

1 [Seeking reimbursement from the State of California for funds expended by county]

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3 **Resolution urging state and local officials to obtain reimbursement for funds expended**
4 **by the City and County of San Francisco to provide legal representation in homicide**
5 **case instituted by the Attorney General.**

6 WHEREAS, in 2007, the California Attorney General filed charges against eight men --
7 - Herman Bell, Ray Boudreaux, Richard Brown, Henry Jones, Jalil Muntaqim (Anthony
8 Bottom), Richard O'Neal, Harold Taylor and Francisco Torres --- involving a homicide case
9 which occurred in 1971. Charges had been previously dismissed in 1975 against several of
10 the accused individuals. Although the San Francisco District Attorney's office, after
11 reviewing the evidence in the case, declined to prosecute the case, the California Attorney
12 General decided on its own to prosecute the case in the San Francisco courts, 26 years after
13 the incident that gave rise to the charges; and,

14 WHEREAS, due to the extraordinary complex nature of the case, the length of delay in
15 the prosecution of the matter, and the need for extensive investigation and trial preparation,
16 the San Francisco Superior Court appointed attorneys and approved funding to pay
17 necessary support staff and other ancillary expenses to represent seven of the eight
18 individuals charged; the Public Defender represented one individual, but was unable to
19 provide representation for the seven other defendants due to the state's conflict of interest
20 rules; the Public Defender was also assisted by an appointed attorney to assist the Deputy
21 Public Defender assigned to the case.

22 WHEREAS, at the time that said funding was approved, it was anticipated by the
23 parties, as well as the Deputy Attorney General, that the county would seek reimbursement of
24 county funds from the State of California; and,

FILE NO.

RESOLUTION NO.

1 WHEREAS, both the Public Defender's office and the Superior Court agreed to keep
2 track of all expenses related to the representation provided in this case so that all necessary
3 documentation could be provided in order to seek state reimbursement of such costs; and,

4 WHEREAS, in 2007, Public Defender Jeff Adachi met with former State Senator
5 Carole Migden to ensure that state reimbursement would be sought in this case; Senator
6 Migden agreed to seek such funding when the case was concluded; and,

7 WHEREAS, in 2009, the Attorney General offered plea bargains to two of the
8 individuals charged in the case; charges against five individuals were dismissed; and,

9 WHEREAS, the case has now concluded against seven of the eight individuals
10 charged; the two cases which resulted in pleas were resolved for reduced charges and no
11 additional jail or prison time; and,

12 WHEREAS, the City and County of San Francisco has expended an estimated \$2
13 million dollars in legal costs to provide legal representation in this matter to the individuals
14 charged in this matter; and,

15 WHEREAS, the costs of providing the legal defense in this case has exhausted county
16 funding for indigent defense; that in 2008, the San Francisco Board of Supervisors approved
17 supplemental funding in the amount of \$ 1,938,846 to cover costs related to the defense of
18 this case;

19 WHEREAS, due to the city's budget deficits, funding for the Public Defender and
20 indigent defense has suffered as a result of the amount of the expenditures required for this
21 case;

22 WHEREAS, the City and County of San Francisco is entitled to reimbursement from
23 the State of California for the funds expended to represent the individuals charged in this
24 case because the State Attorney General unilaterally decided to pursue charges against
25 them, making this case a "state-mandated" expenditure; and, now, therefore be it

FILE NO.

RESOLUTION NO.

1 RESOLVED, The Board of Supervisors urges Senator Mark Leno, Senator Leland Yee
2 and Assemblymembers Fiona Ma and Tom Ammiano to assist the Mayor's office in seeking
3 reimbursement for funds expended in this case by the City and County of San Francisco;

4 BE IT FURTHER RESOLVED THAT, The Board of Supervisors calls on Attorney
5 General Jerry Brown to join the reimbursement request for the legal expenses incurred in this
6 case.

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 091411

Date Passed: December 15, 2009

Resolution urging state and local officials to obtain reimbursement for funds expended by the City and County of San Francisco to provide legal representation in homicide cases instituted by the Attorney General.

December 15, 2009 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 091411

I hereby certify that the foregoing Resolution was ADOPTED on 12/15/2009 by the Board of Supervisors of the City and County of San Francisco.

12-18-2009

Date Approved

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom