- Dynamics of Human Trafficking (solicitor's possible role in this criminal activity)

Early Intervention Prostitution Program

The EIPP works with adult prostitutes who receive citations (but are not incarcerated) for prostitution offenses. The court mandates 25 hours of counseling services for the first offense and 8 additional hours for each subsequent offense. EIPP participants work with individual case managers to create a treatment plan that includes participation in SAGE peer counseling and recovery groups, wellness services, or recreational and therapeutic activities. Additionally, SAGE offers its clients information on how to navigate the criminal justice system, as well as exploring economic and vocational options apart from prostitution.

EIPP participants who have trauma or mental health issues receive screening and admittance to the STAR Center² or to SAGE's Mental Health program.³ EIPP clients are eligible to continue receiving services if they choose after completing court-mandated hours.

The City Lacks a Coordinated Policy on Prostitution and Commercial Sex

The City does not have a coordinated policy to address the impact of prostitution on the City and its residents. While the SFPD responds to prostitution as part of its Vice Unit functions, and several departments have established an interagency task force to conduct site investigations of massage parlors, San Francisco does not have a Citywide policy regarding prostitution. FOPP has limited scope, focused mainly on arresting men who

² The SAGE Trauma & Recovery Center, or STAR Center combines two complementary health and education-oriented service models: Day Treatment (abstinence), and Harm Reduction (risk reduction). Together, these services attempt to address the complex needs of prostitutes and sex workers who may suffer from addiction and Post Traumatic Stress Disorder (PTSD) resulting from mental and physical trauma.

³ The Mental Health program at SAGE is staffed by therapists experienced in working with survivors of trauma, addiction, and sexual exploitation. Therapists work with clients to identify treatment goals and assist in figuring out issues and trauma they are prepared for as well as the pace of treatment.

solicit street prostitution as discussed in Section 2 of this report. FOPP is not intended to address the broader problem of prostitution conducted through brothels, escort services, and the internet.

The First Offender Prostitution Program Is Not Intended to Address Commercial Sex in Massage Parlors

The City's current regulations for investigating massage parlors limit law enforcement's ability to investigate or cite massage parlors for prostitution. In 2003 the Board of Supervisors transferred responsibility for licensing massage parlors from SFPD to the Department of Public Health (DPH) (Ordinance 0269-03), making massage parlors a public health rather than a police responsibility. The ordinance contains provisions to reduce the likelihood of massage parlors engaging in prostitution, such as prohibiting operation between midnight and seven in the morning, and prohibiting DPH from issuing massage licenses to individuals who have been convicted of certain sex-related crimes. The ordinance requires DPH to notify the SFPD of all approved massage parlor licenses, specifies that the police may enter the massage parlor with a search warrant or in exigent circumstances, or as part of any other lawful entry in connection with a criminal investigation or enforcement action, and encourages cooperation between SFPD and DPH in addressing prostitution in massage parlors. However, the ordinance does not refer directly to prostitution-related offenses and does not give DPH the jurisdictional ability to respond directly to suspected or obvious cases of sexual solicitation.

DPH presently has only one inspector assigned to oversee the City's more than the 150 parlors, focused on ensuring that practitioners and massage sites have proper permits and do not violate city health codes. The limited resources DPH has to oversee massage parlors and its jurisdictional limits make proving patterns of code violations in sites well-known to be sites of prostitution transactions difficult. According to the Director of Health, the DPH inspections are intended to follow the rules for massage establishments rather than identify whether people are exchanging sex for money.⁴

In 2005 DPH formed an interagency task force with the Fire Department, Department of Building Inspection, Department of City Planning, City Attorney's Office, and SFPD to conduct joint site visits to the massage parlors. According to the DPH presentation to the November 19, 2008 meeting of the Commission on the Status of Women, the interagency task force site visits have resulted in code violation fines and the closure of some massage parlors.

According to the SFPD Vice Unit, the Vice Unit conducts undercover operations of a suspected brothel and makes arrests if a masseuse solicits an act of prostitution. The SFPD conducted approximately 45 investigations of massage parlors in a two year period

⁴ Selna, Robert. "An Ambiguous Attitude Towards Massage Parlors." San Francisco Chronicle. San Francisco, 5 January 2009.

using undercover officers, arresting 17 individuals for soliciting sex for money. The massage parlors are reportedly still in business.⁵

Key Issues Facing the First Offender Prostitution Program

As a result of conducting this management audit, the Budget Analyst has identified three key issues facing FOPP:

1. FOPP does not have well-defined goals.

No single document exists, defining FOPP's goals. Rather, the District Attorney's Office has various documents stating that the program is intended to (1) reduce the demand for prostitution by educating solicitors in the consequences of prostitution, (2) reduce recidivism, and (3) help women exit from prostitution. In fact, the FOPP has limited scope: providing (1) education on the consequences of prostitution to men arrested for solicitation, and (2) social services to women arrested for prostitution. FOPP does not meet the National Institute of Justice's characterization of programs to reduce recidivism, including providing intensive services, long term intervention, and follow up with offenders. Nor does FOPP provide sufficiently comprehensive services to assist women in leaving prostitution.

2. Prostitution venues in San Francisco have changed since FOPP was implemented in 1995, but the District Attorney's Office and SFPD have not re-evaluated the role of the program.

While FOPP focuses on street prostitution, street prostitution comprises only a small percentage of prostitution venues. A 1996 report issued by the San Francisco Prostitution Task Force, established by the Board of Supervisors to recommend legislation addressing the impact of prostitution in the City's neighborhoods, estimated that street prostitution made up 10 to 20 percent of prostitution in the City. Since that time, the internet has emerged as a major source of prostitution.

Although participation in FOPP by men arrested during decoy operations increased in 2007 and 2008, this was offset by a 41 percent decrease in arrests per FOPP decoy operation, from seven arrests per operation in 2005 to four arrests per operation in 2008. The shift in prostitution from the street to the internet could account for the decreasing number of arrests during decoy operations.

⁵ Selna, Robert. "An Ambiguous Attitude Towards Massage Parlors." San Francisco Chronicle. San Francisco, 5 January 2009.

3. The FOPP fee revenues are insufficient to recover program costs with the SFPD receiving reimbursement for only 22 percent of its costs for FOPP decoy operations in 2008-09.

The current fee of \$1,000 is the maximum allowed under the California Penal Code, but forty percent of men participating in the First Offender Prostitution Program pay a reduced sliding scale fee. The Budget Analyst estimates that an average FOPP participant would have to pay fees of approximately \$1,908 in FY 2008-09 to ensure that the program's costs were fully recovered. In FY 2008-09 the SFPD Vice Unit spent an estimated \$193,168 on FOPP decoy operations with \$150,079, or approximately 78 percent, not reimbursed by FOPP fee revenues.

The First Offender Prostitution Program Accomplishments

The management audit team invited the District Attorney's Office and the San Francisco Police Department to submit written statements on the First Offender Prostitution Program's key accomplishments. According to the District Attorney's Office (SFDA) and the SFPD, since 1995, the SFDA has administered the FOPP, a program in which the SFDA, SFPD and SAGE have worked together to reduce the demand for street-level prostitution, to reduce recidivism, to assist women arrested for prostitution by providing counseling and treatment services, to reduce citizen complaints and improve the quality of life for all San Franciscans, particularly those who reside in parts of the City most impacted by prostitution.

The SFDA and the SFPD provided a list of FOPP key accomplishments over the last twelve years that include:

1. Establishment of a self supported fee-based educational program for customers who have been arrested for solicitation of prostitution as an alternative to prosecution in the criminal justice system. This program provides education in such areas as health and disease transmission, the effects of commercial sex on prostitutes themselves and the effects of prostitution on the community.
2. Establishment of the Early Intervention Prostitution Program (EIPP), which is intended to assist women arrested for prostitution by providing counseling and treatment services. The EIPP assists individuals in creating a treatment plan which includes such components as peer counseling, recovery groups and wellness services. Therapy may be provided for those who have suffered trauma, addiction, sexual exploitation or who have mental health needs.
3. The SFPD is responsible for enforcement regardless of the existence of the FOPP. In fact, their enforcement activities were ongoing for many years prior to the FOPP's creation. The costs of these enforcement activities are now supplemented by FOPP fees.

4 Reduction in the impact of prostitution cases on the San Francisco criminal courts. The benefits of the FOPP as an alternative to conventional criminal prosecution are two-fold. First, FOPP reduces costs to the criminal court system. Prosecuting individual cases in the criminal courts requires allocation of significant resources. These include courtrooms and their staffs, prosecuting attorneys and defense counsel, who are almost entirely appointed at City expense. Conventional prosecution also requires police overtime pay for officers who testify during their off-hours. Secondly, FOPP benefits court system management. If filed as conventional criminal matters, prostitution cases must be expected to go to trial. The FOPP, as an alternative to conventional criminal prosecution, reduces demand for trial courtrooms in the already congested criminal courts.

5. In 2006, an FOPP coordinator was assigned to manage the day to day functions of the program on a full time basis. This resulted in the increased participation rate of men in the program which translated into better collection of fees. Assigning a full time coordinator also enabled the development of an access database which provided for more accurate data collection. This data collection tool will be an important piece in monitoring performance of the program moving forward.

Acknowledgements

We would like to thank the management and staff of the District Attorney's Office and the SFPD Vice Unit for their assistance in preparing this report.

1. The First Offender Prostitution Program's Goals

- **The First Offender Prostitution Program (FOPP) lacks well-defined goals. The District Attorney's Office, which administers the program, has various documents stating that FOPP (1) reduces the demand for prostitution through educating men about the consequences of prostitution, (2) reduces recidivism, or (3) assists women to leave prostitution. However, the District Attorney's Office lacks a single document, such as a mission statement or strategic plan, that defines the specific purpose of FOPP and the goals to be achieved.**
- **In fact, the First Offender Prostitution Program is not a sufficiently comprehensive program to reduce recidivism or assist women to leave prostitution. FOPP is designed to achieve much more limited goals: providing (1) education on the consequences of prostitution to men arrested for solicitation, and (2) social services to women arrested for prostitution. FOPP does not meet the National Institute of Justice's characterization of programs to reduce recidivism, which include providing intensive services, long term intervention, and follow up with offenders. Nor does FOPP provide sufficiently comprehensive services to assist women in leaving prostitution.**
- **In the absence of a specifically defined purpose and goals consistent with FOPP's program design, the District Attorney's Office can not determine if FOPP is an effective program.**

The First Offender Prostitution Program (FOPP) allows men arrested for the first time for soliciting prostitutes to participate in an education program on the legal, social, and health ramifications of engaging in prostitution. Men participating in FOPP can by-pass the court system by paying a fee and participating in a one-day education program.

The First Offender Prostitution Program Lacks Defined Goals

The First Offender Prostitution Program is intended to address the problem of prostitution by (1) targeting men soliciting prostitution rather than women working as prostitutes and (2) diverting first time offenders from prosecution through participation in an education program. FOPP attempts to shift the law enforcement approach to prostitution, and if possible, the behavior of solicitors. FOPP also provides services to women working as prostitutes through the Early Intervention Prostitution Program (EIPP) administered by SAGE.

The First Offender Prostitution Program has immediate results (arrests of solicitors/referrals to EIPP); intermediate results (one-day educational program for solicitors/services for women working as prostitutes), while ultimately seeking long-term results such as reduced demand for prostitution.

Neither the District Attorney's Office, which administers FOPP, nor the San Francisco Police Department (SFPD), which conducts decoy operations and arrests men soliciting prostitution, have a document defining the goals and objectives of FOPP. FOPP goals and objectives can be inferred from several sources:

- The 2002 ordinance (File 02-0726) approving an increase in fees for FOPP referred to the program's reduction in recidivism.
- The 2005 District Attorney's Office FOPP description identifies several program purposes, including: (1) reducing demand for prostitution by educating first time offenders about the legal, social, and health ramifications of engaging in prostitutions; (2) assisting in the rehabilitation and reintegration of prostitutes into society; and (3) reducing the impact of arrests for soliciting prostitution on the court system.
- The 2006 MOU between the District Attorney's Office and SFPD states that FOPP (1) reduces recidivism, and (2) assists individuals to exit prostitution.

FOPP Tracks Program Participation But Not Outcomes

The District Attorney's Office collects some program information that allows tracking of arrests and participation in the FOPP education program, including:

- Number of solicitors and prostitutes arrested;
- Demographics (age, gender, language, race);
- Location of arrest (street location, Craigslist, or massage parlor);
- Non resident of San Francisco; and
- Status of participation in FOPP or EIPP (Early Intervention Prostitution Program).

Until November of 2007, the District Attorney's Office maintained FOPP program statistics in an Excel spreadsheet, which included the number of FOPP participants, case information, and recidivism statistics. Under this system, record keeping was prone to a variety of data entry errors and reliable analysis of participant statistics was impaired. In November 2007, the District Attorney's Office implemented a new database to monitor the program's statistics, and data from manual logs transferred to it, which was a first step in the process of more accurately keeping program data.

The First Offender Prostitution Program Is Not Specifically Designed to Reduce Recidivism

Although the District Attorney's Office has inferred that one goal of FOPP is to reduce recidivism, the program is not specifically designed to reduce recidivism. The one-day education program offered to men eligible to participate in FOPP does not meet the National Institute of Justice's characterization of programs to reduce recidivism, which include more intensive and longer interventions than the one-day education program and follow up of program participants.

Also, according to the District Attorney's Office, they lack resources to measure reductions in recidivism. Currently, the District Attorney's Office only collects recidivism data that lists names, dates of re-arrest and citation numbers of men who have been re-arrested. However, the District Attorney's Office is not able to track men who have been re-arrested over longer periods of time or have been arrested in another county.

In the course of the National Institute of Justice's Evaluation of the First Offender Prostitution Program, investigators tried to ascertain the flow of offenders in and out of FOPP as well as recidivism rates but could not do so easily. In the 2008 *Report on the Evaluation of the First Offender Prostitution Program*, the National Institute of Justice cited an "inability to reliably link FOPP referral data to criminal history data, and to reliably distinguish program successes from program failures or ineligible individuals, seriously compromised the ability to measure recidivism specifically for the set of FOPP participants and others referred to the program".

The National Institute of Justice determined FOPP's recidivism rate through tracking a large sample of men (86,747) prior to and after implementation of FOPP in 1995. The National Institute of Justice investigators concluded that FOPP decreased recidivism by almost 50 percent. According to the 2008 Report:

"The finding that FOPP significantly reduces recidivism was unexpected. While the program has a sensible curriculum and was generally well executed, its design appeared to violate several of the principals of effective intervention with offenders...The FOPP's low-intensity and brief intervention, which lacks aftercare, led us not to expect a statistically significant impact".

The National Institute of Justice offered possible explanations for the FOPP's apparent effectiveness in reducing recidivism despite the program's low-intensity and brief intervention approach with no aftercare¹, including:

¹ *Final Report on the Evaluation of the First Offender Prostitution Program*, prepared for the National Institute of Justice Office of Research and Evaluation by Abt Associates, Inc., March 7, 2008, pages 84 and 85.

- FOPP may motivate individuals to stop pursuing prostitution on the streets and to use escorts or solicit prostitutes in brothels or on the internet; or
- FOPP is effective with at least some men who are arrested for the first time for soliciting prostitution although the program is not intense, sustained, and lacks aftercare.

Solicitors Participating in the Education Program Gain Information But Do Not Necessarily Change Behavior

According to 2005 District Attorney's Office FOPP description, FOPP is intended to reduce demand for prostitution by educating first time offenders about the legal, social, and health ramifications of engaging in prostitutions. Under the contract between the District Attorney's Office and SAGE, SAGE provides six Saturday education programs per year (one every two months) for solicitors. The education program emphasizes two main themes:

- The detrimental situations prostitutes face and how their patronage can in fact proliferate those circumstances, and;
- Information on the many risks and harms solicitors may be vulnerable to if they continue engaging in prostitution. Ultimately, these two primary tactics seek to change behavior and decrease the number of individuals who chose to reoffend.

SAGE is responsible for scheduling education program speakers, developing and updating the curriculum, and coordinating the education program with the District Attorney's Office and the SFPD. The only education program performance indicator is attendance.

According to the National Institute of Justice's 2008 *Report on the Evaluation of the First Offender Prostitution Program*, although FOPP is intended to change behavior by providing education on the impact of prostitution, participation in the FOPP education program does not significantly lower the self-reported likelihood of soliciting in the future. The National Institute of Justice did find, however, that FOPP's education program did effectively inform solicitors about the consequences of participating in prostitution. The National Institute of Justice concluded that FOPP "is effective in producing positive shifts in attitude and gains in knowledge".

The EIPP Tracks Individual Achievement But Not Program Performance

According to the District Attorney's Office 2005 FOPP description and 2006 MOU with the SFPD, FOPP is intended to assist individuals to exit prostitution. Although FOPP has a program to provide services to women engaged in prostitution, the program is not sufficiently comprehensive to assist women to leave prostitution.

The EIPP, administered by SAGE through a contract with the District Attorney's Office, is provided to individuals, who have been arrested for prostitution, upon release from custody or through a Court mandate. The EIPP provides 25 hours of services, including case managers, who facilitate counseling, healthcare, education and social services. The intent is to develop individualized case plans assisting the client with substance abuse or mental health treatment, housing, vocational training, and other services.

EIPP lacks tools and standards for performance. Under the contract with the District Attorney's Office, SAGE reports "units of service" defined as 30 minutes of face-to-face contact between a SAGE representative and the individual receiving services. SAGE does maintain some confidential records for clients and can identify if individuals have met their treatment plan. However, beyond tallies of the number of unduplicated individuals treated and number of hours each individual received, sent in the invoice reports to the District Attorney's office, there are no other means of further tracking the services provided by SAGE and any progress by EIPP participants.

The EIPP is limited in its services, with SAGE providing 25 hours of service to each woman under the contract agreement with the District Attorney's Office. According to SAGE representatives, women participating in EIPP can meet the goals listed in their treatment plan but do not often leave prostitution.

FOPP Needs Defined Goals and Measures to Evaluate FOPP's Achievement of Its Goals

The District Attorney's Office, in conjunction with SAGE and the SFPD, needs to define the goals of FOPP. The program's scope is likely narrower than inferred by the various documents describing FOPP. For example, the FOPP could be defined as a pretrial diversion program, allowing measurement of reduced District Attorney, Public Defender, or Superior Court costs by not prosecuting men arrested for first time solicitation of prostitution. To the extent that the District Attorney's Office and SFPD define FOPP's goals more broadly, the District Attorney's Office and SFPD need to set measurable objectives to measure FOPP performance.

The National Institute of Justice recommended that FOPP collect data supporting program performance by acquiring and maintaining accurate offender-level data that can be reliably linked to the statewide criminal history database. According to the National Institute of Justice, tracking this data would allow for (1) ongoing program performance monitoring and assessment of the program's effectiveness on subsets of offenders, (2) evaluating whether changes in the curriculum change re-offense rates, and (3) developing risk-needs assessments to better tailor the curriculum to meet offenders needs.

Conclusions

The First Offender Prostitution Program does not have well-defined goals. Various documents state that the program is intended to (1) reduce the demand for prostitution by educating solicitors in the consequences of prostitution, (2) reduce recidivism, and (3) help women exit from prostitution.

Neither the District Attorney's Office, which administers the program, nor the SFPD, which conducts the decoy operations, have identified the program's specific purpose, performance measures, or data necessary to measure performance. While both the District Attorney's Office and the SFPD Vice Unit collect program statistics, such as arrests for solicitation and participation in FOPP's education program, none of these statistics measure reduced demand for prostitution, reduced recidivism, or women's ability to exit from prostitution. In fact, the First Offender Prostitution Program has limited scope: providing (1) education on the consequences of prostitution to men arrested for solicitation, and (2) social services to women arrested for prostitution. According to the National Institute for Justice, the First Offender Prostitution Program is not designed to reduce recidivism, and according to SAGE, women participating in EIPP often do not leave prostitution.

While measuring success for programs geared to individuals in prostitution is difficult and likely to have a variety of possible standards, the District Attorney's Office should implement program measures consistent with the First Offender Prostitution Program and EIPP scope.

Recommendations

In order to improve the effectiveness of the First Offender Prostitution Program and the Early Intervention Prostitution Program, the District Attorney should:

- 1.1 Define the goals of the First Offender Prostitution Program consistent with the program's design.
- 1.2 Define the First Offender Prostitution Program and Early Intervention Prostitution Program performance measures and identify data necessary to measure performance, in conjunction with the Chief of Police.
- 1.3 Direct staff responsible for the First Offender Prostitution Program to track and report annually to the District Attorney and San Francisco Police Commission on the performance measures for the First Offender Prostitution Program and Early Intervention Prostitution Program.
- 1.4 Incorporate Early Intervention Prostitution Program performance measures into the contract between the District Attorney's Office and SAGE, a non-profit organization (Standing Against Global Exploitation).

Costs and Benefits

Defining the FOPP and EIPP goals requires discussion and consultation among the District Attorney's Office, the SFPD and SAGE. The parameters of this discussion are defined by the current scope of the First Offender Prostitution Program. Existing District Attorney's Office staff, especially the First Offender Prostitution Program coordinator, will need to allocate time to defining performance measures and collecting data. Defined goals and measures should contribute to more efficient program planning and budgeting.

2. The First Offender Prostitution Program's Role in Arresting Solicitors of Street and Internet Prostitution

- **Neither the District Attorney's Office nor the San Francisco Police Department (SFPD) have evaluated the role of the First Offender Prostitution Program (FOPP) since its implementation in 1995. While various studies and reports suggest that much of prostitution has moved to the internet, the SFPD Vice Unit conducts only approximately four internet operations per year, focusing FOPP decoy operations on street prostitution.**
- **The number of arrests of men soliciting prostitution from the SFPD's street-based decoy operations has decreased by 41 percent from 2005 through 2008. In 2005 the SFPD arrested approximately seven men in each FOPP decoy operation on average but in 2008 the SFPD arrested only four men in each FOPP decoy operation on average. However, the District Attorney's Office has improved procedures to recruit eligible men to the FOPP education program, partially offsetting the decline in arrests. In 2005 an average of 2.47 men arrested in each decoy operation attended the FOPP education program and in 2008 an average of 2.34 men arrested in each decoy operation attended the FOPP education program, a decrease of only 5 percent compared to the 41 percent decline in arrests per decoy operation.**
- **The SFPD conducts FOPP street-based decoy operations to reduce the impact of street prostitution on neighborhoods, but neither the SFPD nor the District Attorney's Office have defined reducing the impact of street prostitution on neighborhoods as the specific goal of FOPP. While street-based decoy operations may be effective in reducing the impact of street prostitution on neighborhoods, they have become less effective in arresting solicitors. The SFPD and the District Attorney's Office need to better define FOPP's goals, whether reducing the impact of street prostitution on neighborhoods, arresting men soliciting prostitution, or both, and then determine if more FOPP decoy operations should move to the internet.**

The First Offender Prostitution Program Targets Customers of Street Prostitution

The District Attorney's Office, in collaboration with the SFPD and the non-profit organization SAGE (Standing Against Global Exploitation), implemented FOPP in 1995 to offset the negative effects of street prostitution on women engaged in prostitution and the neighborhoods.

First Offender Prostitution Program Decoy Operations

The First Offender Prostitution Program (FOPP) targets men soliciting prostitution (or "solicitors"). The San Francisco Police Department (SFPD) Vice Unit responsible for enforcing gambling and liquor licensing as well as prostitution laws, arrests solicitors through street-based undercover decoy operations, in which a police officer poses as a prostitute. According to the SFPD Vice Unit, one purpose of FOPP is to address neighborhood dissatisfaction with street prostitution, and SFPD decoy operations often respond to business and neighborhood complaints.

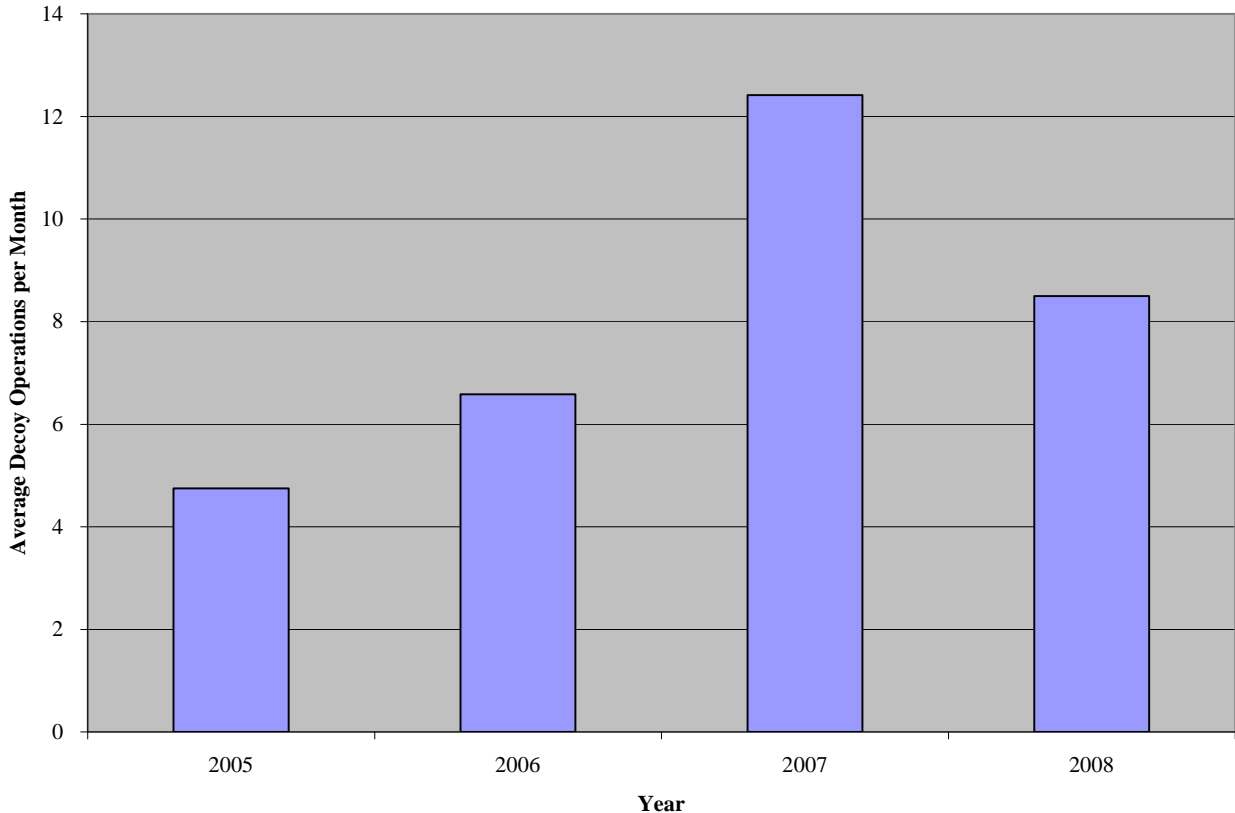
The SFPD and the District Attorney's Office have a Memorandum of Understanding (MOU) that outlines:

- The SFPD's responsibility for staffing and conducting FOPP decoy operations;
- The District Attorney's Office responsibility for determining program eligibility and referring eligible men to FOPP's education program; and
- The District Attorney's Office responsibility, in conjunction with SAGE (Standing Against Global Exploitation), in developing the education program curriculum and providing classes.

Under the most recent MOU, which was effective for the two-year period from November 2006 through October 2008, the SFPD must conduct a minimum of eight FOPP operations per month with no maximum number of operations specified. It also calls for the equivalent of two full-time on-duty police officers to staff FOPP operations. If additional officers are required, they participate on an overtime basis. A new MOU has yet to be drafted. The length of a decoy operation as well as the number of participating officers varies, but according to SFPD, six officers were customarily employed to perform operations that lasted from five to six hours.

The prior MOU, which was effective in 2004 and 2005, called for an average of 14 decoy operations per month, although the SFPD conducted only five FOPP decoy operations per month on average in 2005. The average number of FOPP decoy operations increased to 12 per month in 2007 and 8 per month in 2008. Figure 2.1 below shows the average number of FOPP decoy operations per month in 2005 through 2008.

Figure 2.1
Average FOPP Decoy Operations per Month
2005 through 2008



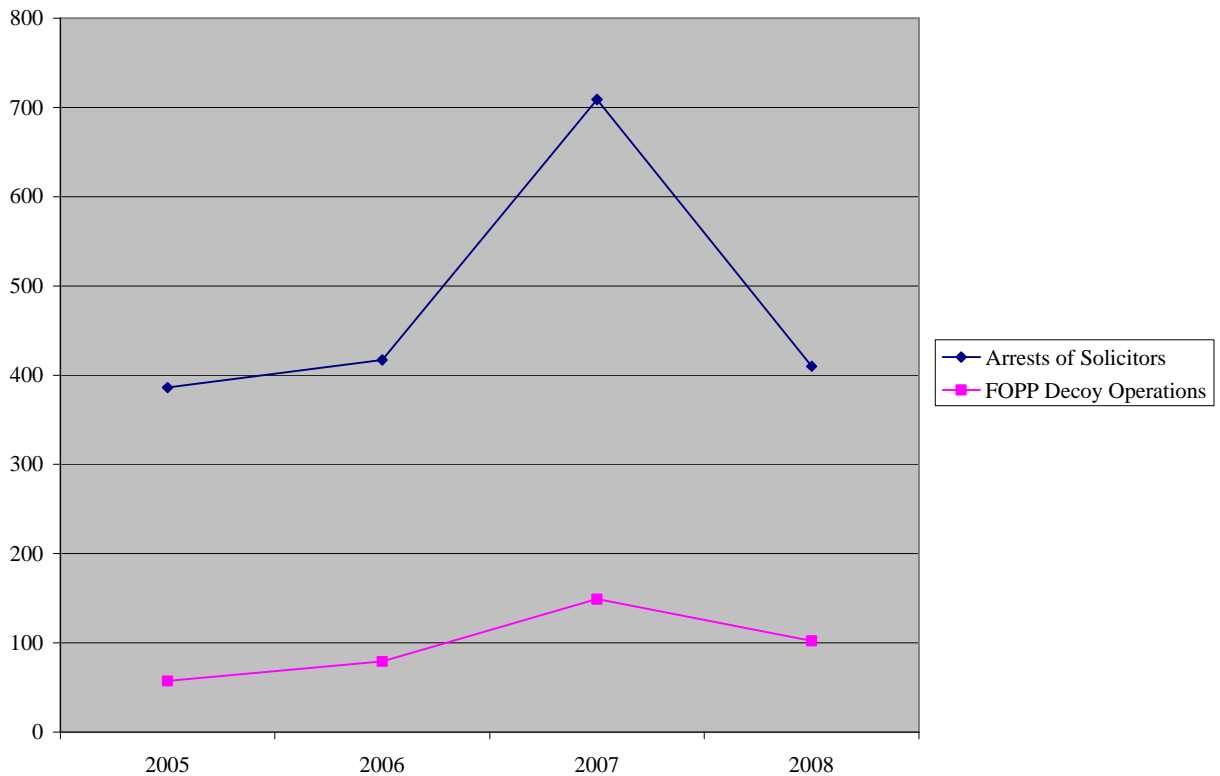
Source: SFPD Vice Unit

According to the SFPD Vice Unit, they conducted fewer FOPP decoy operations between February 2005 and November 2005 due to the SFPD Vice Unit's participation in operation "Gilded Cage". As part of Gilded Cage, in July 2005 the SFPD Vice Unit participated in an investigation targeting approximately 50 brothels, residences, and businesses believed to be involved with sex trafficking, harboring illegal aliens, conspiracy to transport across state lines to engage in prostitution, and money laundering in the San Francisco area, in conjunction with Federal agencies.¹ The operation occurred in July 2005 but SFPD's Vice Unit continued to provide support to indictments resulting from the operation for several months.

¹ These federal agencies included: the U.S. Attorney's Office for the Northern District of California, the U.S. Department of Justice Civil Rights Division, U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS), and the State Department's Diplomatic Security Service.

According to the SFPD Vice Unit, FOPP decoy operations increased from the spring of 2007 through the spring of 2008 due to increases in community and business complaints about street prostitution. The SFPD Vice Unit responded to these complaints by increasing the number of FOPP decoy operations and related arrests of solicitors. As shown in Figure 2.2, both the number of decoy operations and arrests of solicitors increased in 2007.

Figure 2.2
Total FOPP Decoy Operations and Arrests of Solicitors
2005 through 2008



Source: SFPD Vice Unit

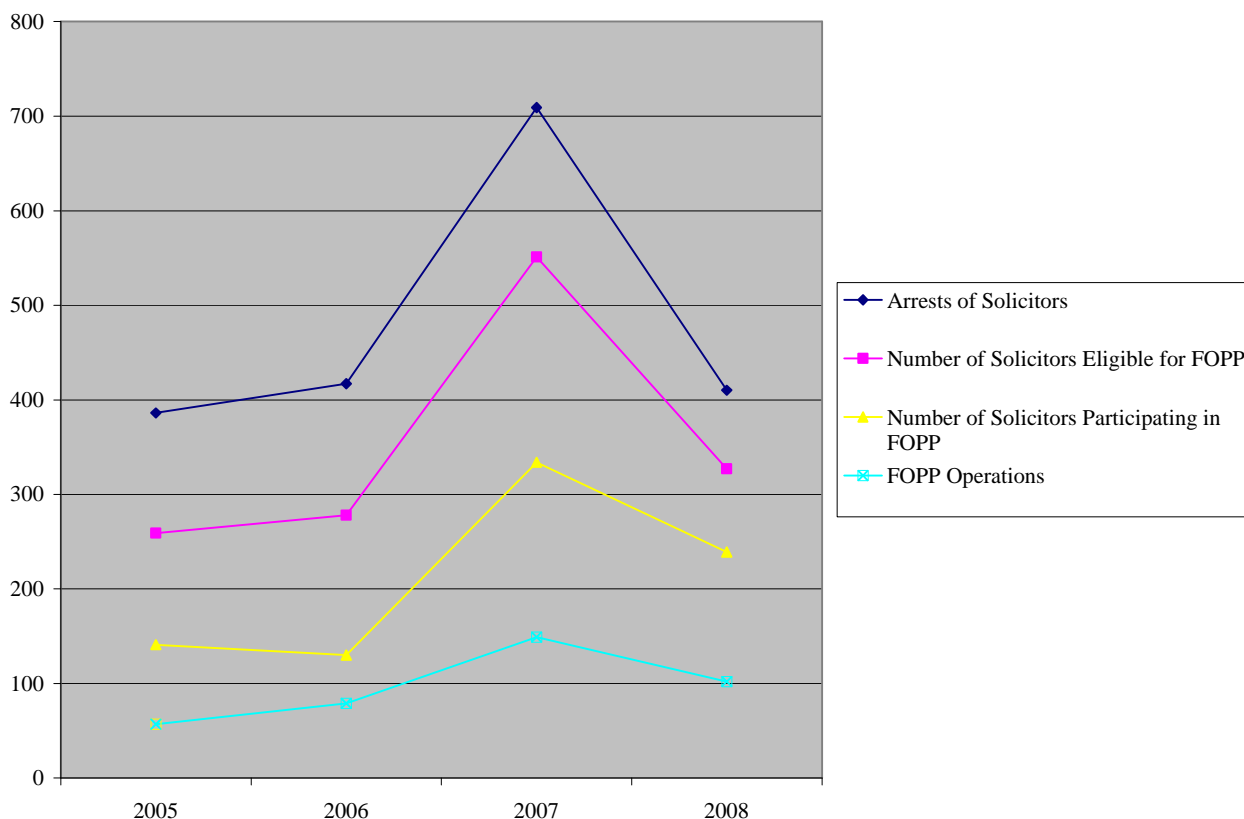
In 2008, faced with increasing personnel costs and limited resources, the SFPD Vice Unit implemented three operation and personnel reconfigurations:

- FOPP decoy operations were reduced from an average of 12 per month in 2007 to approximately 8 per month in 2008, consistent with the MOU.

- These decoy operations were reconfigured to have (a) four operations per month conducted by two on-duty and three overtime police officers, and (b) four operations per month conducted by four on-duty and one overtime police officer.
- On duty hours were changed from 12 p.m. - 10 p.m. to 4 p.m. - 2 a.m.

Although consistent with the MOU, the SFPD Vice Unit implemented these FOPP decoy operation changes without discussions with the District Attorney's Office. The reduced decoy operations have resulted in fewer solicitor arrests, and as shown in Figure 2.3 and fewer men participating in FOPP.

Figure 2.3
Number of Solicitors Arrested, Eligible for FOPP, and
Participating in FOPP
2005 through 2008



Source: SFPD Vice Unit

As shown in Figure 2.3, a direct correlation exists between the number of decoy operations, men arrested for soliciting prostitution, solicitors eligible for FOPP, and solicitors actually participating in FOPP.

Arrests Per FOPP Decoy Operation Are Decreasing

The average number of arrests for each decoy operation has decreased from seven in 2005 to four in 2008, as shown in Table 2.1.

Table 2.1
Average Arrests of Solicitors per FOPP Decoy Operation

	2005	2006	2007	2008	Percent Increase/ (Decrease) 2005 to 2008
Arrests of Solicitors	386	417	709	410	6%
FOPP Decoy Operations	57	79	149	102	79%
Average Arrests per Decoy Operation	6.8	5.3	4.8	4.0	(41%)

Source: SFPD Vice Unit

The decreased arrest rate has been offset by an increase in the number of men arrested during decoy operations who are eligible for FOPP and the number of eligible men who participate in FOPP. The percent of men arrested during decoy operations who are eligible for FOPP increased by approximately 19 percent between 2005 and 2008, as shown in Table 2.2.

Table 2.2
Percent of Arrested Solicitors Eligible for FOPP 2005 through 2008

	2005	2006	2007	2008	Percent Increase/ (Decrease) 2005 to 2008
Arrests of Solicitors	386	417	709	410	6%
Number of Arrested Solicitors Eligible for FOPP	259	278	551	327	26%
Percent of Arrested Solicitors Eligible for FOPP	67.1%	66.7%	77.7%	79.8%	19%

Source: SFPD Vice Unit and District Attorney's Office

The District Attorney's Office hired a FOPP program coordinator in November 2006 whose full-time presence and increased follow-up to enroll eligible individuals in FOPP have resulted in a greater number of FOPP participants in 2007 and 2008 compared to prior years. The percent of FOPP eligible men who participated in FOPP increased by 34 percent between 2005 and 2008, as shown in Table 2.3.

**Table 2.3
Percent of FOPP Eligible Solicitors Who Participate in FOPP
2005 through 2008**

	2005	2006	2007	2008	Percent Increase/ (Decrease) 2005 to 2008
Number of Solicitors Eligible for FOPP	259	278	551	327	26%
Number of Solicitors Participating in FOPP	141	130	334	239	70%
Percent of Eligible Solicitors Participating in FOPP	54.4%	46.8%	60.6%	73.1%	34%

Source: SFPD Vice Unit and District Attorney's Office

Although an increased number of men arrested during decoy operations are eligible for FOPP and an increased number of FOPP eligible men are participating in FOPP, each decoy operation in 2008 yielded fewer FOPP participants than in 2005 as shown in Table 2.4.

**Table 2.4
Average Number of Solicitors Participating in FOPP
Compared to Number of Decoy Operations
2005 through 2008**

	2005	2006	2007	2008	Percent Increase/ (Decrease) 2005 to 2008
Number of Solicitors Participating in FOPP	141	130	334	239	70%
FOPP Decoy Operations	57	79	149	102	79%
Average Number of FOPP Participants per Operation	2.47	1.65	2.24	2.34	(5%)

Source: SFPD Vice Unit and District Attorney's Office

Despite the increase in eligibility and participation, each decoy operation in 2008 was less effective in obtaining FOPP participation than in 2005 because of decreasing arrests. The SFPD does not have data to identify why arrests from decoy operations have decreased but believe that prostitution has shifted from the street to the internet.

The First Offender Prostitution Program Has Limited Focus on Internet Solicitation for Prostitution

Since the implementation of FOPP in 1995, the internet has become increasingly prevalent as a venue for soliciting prostitution. The National Institute of Justice found in their 2008 *Report on the Evaluation of the First Offender Prostitution Program* that in the past 10 years the internet has been used increasingly for prostitution solicitation. Although the National Institute of Justice could not verify if increased internet prostitution solicitation also increased prostitution solicitation overall or simply shifted prostitution solicitation from the street to the internet, the SFPD Vice Unit has stated that prostitution solicitation has shifted from the street to the internet with fewer men in San Francisco arrested through undercover decoy operations conducted on the street.

SFPD's Efforts to Curb Internet Prostitution

SFPD conducts approximately four internet FOPP decoy operations per year. The SFPD Vice Unit claims that internet decoy operations are more resource intensive and operationally time-consuming to implement. However, according to the National Institute of Justice 2008 Report, other California jurisdictions carry out internet decoy operations at no more cost or risk with an arrest yield similar to arrests made in street operations. According to the SFPD Vice Unit, because the SFPD's Vice Unit has limited resources and internet prostitution operations receive relatively few public complaints, SFPD allocates fewer resources to internet prostitution solicitation than to street operations.

The City Has No Current Process to Evaluate the Role of the First Offender Prostitution Program

The City currently lacks a forum for evaluating the City's approach to prostitution and the role of the First Offender Prostitution Program. The Commission on the Status of Women has conducted hearings on human trafficking in San Francisco, in which DPH presented information on massage parlor licensing and the interagency task force to monitor massage parlors, and SFPD presented information on their efforts to prevent human trafficking, especially for children. Also, the Board of Supervisors has pending legislation that would require conditional use permits for massage parlors, resulting in Planning Commission review of all massage parlor applications.

The District Attorney's Office and SFPD have not evaluated the role of the First Offender Prostitution Program since its inception in 1995, although the prostitution environment has changed since that time. The National Institute of Justice 2008 Report noted that

FOPP participation declined significantly, from 822 participants in 1999 to 132 participants in 2006, although participation began increasing in 2007 due to increased SFPD decoy operations and changes in District Attorney procedures to recruit eligible participants. The National Institute of Justice attributed the participation decline to:

- Decreases in SFPD Vice Unit decoy operations;
- Shifts in prostitution from the street to the internet; and
- Men soliciting prostitution becoming more skilled in avoiding arrest.

FOPP staff told the National Institute of Justice that FOPP participation had declined largely because decoy operations yielded fewer arrests as prostitution solicitation shifted from the street to the internet. The National Institute of Justice recommended that the SFPD consider expanding its decoy operations to the internet to increase arrests during decoy operations.

Conclusions

Neither the District Attorney's Office nor the SFPD have evaluated the role of FOPP since its implementation in 1995, although street prostitution - which is the main focus of FOPP - is only a small part of prostitution in San Francisco. Much of prostitution has moved to the internet but the SFPD Vice Unit conducts only a small number of internet operations, focusing FOPP decoy operations on street prostitution. The shift in prostitution from the street to the internet most likely accounts for the decreasing number of arrests resulting from the SFPD Vice Unit's decoy operations.

Recommendations

In order to increase the efficiency of SFPD Vice Unit decoy operations, the Chief of Police and District Attorney should:

- 2.1 Define the specific goals of FOPP. This definition should consider whether the goal of FOPP is either to primarily reduce the impact of prostitution on neighborhoods or to target men soliciting prostitution in order to reduce demand for internet as well as street-based prostitution.
- 2.2 In conjunction with Recommendation 2.1, develop a work plan, including allocation of SFPD Vice Unit resources, for conducting internet decoy operations prior to December 31, 2009.

Costs and Benefits

Although the San Francisco Police Department states that conducting internet decoy operations is more complex and expensive than street decoy operations, the National Institute of Justice found, in their 2008 *Report on the Evaluation of the First Offender Prostitution Program* that some other California jurisdictions conducted internet decoy operations at no increased cost. Potentially, internet decoy operations could result in increased arrests of men soliciting prostitution and First Offender Prostitution Program fee revenues.

3. The First Offender Prostitution Program's Revenues and Expenditures

- **The First Offender Prostitution Program (FOPP) program costs exceed fee revenues, especially costs incurred by the SFPD. The FOPP fees are sliding scale, with the full fee capped at \$1,000 by the California Penal Code. Only 60 percent of men arrested for soliciting commercial sex and participating in FOPP pay the full fee. The Budget Analyst estimates that an average FOPP participant would have to pay fees of approximately \$1,908 in FY 2008-09 to ensure that the program's costs were fully recovered.**
- **In FY 2008-09 the SFPD Vice Unit spent an estimated \$193,168 on FOPP decoy operations with \$150,079, or approximately 78 percent, not reimbursed by FOPP fee revenues. Each FOPP decoy operation yields fewer arrests, reduced from approximately seven per operation in 2005 to four per operation in 2008, a reduction of approximately 41 percent. The District Attorney's Office and the SFPD have an MOU, which sets the minimum number of SFPD decoy operations and staffing of these operations. Because each decoy operation yields fewer arrests, the District Attorney's Office and SFPD need to revise the MOU, including the frequency, timing, and staffing of decoy operations, to ensure that conducting these operations is cost-effective and results in the maximum number of arrests.**
- **Prior to 2006 the District Attorney's Office paid all FOPP invoices irrespective of fee revenues collected, resulting in FOPP fee revenues falling short of reimbursements for FOPP expenses. In 2006 the District Attorney's Office identified the lack of FOPP budget controls and instituted as "earn and spend" financial plan for the program, reducing the annual revenue shortfall from \$105,993 in FY 2005-06 to \$16,611 in FY 2007-08. However, due to decreased FOPP fee revenues in FY 2008-09 compared to expenditures, the revenue shortfall in FY 2008-09 was \$48,881. The cumulative revenue shortfall from FY 2004-05 through FY 2008-09 is \$270,374. The District Attorney has reimbursed FOPP expenditures with funds from other projects when FOPP fee revenues fell short of expenditures and will need to reimburse these projects with future FOPP revenues.**

The First Offender Prostitution Program's Costs Exceed Fee Revenues

The San Francisco Police Department (SFPD) Vice Unit, District Attorney's Office, and SAGE (Standing Against Global Exploitation) incur First Offender Prostitution Program (FOPP) costs.

- The District Attorney incurs costs for administering FOPP, including salary and fringe benefit costs for the FOPP coordinator.
- The District Attorney has a Memorandum of Understanding (MOU) with SAGE, in which SAGE is paid for coordinating the FOPP education program and providing services, up to an annual maximum of \$90,000.
- Under the Memorandum of Understanding (MOU) between the District Attorney's Office and SFPD, the SFPD is reimbursed from FOPP fee revenues for the costs of conducting FOPP decoy operations.

The District Attorney's Office collects fees for the First Offender Prostitution Program (FOPP) from eligible men who are arrested for soliciting prostitution (or "solicitors") and opt to participate in FOPP's education program rather than face prosecution. Prostitutes are not assessed such fees. Instead, these individuals can participate in the Early Intervention Prostitution Program (EIPP) if they have less than three prior prostitution convictions. Administrative Code Section 10.193-1 states:

"The District Attorney shall examine the fee annually to ensure that it continues to reflect the costs of the services provided by the program. If the District Attorney finds that the maximum authorized fee does not cover the costs of the services provided, or that the minimum authorized fee exceeds the costs of the services provided, the District Attorney shall prepare and submit a resolution for approval by the Board of Supervisors to modify the maximum or minimum authorized fee effective at the beginning of the following fiscal year."

Forty Percent of FOPP Participants Do Not Pay the Full Fee

Original fees for participating in FOPP were set at \$500 in 1995 and despite having the authority to recommend revised fee levels to recover program costs, the District Attorney did not recommend fee revisions until 2002. In 2002, the District Attorney's analysis showed that the existing fees were only recovering approximately 50 percent of expenditures. Subsequently, the District Attorney proceeded to propose a sliding scale fee system (see Table 3.1 below).

Table 3.1
First Offender Prostitution Program
Sliding Scale Fee

Fee	Participant's Income Range
\$1,000	\$30,000 or higher
\$500	\$16,000 – 29,999
\$250	\$9,000 – 15,999
\$100	\$0 – 8,999

Source: Budget Analyst's Report

According to the Budget Analyst's report to the July 10, 2002 Finance Committee meeting, the sliding scale fee would still prove insufficient to fund the entire program's costs since only approximately 60 percent of participants would pay the full \$1,000 fee. As shown in Table 3.2, approximately 60 percent of FOPP participants paid the full fee in FY 2008-09.

Table 3.2
FOPP Sliding Scale Fee Payments
FY 2008-09

Fee Amount	Participants Paying Fee	Percent of Total Participants	Total Revenues
\$100	25	14.5%	\$2,500
300 to \$350	16	9.3%	5,550
\$650 to \$660	28	16.3%	18,216
\$1,000	<u>103</u>	<u>59.9%</u>	<u>103,000</u>
TOTAL	172	100.0%	\$129,266

Source: District Attorney's Office

Currently, the City cannot assess a fee greater than \$1,000 for FOPP in accordance with the State Penal Code. However, upon review of the last four years of financial records for the FOPP, the Budget Analyst estimated that an average FOPP participant would have to pay fees ranging from approximately \$1,283 to \$2,500 in order to ensure that the program's costs were fully recovered. Table 3.3 shows the District Attorney's FOPP program costs, SFPD FOPP decoy operation costs, and SAGE (Standing Against Global Exploitation) contract costs for each FOPP participant.

Table 3.3
Annual First Offender Program Expenditures and Participation
FY 2005-06 through FY 2008-09

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Increase/ (Decrease) FY 2005-06 to FY 2008-09	Percent Increase/ (Decrease)
SFPD Expenditures for Decoy Operations and Education Program	\$120,753	\$203,964	\$254,622	\$193,168	72,415	60%
District Attorney Expenditures for Program Administration	83,135	88,845	91,847	94,010	10,875	13%
SAGE Contract Expenditures	90,000	45,529	84,516	41,048	(48,952)	(54%)
Total Annual Expenditures	\$293,888	\$338,335	\$430,985	\$328,226	\$34,338	12%
FOPP Participants	117	234	336	172	55	47%
Expenditure per Participant	\$2,512	\$1,446	\$1,283	\$1,908	(\$604)	(24%)

Source: SFPD and District Attorney

From FY 2005-06 through FY 2008-09, FOPP expenditures increased by 12 percent, due largely to increased SFPD costs for FOPP decoy operations. However, per participant expenditures decreased by 24 percent due to the increased participation in the FOPP education program of eligible men.

The SFPD's Costs for Conducting FOPP Decoy Operations Exceed Reimbursements

As shown in Table 3.4, in FY 2007-08 the SFPD was reimbursed for approximately 37 percent and in FY 2008-009 for approximately 22 percent of its expenditures for FOPP decoy operations and the one-day education program.

Table 3.4
SFPD FOPP Decoy Operation Expenditures Compared to
Reimbursements
FY 2005-06 through FY 2008-09

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
SFPD Reimbursements from FOPP fee Revenues	\$30,863	\$60,134	\$94,798	\$43,089
SFPD Expenditures for Decoy Operations and Education Program	120,753	203,964	254,622	193,168
Reimbursements Less Expenditures	(\$89,890)	(\$143,827)	(\$159,824)	(\$150,079)
Percent of Reimbursements to Expenditures	26%	29%	37%	22%

Source: District Attorney's Office and SFPD

On July 1, 2009, after the Budget Analyst submitted the draft management audit report to the SFPD, the SFPD Vice Unit implemented a new policy requiring that all FOPP decoy operations be conducted with police officers on regular duty rather than overtime unless FOPP fee revenues are sufficient to pay overtime expenses.

The District Attorney's Office and SFPD have no formal agreement on allocation of FOPP fee revenues. According to SFPD representatives, the SFPD submits invoices for 35 percent of FOPP revenues that have been collected, although the MOU between the District Attorney's Office and the SFPD provides for invoicing for all decoy operation expenditures.

FOPP Incurs an Annual Revenue Shortfall

Prior to 2006 the District Attorney's Office paid all FOPP invoices irrespective of fee revenues collected, resulting in FOPP fee revenues falling short of reimbursements for FOPP expenses. In 2006 the District Attorney's Office identified the lack of FOPP budget controls and instituted as "earn and spend" financial plan for the program, reducing the annual revenue shortfall from \$105,993 in FY 2005-06 to \$16,611 in FY 2007-08. However, due to decreased FOPP fee revenues in FY 2008-09 compared to expenditures, the revenue shortfall in FY 2008-09 was \$48,881, as shown in Table 3.5.

Table 3.5
First Offender Prostitution Program Revenue Shortfall
FY 2008-09

FOPP Fee Revenue	\$129,266
District Attorney Expenditures for Program Administration	(94,010)
SAGE Contract Expenditures	(41,048)
SFPD Reimbursements	<u>(43,089)</u>
Total Revenue Shortfall	(\$48,881)

Source: District Attorney's Office

The cumulative revenue shortfall from FY 2004-05 through FY 2008-09 is \$270,374, as shown in Table 3.6.

Table 3.6
First Offender Prostitution Program Cumulative Revenue Shortfall
FY 2004-05 through FY 2008-09

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Cumulative Revenue Shortfall FY 2004-2005 to FY 2008-09
FOPP Fee Revenue	\$130,755	\$98,005	\$167,460	\$254,550	\$129,266	
Prior Year Carry-Forward	44,919					
Total FOPP Revenue	175,674	98,005	167,460	254,550	129,266	
Total FOPP Reimbursements	<u>247,516</u>	<u>203,998</u>	<u>194,507</u>	<u>271,161</u>	<u>178,147</u>	
Revenue Shortfall	(\$71,842)	(\$105,993)	(\$27,047)	(\$16,611)	(\$48,881)	(\$270,374)

Source: District Attorney's Office

The District Attorney has reimbursed FOPP expenditures with funds from other programs when FOPP fee revenues fell short of expenditures and will need to reimburse these funds with future FOPP revenues.

Conclusions

The FOPP fee revenues are insufficient to pay program costs, with the SFPD receiving reimbursement for only approximately 22 percent of its costs for FOPP decoy operations in 2008-09. The current fee of \$1,000 is the maximum allowed under the California Penal Code, although forty percent of men participating in the FOPP pay a reduced sliding scale fee. The District Attorney's Office and SFPD need to evaluate the costs and effectiveness of FOPP decoy operations when negotiating their MOU. With reduced arrests for each decoy operations, the District Attorney's Office and SFPD need to determine the frequency, timing, and staffing of decoy operations and whether these operations should include the internet.

Recommendations

In order to increase the cost-effectiveness of the First Offender Prostitution Program, the District Attorney and the Chief of Police should:

- 3.1 Evaluate the costs and effectiveness of the SFPD decoy operations when negotiating the Memorandum of Understanding between the District Attorney's Office and the SFPD, including determining the frequency, timing, and staffing of decoy operations and whether these operations should include the internet (see Recommendation 2.2).

In order to reimburse FOPP monies owed to other City accounts, the District Attorney should:

- 3.2 Develop a plan to reimburse these other accounts with First Offender Prostitution Program fee revenues.

Costs and Benefits

Implementation of these recommendations would increase FOPP expenditure controls and accountability.

**Written Response of the San Francisco District
Attorney's Office and the San Francisco Police
Department**



KAMALA D. HARRIS
District Attorney

GREGORY BARGE
Assistant District Attorney

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September 9, 2009

Mr. Harvey Rose
Office of the Budget Analyst
1390 Market Street, Suite 1025
San Francisco, CA 94102

Reference: Management Audit of the First Offender Prostitution Program

The San Francisco District Attorneys Office has administered the First Offender Prostitution Program (FOPP) since 1995. During that time the program has given the City another tool in combating the negative effects of the sex trade in San Francisco. An expansive report conducted by the National Institute of Justice concluded the following regarding the FOPP:

- Is well conceived and based upon a logically sound model
- Has been implemented as intended
- Has been organizationally stable and sustainable
- Has been effective in substantially reducing recidivism among men arrested for soliciting prostitutes
- Is cost-effective, operating for over 12 years at no costs to taxpayers and generating nearly \$1 million for recovery programs for providers of commercial sex
- Is transferable, having been successfully replicated in 12 other U.S. sites and adapted in over 25 additional domestic sites over the past decade.

These successes all have come as a result of the successful partnership shared by the San Francisco District Attorney's Office, the San Francisco Police Department and SAGE, the program's community based partner. Much work and collaboration over the years have resulted in this program being recognized and replicated nationally.

Although the program has largely been successful, the NIJ report as well as the Management Audit of the Budget Analyst has also pointed out areas of improvement for the program. The District Attorney's Office welcomes these suggestions and will work with its partners in this program to implement any suggestion that is feasible for the continued success and growth of the program. Both the NIJ Report and the Management Audit will serve as guides in implementing needed reforms and developing new aspects of the program.

District Attorney

A handwritten signature in black ink, appearing to read "Greg Barge", written over a horizontal line.

Gregory Barge
Assistant District Attorney



GAVIN NEWSOM
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



HEATHER J. FONG
CHIEF OF POLICE

September 9, 2009

Mr. Harvey Rose
Office of the Budget Analyst
1390 Market Street, Suite 1025
San Francisco, CA 94102

Attention: Ms. Severin Campbell

Reference: Management Audit of the First Offender Prostitution Program

The Police Department strives to maintain the trust of all San Francisco community members by actively responding to their concerns, one of which is to reduce street prostitution where it is openly prevalent in the neighborhoods of San Francisco. Street prostitution also brings peripheral crimes and nuisances to these neighborhoods. It can contribute to their deterioration as well as detract from the residents' quiet enjoyment of their environment.

One of the ways the SFPD Vice Crimes Unit deals with these street prostitution related complaints is by addressing the dynamics of the crime. This strategy includes dealing with the prostitutes (supply), the customers (demand), and pimps (brokers). FOPP is only one component of this enforcement response to our citizens' concerns and complaints.

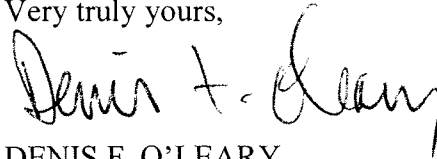
When a customer is arrested, a clear message is sent that this behavior is not welcome or tolerated in our community. This message is further communicated during the FOPP class where the customers are informed about other negative consequences of their actions.

The San Francisco Police Department is cognizant of the prostitution activity on the internet, and Vice Crimes actively conducts investigations regarding illegal activity on the internet. The SFPD and the SFDA will explore options and best practices regarding using the internet for FOPP customer arrests; however, we are committed to our neighborhoods, its citizens and their best interests when allocating resources and considering additional FOPP operations from the internet. We will also continue discussions with the District Attorney's Office to work toward making decoy operations as efficient and effective as possible.

Our Department is responsible for enforcing prostitution laws regardless of the existence of FOPP. Partial cost recovery for any enforcement activity is advantageous to our department. As of July 01, 2009 all FOPP operations are conducted with on duty officers unless there are funds available to allow for overtime operations.

Lastly, although not currently measured by the SFPD or the SFDA, the comprehensive report from National Institute of Justice concluded that the FOPP program does reduce recidivism by the customers of prostitutes; therefore, it has an impact in reducing the demand for commercial sex.

Very truly yours,



DENIS F. O'LEARY
Captain – Narcotics and Vice Division

C: D. Shinn
M. Petrie

dol

Recommendations

Based on the management audit findings, the Budget Analyst has made 8 recommendations. These recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to December 31, 2009. The District Attorney's Office and/or San Francisco Police Department (SFPD) should submit information on implementation of these recommendations to the Board of Supervisors Government Audit and Oversight Committee prior to December 31, 2009.

1. The First Offender Prostitution Program's Goals

In order to improve the effectiveness of the First Offender Prostitution Program and the Early Intervention Prostitution Program, the District Attorney should:

- 1.1 Define the goals of the First Offender Prostitution Program consistent with the program's design. *The Department agrees and will provide clear and concise goals consistent with the intent and design of the program.*
- 1.2 Define the First Offender Prostitution Program and Early Intervention Prostitution Program performance measures and identify data necessary to measure performance, in conjunction with the Chief of Police. *The Department agrees and will clearly outline performance measures and data necessary to measure performance for First Offender Prostitution Program and the Early Intervention Prostitution Program.*
- 1.3 Direct staff responsible for the First Offender Prostitution Program to track and report annually to the District Attorney and San Francisco Police Commission First Offender Prostitution Program and Early Intervention Prostitution Program performance measures. *The District Attorney agrees and will provide information to all of its executive team regarding the performance of the First Offender Prostitution Program and the Early Intervention Prostitution Program. The Police Department Agrees and will provide information on the First Offender Prostitution Program to the Police Commission.*
- 1.4 Incorporate Early Intervention Prostitution Program performance measures into the contract between the District Attorney's Office and SAGE. *The Department agrees and will incorporate performance measures into contract between SAGE and the District Attorney as an addendum to the contract.*

2. The First Offender Prostitution Program's Role in Arresting Solicitors of Street and Internet Prostitution

In order to increase the efficiency of SFPD Vice Unit decoy operations, the Chief of Police and District Attorney should:

- 2.1 Define the specific goals of FOPP. This definition should consider whether the goal of FOPP is either to primarily reduce the impact of prostitution on

Recommendations

- neighborhoods or to target men soliciting prostitution in order to reduce demand for internet as well as street-based prostitution. *As stated in recommendation 1.1, the Department agrees and will provide clear and concise goals consistent with the intent and design of the program.*
- 2.2 In conjunction with Recommendation 2.1, develop a work plan, including allocation of SFPD Vice Unit resources, for conducting internet decoy operations prior to December 31, 2009. *The District Attorney disagrees with this recommendation as the allocation of resources and determination of appropriate investigations is totally within the discretion of the Police Department.*

3. The First Offender Prostitution Program's Revenues and Expenditures

In order to increase the cost-effectiveness of the First Offender Prostitution Program, the District Attorney and the Chief of Police should:

- 3.1 Evaluate the costs and effectiveness of the SFPD decoy operations when negotiating the Memorandum of Understanding between the District Attorney's Office and the SFPD, including determining the frequency, timing, and staffing of decoy operations and whether these operations should include the internet (see Recommendation 2.2) *The District Attorney agrees with this recommendation however as stated previously in 2.2 does not dictate the Police Department's allocation of resources and the determination of appropriate investigations which is totally within the discretion of the Police Department.*

In order to reduce the First Offender Prostitution Program monies owed to other City accounts, the District Attorney should:

- 3.2 Develop a plan to reimburse these other accounts with First Offender Prostitution Program fee revenues. *The District Attorney agrees with this recommendation and will implement measures to reduce the current deficit in the First Offender Prostitution Program project.*