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Rebuilding Bell, California: Review and Recommendations for Continued Improvement of Accountability, Oversight, and Transparency

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REBUILDING BELL, CALIFORNIA

Review and Recommendations for Continued Improvement of
Accountability, Oversight, and Transparency

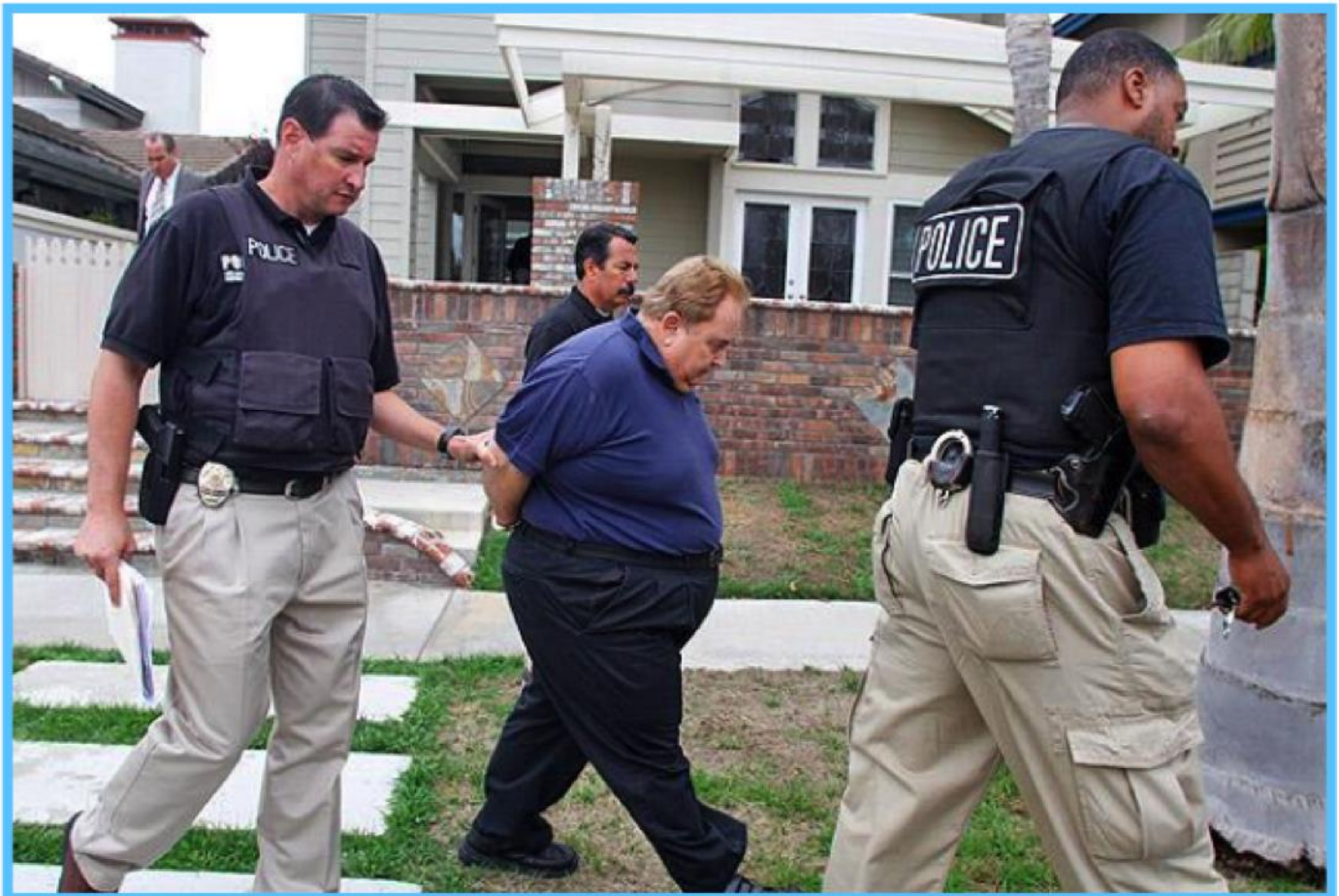


TABLE OF CONTENTS:

I. Introduction	1
II. Scandal in Bell, California	2
III. Reforming Bell	6
• Accountability	7
A. Ethics Codes	7
B. Bell’s Policy for Fraudulent or Unethical Behavior	8
C. Substantive Laws and Regulations	8
D. Suggestions for Improvement	9
1. One-Stop Shopping for Ethics Requirements	9
2. Compensation of Appointed Officials and Employees	11
3. Ethics Code Recommendations	12
4. Conflicts of Interest Code	13
5. Training	15
• Oversight	16
A. Internal Oversight in Bell	17
B. Ethics Oversight	18
C. Corruption Oversight	18
D. Annual Review	20
• Transparency	22
A. Public Access to Information	22
B. Bell Website	22
C. Assessment and Recommendations	24
D. Bell’s Transparency Efforts in City Procedures	25
1. Governing procedures	26
2. Procurement procedures	26
IV. Conclusion	27

I. INTRODUCTION

In 2010, Bell, California was a small city with a big corruption problem. Its city manager at that time, Robert Rizzo, had developed a plan to enrich himself at the city's expense, and covered his tracks by involving numerous other city officials in his corrupt scheme, including the city councilmembers who were supposed to serve as a check on Rizzo's power. Because virtually all of Bell's top-level officials ended up implicated in the criminal conduct, the limited number of checks and balances built into Bell's governing structure failed. And because Bell did not have any formal anti-corruption mechanisms in place — particularly oversight and transparency measures — no one outside of the small group of decision makers running Bell had the ability or duty to ensure that the city's leaders were governing with integrity.

The situation that Bell found itself in as 2010 drew to a close — namely, cleaning up the mess caused by having a fox in charge of the henhouse of city funds — is one that is a risk in small cities and towns everywhere. Even with appropriate accountability and transparency regulations (which were not present in Bell before the Rizzo scandal), small municipalities like Bell constitute outsized corruption risks because the oversight they rely upon, at the county, state, and federal levels of government, are simply inadequate.

The Center for the Advancement of Public Integrity at Columbia Law School focuses on helping government officials fight public corruption more effectively, with a particular focus on cities. We reviewed the anti-corruption measures put into place by Bell's post-scandal administration, and recommend certain improvements we felt were advisable to ensure that Bell will be secure against a recurrence of the corruption visited upon the city by Rizzo and his coconspirators.

II. SCANDAL IN BELL, CALIFORNIA

In July 2010, the Los Angeles Times asked its readers, “Is a city manager worth \$800,000?”¹ The headline referred to the exorbitant (and, as it turns out, underestimated) compensation of Robert Rizzo, city manager of the small, working class city of Bell, California. After a series of articles probing the actions of Rizzo and other Bell officials, it became clear that what the LA Times had uncovered was a flaw in how Bell – and countless other similar cities in California and across the nation – ran its government. Specifically, Bell essentially had no working integrity system in place, which meant that the unethical and criminal conduct of Rizzo and others that ended up severely damaging the Bell community went undetected.

The centerpiece of Rizzo’s scheme was in vastly increasing his and his co-conspirators’ compensation from the city of Bell. When Robert Rizzo was hired to take over as Bell’s city manager in 1993, his salary was a modest \$72,000 (\$7,000 less than his predecessor).² By the time of Rizzo’s resignation on July 23, 2010, he had increased his salary more than ten-fold, to \$787,000 per year. The assistant city manager, Angela Spaccia, earned \$376,288. Both of their contracts included automatic annual raises of 12%, meaning that Rizzo’s salary in 2011 would have jumped by an additional \$94,516.³ Police Chief Randy Adams, whom Rizzo recruited, was paid \$457,000, approximately 50% more than the Los Angeles Police Chief and more than double New York City’s Police Chief.⁴ Rizzo and his team were able to get away with raising salaries to these levels by buying the approval of the City Council and either skirting or outright ignoring laws aimed at protecting against fiscal fraud and abuse.

In 2005, California enacted a state law limiting the pay of council members in “general law” cities, a category that at the time covered the majority of cities in Southern California, including Bell.⁵ Shortly thereafter, Rizzo proposed a special election on a measure converting Bell to a “charter city.”⁶ A mere 400 voters, approximately 1.1% of the city’s population, voted in this election.

The change, which was advertised as a way to provide the city with greater local control, also allowed the City Council to circumvent the new state salary caps.⁷ Soon after the election,

¹ Jeff Gottlieb and Ruben Vives, *Is a City Manager Worth \$800,000 (“City Manager”)*, L.A. Times, (July 15, 2010), <http://articles.latimes.com/2010/jul/15/local/la-me-bell-salary-20100715>.

² *Id.* at 4.

³ *Id.* at 3.

⁴ *Id.* at 1.

⁵ Jeff Gottlieb, *Bell council used little-noticed ballot measure to skirt state salary limits (“Ballot Measure”)*, L.A. Times (July 23, 2010), articles.latimes.com/2010/jul/23/local/la-me-0723-bell-charter-20100723, at 1.

⁶ John Chiang, *City of Bell Audit Report Administrative and Internal Accounting Controls (“Controller’s Report”)*, (Office of the Controller for the State of California, September 2010), at 1.

⁷ Gottlieb, *Ballot Measure*, *supra*, at 2.

Rizzo approved significant salary increases for Bell Councilmembers, in the form of compensation for no-show committees. Typically, councilmembers in a city of Bell's size are part-time officials earning between \$10,000 and \$12,000 per year.⁸ Bell's City Councilmembers under the Rizzo regime, by contrast, received at least \$96,996 annually.⁹ These huge salaries bought Rizzo the silence and tacit approval of the Council, giving him "complete control and discretion over how city funds were used."¹⁰

Unfortunately, the excessive salaries of Rizzo and his staff were just the tip of the iceberg. The employment contracts that Rizzo wrote for himself and other administrative staff included extremely high numbers of paid holiday, sick, and vacation days, all of which were cashed out at his discretion.¹¹ When added to his already high salary, Rizzo's compensation package in 2010 entitled him to over \$1.5 million. Compensation for Spaccia and Adams would have come to roughly \$850,000 and \$770,000, respectively.¹² Spaccia alone was entitled to 26 weeks of vacation and sick time each year, essentially boosting her salary by 50%.¹³

In fact, if Rizzo's crimes had not been uncovered, he would have retired as the highest paid public servant in the California Public Employees Retirement System (CalPERS), with payments around \$650,000 annually. Angela Spaccia would have been set to receive roughly \$250,000 per year from CalPERS.¹⁴ Thus, had they succeeded in implementing their custom-made pension plans, Spaccia and Rizzo would have been entitled to over \$15.5 million in pension benefits from the city of Bell.¹⁵

Rizzo also used millions in Bell public funds to provide loans to friends and colleagues and to improperly purchase property. During his tenure, Rizzo gave out loans, ranging from \$1,000 to \$130,000, to 50 public officials. As these loans appear to have been made for purely private purposes, the California State Controller's Office (SCO) in its audit after the scandal deemed them an illegal gift of public funds.¹⁶ Between 2002 and 2010,

⁸ Gottlieb and Vives, *City Manager*, supra, at 3.

⁹ Gottlieb, *Ballot Measure*, supra, at 1.

¹⁰ Chiang, *Controller's Report*, supra, at 4.

¹¹ *Id.* at 12.

¹² Leonard, Blankstein and Gottlieb, *In e-mails, Bell official discussed fat salaries ("Fat salaries")*, (February 14, 2011), <http://articles.latimes.com/2011/feb/14/local/la-me-bell-emails-20110215>.

¹³ Corina Knoll and Kate Mather, *Former Bell second-in-command gets 11 years in prison for corruption ("Second-in-command")*, L.A. Times (April 10, 2014), <http://articles.latimes.com/2014/apr/10/local/la-me-spaccia-sentencing-20140411>, at 3.

¹⁴ Rizzo's total pension would have totaled \$1 million per year when taking into account his city pension. Following their arrests, Rizzo's and Spaccia's pensions were slashed to \$50,000 and \$43,000, respectively. The current highest paid CalPERS recipient, a former Vernon city administrator, was also convicted of public corruption. See Ruben Vives, *Calpers Cutting Top-end Pension Benefits ("Calpers")*, L.A. Times (August 9, 2011), <http://articles.latimes.com/2011/aug/09/local/la-me-pension-rollbacks-20110809>, at 1.

¹⁵ Knoll and Mather, *Second-in-command*, supra, at 3.

¹⁶ Chiang, *Controller's Report*, supra, at 6.

approximately \$1.5 million in loans were distributed by Rizzo, including, to cite just one example, a \$300,000 loan to a local business made without the knowledge or consent of the City Council. Moreover, Rizzo authorized the purchase of a plot of land owned by the former mayor of Bell for \$4.8 million, with no documentation of the purpose of the purchase or cost analysis to justify its cost.¹⁷

Thus, in its post-scandal audit, the SCO noted: “There was no ordinance or written policy authorizing this loan practice [and] the loans were made at the sole discretion of the former [City Manager]. This leads to questions about possible favoritism . . . and conflict-of-interest by those individuals (including members of the City Council) who received the loans.”¹⁸ These are merely two examples of how Rizzo blatantly exploited the lack of any meaningful oversight in Bell to misappropriate public funds.

Crucially, as Rizzo’s abuse of Bell’s public funds went on, the city could not shoulder its new and growing financial obligations with existing tax revenue. Rizzo thus employed inventive, and highly suspect, tactics to drum up cash. Rizzo encouraged the police to dedicate the majority of their time to actions that generated revenue, such as impounding cars: “‘There were single officers impounding eight cars a day,’ [said Bell Police Sergeant Art Jimenez], ‘It was out of control.’”¹⁹ In a city where an estimated half of residents are immigrants, few had the legal status or financial ability to fight the seizures in court, and thus simply paid the \$300 fine.²⁰

Under Rizzo’s supervision, the City also repeatedly increased business license taxes. Between 2000 and 2010, the tax increased by 50%, amounting to millions in additional revenue.²¹ Absent any documentation justifying these increases, the SCO determined that the increases were solely for the purpose of generating revenue, which is expressly prohibited under Bell Municipal Code § 5.04.020.

Finally, in 2007, Bell’s City Council adopted a series of resolutions that nearly doubled the assessment charges levied to pay for the city’s various utilities.²² This amounted to an additional \$4,742,340 collected from local businesses between FY 2007-2008 and FY 2009-2010. The SCO determined that \$1,143,618, or 24% of the additional funds, went to pay Rizzo and Spaccia’s salaries with “no relation to services provided.”²³

¹⁷ Id. at 7-8.

¹⁸ Id. at 6.

¹⁹ Christopher Goffard, *How Bell hit bottom*, L.A. Times, (December 28, 2010), <http://articles.latimes.com/2010/dec/28/local/la-me-bell-origins-20101228>.

²⁰ Goffard, *How Bell hit bottom*, *supra*. At 3.

²¹ Chiang, *Controller’s Report*, *supra*, at 12.

²² Said utilities are: Sanitation and Sewerage System District, Refuse Collection District, Recycling and Integrated Waste Management District, and the Landscape and Lighting District.

²³ Chiang, *Controller’s Report*, *supra*, at 12-13.

Robert Rizzo was arrested on September 22, 2010 on charges brought by the LA County District Attorney's Office. Then-mayor and Councilmember Oscar Hernandez, then-City Councilmembers Teresa Jacobo, Luis Artiga and George Mirabal, former Councilmembers George Cole and Victor Bello, and Assistant City Manager Angela Spaccia also were arrested that same day.²⁴

Rizzo was ultimately charged with 53 criminal counts, including misappropriation of public funds and falsifying public records to keep his lucrative salary under wraps. Rizzo also faced 69 counts of federal tax fraud. After pleading guilty to the state charges and pleading no contest to the federal charges, Rizzo was sentenced on the state charges to 12 years in prison and \$8.8 million in restitution, and on the federal charges to 33 months in federal prison and \$256,000 in restitution.²⁵

Spaccia was sentenced to 11 years and eight months in prison and ordered to pay \$8 million in restitution for her part in the Bell scandal.²⁶ The other defendants were also convicted, with the exception of Luis Artiga, who was acquitted. Teresa Jacobo was sentenced to two years in state prison and ordered to pay \$242,000 in restitution to Bell.²⁷ Victor Bello, George Mirabal, and Oscar Hernandez were all sentenced to one year in county jail and five years' probation.²⁸ George Cole was sentenced to 180 days of home confinement.

²⁴ Jeff Gottlieb, Ruben Vives and Jack Leonard, *Bell leaders hauled off in cuffs*, L.A. Times, (September 22, 2010), <http://articles.latimes.com/2010/sep/22/local/la-me-bell-arrest-20100922>.

²⁵ Jeff Gottlieb, *Bell corruption: Rizzo gets 33 months for tax fraud*, L.A. Times (April 14, 2014), <http://articles.latimes.com/2014/apr/14/local/la-me-ln-rizzo-prison-tax-fraud-20140414>, at 1.

²⁶ Knoll and Mather, *Second-in-command*, *supra*, at 1.

²⁷ Corina Knoll, *Former Bell Councilwoman Teresa Jacobo gets two-year prison sentence*, L.A. Times, (July 25, 2014), <http://www.latimes.com/local/la-me-bell-sentence-20140726-story.html>.

²⁸ Linda Deutsch, *Last ex-city official sentenced in corruption case*, AP, (August 1, 2014), <http://bigstory.ap.org/article/last-defendant-sentenced-bell-corruption-case>.

III. REFORMING BELL

After the scandal, a new administration led the effort to put in place numerous integrity reforms to strengthen Bell's defenses against the sort of corruption practiced by Rizzo and his co-conspirators. It should be noted that the new administration had an enormous task ahead of it to turn Bell around in a number of different ways, and that new integrity measures were not necessarily at the top of the list. Bell was facing a fiscal emergency resulting from Rizzo's depletion of Bell's treasury and his actions in entering into many poor financial deals for the City. Bell was also a party to numerous lawsuits, and had severe governance problems in those early days because of the resignations/firings following the scandal. This makes it all the more impressive that Bell managed to tackle integrity reforms in the way that it has, and CAPI commends Bell for its significant efforts in this area.

It is also true that the egregious conduct by Rizzo was not merely unethical but was criminal, and that Rizzo may have attempted to fleece the city of Bell even if strict anti-corruption measures were in place. He might even have succeeded. But ethics and anti-corruption provisions are not just for the clearly corrupt, though the hope is that strict measures will at least slow those officials down, limit the damage from their actions, and/or speed detection of their wrongdoing. Nor are such measures primarily for the truly honest civil servants who would never take advantage of the public trust, no matter the temptations put before them.

Ethics and anti-corruption measures are primarily for the vast majority of public officials who are neither inherently corrupt nor incorruptible, but instead are somewhere in the middle: namely, if strict expectations for ethical behavior are made clear and are enforced, and opportunities for corruption are limited, this middle group will behave with integrity. Whether Rizzo and/or some of his coconspirators would have been thwarted by stricter measures is, of course, mere speculation at this point. Nonetheless, we believe that a strong integrity system is vital to a city's efforts to limit corruption opportunities, and to provide a support system for that majority of public servants who will behave honorably if given clear guidance.

In this report, CAPI considers Bell's post-scandal reforms and, where appropriate, suggests additional measures designed to increase governmental integrity.²⁹ We focused on three areas, each of which is critical to a local government system with a high level of integrity: Accountability, Oversight, and Transparency.

²⁹ We do not address how the reform measures enacted have been implemented, *i.e.* whether Bell officials and employees are properly following the integrity measures that are technically in place, as that is beyond the scope of this report.

ACCOUNTABILITY

The public servants of Bell, like those of all governments, should be accountable for their actions to the people they serve. Accountability encompasses setting a culture of integrity in government that justifies high expectations from the public, and ensuring through the relevant rules and regulations that public officials are held to those standards. Accountability discourages corruption and enhances integrity by setting a high but realistic standard for public officials and by exposing situations where those expectations are not met.

After the Rizzo scandal, Bell made some important changes in the Accountability area. CAPI acknowledges these positive steps, and provides suggestions for additional improvements.

A. Ethics Codes

One way in which governments establish an integrity culture is through the use of codes of conduct for their officials and employees. Bell currently appears to have two different ethical codes, one for elected officials (*i.e.*, City Councilmembers), and one for employees. Such codes of conduct are an important part of a city's ethics plan. These codes should set concrete expectations for the behavior of city officials and employees, inform officials, employees, and the public as to what those expectations will be, and describe clear enforcement procedures in the case of a breach of the code's provisions.

Bell's more comprehensive code is called the Personal Code of Conduct for Members of the City Council ("Council Code"), which all councilpersons must sign.³⁰ The Council Code requires Councilmembers to act in the public interest, comply with all pertinent legal requirements, disclose suspected corruption, avoid – and disclose in writing – any conflicts of interest, refrain from using government resources for personal purposes, and refrain from accepting gifts and favors that might compromise the councilmember's independence. The Council Code also indicates that ethics standards should be included in orientation for city council candidates. The Council Code is to be reaffirmed annually.

Bell also has an employee code of ethics, which presumably is to be signed by city employees ("Employee Code"). The Employee Code requires city employees to uphold city policies, make unbiased decisions, act with honesty and integrity, advocate for the public trust, refrain from using city resources or the employee's position for personal gain, and avoid conflicts of interest.³¹

³⁰ There is a copy of the Council Code on Bell's website, which all current councilmembers have signed. We have been informed, however, that this Council Code may have been superseded by another ethics code applicable to councilmembers. See Bell Council Code: <http://www.cityofbell.org/?NavID=193>.

³¹ See Bell Employee Code of Ethics: <http://www.cityofbell.org/home/showdocument?id=3234>.

B. Bell's Policy for Fraudulent or Unethical Behavior

During CAPI's research for this paper, we were informed that Bell has been working on a new provision entitled the "Policy for Fraudulent or Unethical Behavior" (the "Policy"). If enacted as currently planned (according to Bell's current City Manager), the Policy will cover all employees, management, elected officials, volunteers, vendors, and contractors for the city of Bell.

The Policy will provide examples of fraud, waste, abuse of position, and ethical misconduct that constitute violations. It will provide disciplinary consequences ranging from dismissal to sanctions to prosecution by the relevant authorities. The Policy as proposed also sets forth procedures for implementing the Policy, including the creation of an Anti-Fraud Committee (to be comprised of the City Manager, the Human Resources Analyst, and the Chief of Police) to hear and oversee the investigation of complaints, and it provides complainants under the policy with protection from adverse employment action.

Finally, the Policy will require all persons under its jurisdiction (all employees, management, elected officials, volunteers, vendors and contractors) to affirmatively report any suspected violation of the Policy, and states that failure to do so is itself a violation subjecting that individual to discipline.

At the time of this report, our understanding is that the Policy is to be considered by the Bell City Council for enactment in the coming weeks. If the Policy is enacted in its current form, it is yet another significant step forward for Bell in ethics and anti-corruption reform, and it will render unnecessary some of our suggestions below. We leave all of our recommendations in place for now, however, pending confirmation that the Policy has been enacted in its current form and is being utilized.

C. Substantive Laws and Regulations

Many different laws and regulations govern the conduct of Bell officials in addition to the policies described above. Bell has enacted some of its own provisions, and California law supplies many more.

In terms of Bell-specific laws, Bell operates under a charter (the "Charter"), which covers various aspects of city operations. Bell also has a Municipal Code of local laws (the "Municipal Code"), and a Manual of Procedural Guidelines ("Procedures Manual"), which covers, among other things, procurement procedures. Each of these documents has provisions relating to the conduct of Bell's officials that are discussed below.

We note one caveat, however, which is that Bell appears to have passed two resolutions recently that may in upcoming months bear on the substantive laws discussed below: the first resolution purportedly established a charter review committee to study and recommend amendments to the Charter to address, among other things, compensation of Bell officials, and “measures to control public corruption and promote ethics and integrity in public officers and employees.”³²

Bell also passed a resolution calling an election for March 2015 to consider proposed amendments to the Charter concerning city council compensation, and additional restrictions on Bell officials and employees with respect to financial conflicts of interest.³³ It is unclear, however, whether these resolutions actually resulted in the formation of a review committee, or the drafting of formal proposed amendments to the Charter.

In any case, because these provisions have not yet been added to the Charter, we do not evaluate them further except to say that the limitations on compensation and conflicts of interest described in the proposed charter amendments would be a positive addition to Bell’s anti-corruption measures.

California’s Government Code, to which Bell officials must adhere where applicable, contains numerous provisions related to, among other things, conflicts of interest, campaign finance regulations, and required financial disclosures.³⁴

D. Suggestions for Improvement

1. One-Stop Shopping for Ethics Requirements

CAPI’s first recommendation for improving Bell’s Accountability mechanisms is a structural one. Simply, there are too many different sources of the many important laws and regulations and policies that govern Bell’s public officials and employees in terms of dealing with conflicts of interest and other ethical issues. And many of these governing documents apply to different groups of individuals. Accordingly, it is difficult to determine what provisions exist, and which ones apply to which groups.³⁵ This is likely to cause confusion

³² City of Bell, California, Resolution No. 2014-45.

³³ City of Bell, California, Resolution No. 2014-60.

³⁴ California’s Fair Political Practices Commission has a compilation of relevant state laws, available at [http://www.fppc.ca.gov/Act/2015/2015_Act_\(FINAL_Highlighted\).pdf](http://www.fppc.ca.gov/Act/2015/2015_Act_(FINAL_Highlighted).pdf).

³⁵ For example, the Council Code applies only to elected officials. The Employee Code appears to apply to all city employees. The CA Government Code sections apply to certain designated officials, including elected officials and some high-level appointed officials such as city managers, city attorneys, and city treasurers. (CA Gov’t Code § 87200). Bell’s adopted Conflict of Interest Code (discussed below) appears to apply to a larger group of employees, but it is not clear whether it applies to all employees. (Bell Resolution No. 2013-48). The Policy for Fraudulent or Unethical Behavior applies to all relevant groups, but is not yet in force. Clarity on

among public officials and employees about what provisions apply to them. This also means that it is extremely difficult for the citizens of Bell to figure out what standards apply to their public officials to protect them and their city from corruption.

Moreover, many of the provisions are written in a legalistic fashion that is not easily understood by laypersons. One of the most important purposes of a conflict of interest code is to make it easy for public officials and employees to adhere to sensible ethics standards, as the vast majority of them genuinely want to do.

Accordingly, CAPI suggests that Bell consolidate the various ethical requirements into one easy-to-read document to make it simpler for officials and relevant employees to understand the provisions. Because the public should also be kept informed about the rules that govern their officials, this document should be posted on Bell's website, along with the cited provisions, under a link on the home page making obvious what the document is, such as "Ethical Requirements for Bell Public Officials and Employees." Clear requirements make it easier for officials to comply, and easier for the public and a city watchdog to check such compliance, without having to research and read numerous, and somewhat complicated, sources.

Each provision referenced in the document should contain the appropriate citation to its authority and a link to the cited provision. For example, a section about restrictions on gifts would quote and cite: Section 8.1 of Bell's Conflict of Interest Code, "Prohibition on Receipt of Gifts in Excess of \$440;" Paragraph 11 of the Bell Council Code, "Gifts and Favors;" and "Gift Limits" from state law provisions,³⁶ giving clear guidance about which provisions apply to which groups (*i.e.* elected officials, all public officials, employees, etc.).

CAPI also recommends putting together a one-page synopsis of the most important provisions (with citations to the more detailed listings) for distribution and posting in conspicuous places (like city hall) and on the website.³⁷

these issues is essential so that the people subject to the provisions (as well as the public) understand what is being required of them.

³⁶ California Code of Regulations § 18730; California Gov't Code § 89503.

³⁷ For an example of such a one-pager, see Mark Davies, *A Practical Approach to Establishing and Maintaining A Values-Based Conflicts of Interest Compliance System (Practical Approach)*, at 26, available at https://partner.hpdnyc.org/whalecom81b846a8d7ea6a1bb1b6bf/whalecom0/html/conflicts/downloads/pdf2/international/DaviesArticle_final.pdf?epi-content=GENERIC.

2. Compensation of Appointed Officials and Employees

As noted above, there may be changes coming to the Charter pursuant to two recent Resolutions.³⁸ Until the Charter is legally changed, however, the following recommendations apply.

The Bell Charter currently limits compensation of City Councilmembers in terms of their service “as a council member” to an amount not to exceed that received by council members in general law cities of similar population under California Law.³⁹ The Charter does not, however, contain any limits on the compensation of the Chief Administrative Officer (“City Manager”); it provides only that the City Manager be compensated commensurate with his/her responsibilities.⁴⁰ Nor are any limits provided for other high-level city positions.⁴¹

Similarly, currently there is no prohibition in Bell’s Charter (or other applicable laws such as the Municipal Code) against compensating the City Manager and/or City Councilmembers for their work for Bell Committees, Commissions, and Boards. CAPI suggests – as appears to be already under consideration – that this should be changed or at least clarified; indeed, the practice of the city paying for its already-compensated officials to sit on these bodies resulted in a significant part of the pay inflation taken advantage of by Rizzo and his co-conspirators. The failure to prohibit or at least control the payment for board service also led during the Bell scandal to other governance problems beyond pay inflation, such as the reported practice of convening and then almost immediately adjourning meetings merely so that payment for attendance would be made. Such practices waste time and are detrimental to city functioning.⁴²

CAPI’s recommendations in this area are that Bell follow through with its apparent intention to amend the Charter to make changes as to compensation provided to City Councilmembers for sitting on boards and commissions, and to provide at least some baseline limits on City Manager compensation (and that of other non-elected city officials).⁴³

³⁸ City of Bell, California, Resolutions 2014-45, 2014-60.

³⁹ See Bell City Charter, § 502.

⁴⁰ The City Manager’s employment, while “at will” is governed by a contract that was presumably negotiated. The contract for the current City Manager sets his salary amount. See Bell City Charter, § 603.

⁴¹ One Bell official for whom a compensation limit should be considered is the City Attorney. It is our understanding that the City Attorney in Bell is a private attorney who bills Bell for services rendered, as opposed to a full-time city employee with a set salary. Given that this structure could lead to high bills for Bell, we recommend that a cap on City Attorney compensation be considered, or, alternatively, that Bell consider hiring a full-time city attorney with a set salary.

⁴² Pursuant to the Charter, it appears that the seats on appointed boards and commissions are intended for voters, not for city officials. See Bell City Charter, § 802.

⁴³ For example, the City Manager’s compensation could be tied to that of City Managers in comparable cities, similar to the guidelines for City Council salaries. (The provision could allow for deviance from the salary

3. Ethics Code Recommendations

Bell's ethics codes are particularly important as the most visible demonstration of Bell's commitment to integrity in government. CAPI's first recommendation is that Bell's codes be broadened to include more than elected officials and city employees. Currently, the Council Code covers only sitting city councilmembers, and the Employee Code covers employees only. Neither code on its face covers appointed city officials, such as citizens who sit on boards, commissions, and committees with decision making authority, even though such officials are covered by the state laws and Bell's Conflicts Code.

In a system where members of such bodies hold considerable power over municipal decision making, these appointed city officials should be covered by the ethical codes. Moreover, the Council Code is broader than the Employee Code, and includes, for example, gift provisions, a requirement of training as to the ethical standards, and a requirement that the code be annually reaffirmed. There appears to be no reason that these strictures should not apply to employees of the city as well. At minimum, appointed city officials with decision making authority, such as the City Manager and other high-level administrative employees, should be covered by the stricter code currently covering only city councilmembers.

CAPI therefore advises the adoption of a single Ethics Code (the "Ethics Code") that covers all city employees and public officials, elected and appointed, although it should contain language making clear that appointed officials who serve on boards, commissions, or committees are covered only when acting in their official capacities. The Ethics Code should be based on the current Council Code, although of course those provisions that apply only to some city officials/employees (such as the provision concerning the conduct of public meetings) should be expressly limited to the appropriate groups.

CAPI also suggests adding certain other provisions to the Ethics Code. First, the Ethics Code should include an affirmative obligation to report suspected violations of the Ethics Code to the appropriate entity. The current disclosure requirement in the Council Code is limited to disclosure of corruption, abuse, fraud, bribery, or other violation of the law; this description does not reach some important conduct covered by the Ethics Code, such as non-criminal conflict-of-interest provisions.⁴⁴ This obligation should come with an enforcement provision such that anyone failing to affirmatively report is him/herself subject to discipline. Second, Bell should consider an enforcement provision for the Ethics Code as a whole. Currently, while the codes provide valuable guidance, they have no teeth without an independent enforcement mechanism. Such a provision could state that any violation of the Ethics Code,

limitation suggested above in extraordinary cases with a unanimous vote of the City Council and disclosure of the proposed compensation to the public with provision for public comment prior to adoption).

⁴⁴ Council Code ¶ 9.

in addition to any criminal or civil penalties provided by federal, state or local law, may lead to censure by the City Council following an appropriate investigation.⁴⁵

Again, if the Policy for Fraudulent or Unethical Behavior described above is passed in its current incarnation, many of these issues will be covered. Specifically, all relevant parties are within the scope of the Policy, it announces Bell’s commitment to the “highest standards of moral and ethical behavior,” and requires all applicable parties to report any instances of violating the Policy. If the Policy is enacted as currently drafted, CAPI suggests working to consolidate these various ethical code-like documents into one Ethics Code to clarify the applicable obligations and procedures.

4. Conflicts of Interest Code

Bell did not create its own freestanding Conflicts of Interest Code, but has adopted a code (the “COI Code”) created by a regulation of the California Fair Political Practices Commission (“FPPC”).⁴⁶ The COI Code, which applies to public officials and designated employees, contains economic disclosure requirements, and provides certain delineated restrictions on the receipt of honoraria, gifts, and personal loans.⁴⁷ The COI Code disqualifies designated employees from participating in decisions before them if they have a conflict, and provides parameters for what constitutes a conflict. The COI Code has an enforcement provision noting that violations of the Code are subject to all sanctions (administrative, criminal, and civil) described in California Gov’t Code §§ 81000-91014.

In addition to the COI Code, Bell officials, like local officials statewide, are subject to other applicable California state laws, which specifically impose certain integrity-related provisions on Bell’s elected officials and some appointed officials (including the City Manager, City Attorney, and City Treasurer).⁴⁸ Relevant provisions of the California Government Code involve campaign finance laws, lobbying restrictions, and required financial disclosures.⁴⁹ Local officials are also subject to post-governmental employment restrictions for one year,

⁴⁵ For examples of such provisions, see the City of La Mesa Ethics Policy and the City of San Jose Censure Policy, available online at www.ilsg.org/trust. For guidance on the drafting of ethics codes generally, see Davies, *Practical Approach*, *supra*. See also Institute for Local Self Government, *Developing a Local Agency Ethics Code: A Process-Oriented Guide*, by the Institute for Local Self Government, 2003, http://www.ca-ilg.org/sites/main/files/fileattachments/resources__20426.Complete_Developing_Local_Agency_Ethics_Code_Guide.pdf.

⁴⁶ In Resolution No. 2013-48, Bell adopted the code set out at California Code of Regulations § 18730 (COI Code).

⁴⁷ See Bell Resolution No. 2013-48, Appendix A.

⁴⁸ CA Gov’t Code §§ 87105, 87200.

⁴⁹ The FPPC’s compilation of relevant state laws, available at [http://www.fppc.ca.gov/Act/2015/2015_Act_\(FINAL_Highlighted\).pdf](http://www.fppc.ca.gov/Act/2015/2015_Act_(FINAL_Highlighted).pdf), contains these provisions.

and are prohibited from participating in any matter involving a potential employer with whom the official is negotiating.⁵⁰

Violations of these provisions, like violations of the COI Code, are vetted and adjudicated by the FPPC. The FPPC has detailed procedures for taking and investigating complaints (including issuing subpoenas and interviewing witnesses).⁵¹ If a violation is found, the FPPC has the power to hold administrative hearings, levy fines, bring civil lawsuits, and refer the matter for criminal prosecution, where appropriate.⁵²

In addition to the state laws, a few additional general conflicts provisions appear in Bell's Procedures Manual, though they apply only to Bell's legislative bodies (the City Council and associated boards, commissions, and committees).⁵³ For instance, City Councilmembers are obligated to publicly disclose any extra-meeting contacts they have that are relevant to any decision before the Council.⁵⁴ The Procedures Manual also states that any Councilmember prevented from voting because of a conflict under state law must explain the reason for abstention on the record and then must leave the room and refrain from any participation in the matter except as a member of the public during the public comment period.⁵⁵ Legislative body members are also prohibited from having a financial interest in city contracts.⁵⁶ One area in which Bell appears to go beyond the requirements of state law is in permitting a member of a legislative body to refrain from participating in a discussion before the body if the member chooses to do so, even where there is not a legal conflict, although this provision is tempered by previous language stating that members are "discouraged" from abstaining from voting "for reasons other than a legally-disqualifying, financial conflict[s] of interest"⁵⁷ Bell also has in its Charter an anti-nepotism provision.⁵⁸

Taken as a whole, the California state laws and regulations coupled with the additional Bell provisions cover most of the necessary bases of accountability with respect to laws on conflicts of interest and financial disclosures. A few items that Bell should consider adding to improve its substantive ethics requirements include:

- Solicitation of Subordinates: prohibiting any officials/employees from soliciting their subordinates to make contributions of any kind, or to do any political activity.

⁵⁰ CA Gov't Code § 87406.3: CA Gov't Code § 87407.

⁵¹ California Fair Political Practices Commission, *Homepage* (last accessed February 11, 2015), <http://www.fppc.ca.gov/>.

⁵² California Fair Political Practices Commission, *Enforcement*, (last accessed February 12, 2015), <http://www.fppc.ca.gov/index.php?id=42>.

⁵³ See Bell Procedures Manual § 9.7.

⁵⁴ Bell Procedures Manual § 8.4(c).

⁵⁵ Bell Procedures Manual § 9.7.

⁵⁶ Bell Procedures Manual § 9.8.

⁵⁷ Bell Procedures Manual § 11.6 (c).

⁵⁸ Bell Charter § 710.

- Inducement of Others: prohibiting officials/employees from causing or helping another officer/employee to violate the conflicts or ethics codes.⁵⁹ A prohibition on inducing others to violate the conflicts and ethics codes is particularly meaningful because it captures conduct by private parties, such as companies doing business with the city.
- Applicant Disclosure: requiring applicants for city contracts to file disclosures where they have identified a potential conflict of interest. California law provides for Transactional Disclosure, requiring officials to disclose situations where they have identified a potential conflict.⁶⁰ Applicant disclosure acts as a check on transactional disclosure by making officials aware of possible conflicts, and also imposes an important obligation on private entities to act ethically. Applicant disclosures should include specification of the official or relative with the potentially problematic conflict.

5. Training

Ethics training is required for all compensated local public officials pursuant to California law and is referenced as required for City Council candidates as part of their orientation.⁶¹ It is unclear, however, from the publicly available documents that CAPI reviewed what training is actually undertaken for Bell officials.

CAPI strongly recommends that Bell provide training to all new elected officials and new employees as is required by California law. The City Attorney or other relevant official should be engaged to create an online training program and any necessary related materials,⁶² and the City Clerk, the City Attorney, or another official should ensure that all employees complete training as required. Certification of such training should be part of the annual report to the City Council described further in the next section.

⁵⁹ For more information on these restrictions and a fuller explanation of conflict of interest provisions and ethics enforcement generally, see Davies, *Practical Approaches*, supra, and the Model Code at cityethics.org, found at <http://www.cityethics.org/content/model-code-introduction>.

⁶⁰ CA Gov't Code § 87105; see also Council Code ¶ 10.

⁶¹ See CA Gov't Code § 53235; Council Code ¶ 19.

⁶² California law provides significant guidance on what should be included in ethics training programs (see CA Gov't Code § 18371), and the FPPC website provides free online training that cities can use to meet the requirements, see <http://www.fppc.ca.gov/index.php?id=477>. See also Institute for Local Self-Government, which has various training resource materials, at www.ca-ilg.org.

OVERSIGHT

Oversight, which encompasses both a mechanism to check on officials' actions to ensure that no ethical breaches are occurring, and enforcement of the relevant laws and rules, is the second vital component in a government integrity system. Meaningful oversight is important for every government, but is a particular challenge in a city of Bell's size because smaller municipalities are unlikely to have (or to be able to afford) their own oversight/enforcement agencies.

The risk, which became unfortunate reality in Bell, is that the city slips under the radar of those entities at the county, state, or federal level ostensibly charged with enforcing anti-corruption statutes and ethics regulations, until and unless the corrupt behavior reaches a point where significant damage is done.

Broadly speaking, there are two categories of oversight that combine to form a meaningful integrity system: ethics oversight and corruption oversight. On the ethics oversight side, some entity needs to be responsible for enforcing the conflict of interest code by investigating potential violations and imposing penalties for noncompliance, reviewing required disclosures and enforcing noncompliance with those rules, providing compliance advice, and doing ethics training. In the ideal circumstance, this entity will be an independent board or commission with its own enforcement powers.

Corruption oversight in narrow terms requires some entity to guard against fraud and other forms of corruption by city officials and employees. Ideally, this entity, which should have law enforcement powers, will also look to ferret out mismanagement and waste within government, and corruption and fraud by city contractors and beneficiaries of city services as well. In some large and medium-sized cities, these functions are assigned to a freestanding Inspector General office with a professional staff of lawyers, investigators, and auditors. The first and largest example of this model is New York City's Department of Investigation, established more than 140 years ago. Some, though few, smaller cities also form Inspector General offices, such as Mount Vernon in New York, a mayor-council city of nearly 70,000.⁶³

In Bell, corruption oversight has been left to prosecutors and their law enforcement agency partners; the relevant offices are the Los Angeles County District Attorney's Office, the U.S. Attorney's Office for the Central District of California, and the California Attorney General's

⁶³ Mount Vernon's population was 67,292 as of the 2010 Census - United States Census Bureau, American Fact Finder, (search term "Mount Vernon, New York"), as of 2010 census, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk.:](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk.) <http://cmvny.com/departments/inspector-general/>.

Office.⁶⁴ The benefit of these offices being responsible for corruption oversight in Bell is that they have a full range of law enforcement powers, significant experience, and ample resources. The downside is that their jurisdiction covers vastly more than just the small city of Bell, meaning that corruption in Bell is unlikely to come to the attention of law enforcement unless it has reached the point of being a major scandal.

Indeed, this is what happened in Bell in 2010; because no one was actively looking for corruption or fraud there, it took a newspaper investigation to draw law enforcement scrutiny. In addition, these offices are unlikely to employ proactive measures to uncover corruption; they are much more reactive in nature. As a result, in a situation where there is no whistleblower or complaining citizen, corruption is much less likely to be discovered.

A. Internal Oversight in Bell

While Bell had virtually no meaningful self-oversight on the ethics or corruption fronts prior to the Rizzo scandal, it does have some relevant powers that could be utilized in this manner. Generally speaking, the Bell Charter gives the City Council legal oversight authority for all city matters. The City Council possesses hiring, firing, and oversight authority over the City Manager and other major city employees.⁶⁵ The City Council is in charge of all actions resulting in payment by the city, and must approve all contracts, and the City's budget.⁶⁶ In terms of day-to-day financial affairs, the Charter provides that an unnamed city employee under the supervision of the City Manager should compile a monthly statement of all disbursements, to be provided to the City Council.⁶⁷

The Bell Charter does not have an enforcement mechanism built into it. However, the City Council has the power to enforce all of Bell's ordinances and the Bell Code.⁶⁸ The City Council may issue subpoenas, and compel the production of evidence and the testimony of witnesses under oath.⁶⁹ In practice, however, it does not appear that the City Council has ever played the role of enforcing potential ethical breaches or investigating fraud or corruption.

⁶⁴ An oversight component not addressed in this report in any detail is fiscal oversight. Bell employs an accounting firm to do an annual audit, and the California State Controller's Office has some oversight functions as well. The Controller's Office conducted an audit and examination of Bell's fiscal procedures after the Rizzo scandal and issued a lengthy report of recommended improvements. See Chiang, *Controller's Report*, supra.

⁶⁵ See Bell City Charter, §§ 600, 604.

⁶⁶ Bell Charter § 511: § 1102 et seq.

⁶⁷ Bell Charter § 706(f).

⁶⁸ Bell Charter § 515.

⁶⁹ The Procedures Manual has a procedure for publicly censuring legislative body members who violate any of Bell's laws or rules, including those dealing with ethics. This process may encompass hearings and other actions such as removal of committee assignments from the violating member. - Procedures Manual § 10.5(h); Bell City Charter § 509.

B. Ethics Oversight

In terms of ethics oversight, Bell relies on the California Fair Political Practices Commission. For the most part, this seems reasonable. The FPPC is charged with collecting and reviewing at least some of Bell’s annual financial disclosure materials, and will review and potentially investigate any complaints of ethical improprieties and/or violations of the COI Code and the Political Reform Act that it receives. Presumably the FPPC is adept at these tasks and performs them well. The challenge for a small city, however, is that, without anyone on the local level paying attention to the compliance of Bell officials specifically, violations can slip through the cracks.⁷⁰

In addition, there are some gaps in what the FPPC reviews. For example, with respect to its review of annual financial disclosures from public officials, the FPPC only receives some of the forms from Bell, for certain delineated positions.⁷¹ Bell has tried to remedy this shortcoming by passing a Resolution requiring forms from certain other employees to be filed with the City Clerk, but while the Clerk maintains the statements and makes them available for public inspection pursuant to state law, the Resolution contains no information on what if any form of review these disclosures are subjected to, or what if any penalties attach for failure to file or for the filing of incomplete or false information.⁷²

Accordingly, while CAPI endorses the continued reliance on the FPPC for review of those annual financial disclosure statements that it receives under state law and for investigation and adjudication of potential ethical breaches it obtains through referral, CAPI recommends that Bell create an Ombudsman’s office, as described further below, to fill some of the gaps in FPPC coverage and to ensure proper attention to Bell in terms of ethics enforcement.

C. Corruption Oversight

Bell should not continue to rely solely on outside law enforcement entities – which will only act when something is brought to their attention – to ensure that no corruption or fraud is occurring among its public officials. Instead, CAPI recommends the appointment of a

⁷⁰ If not for the FPPC, CAPI would recommend creation of an independent volunteer ethics board. For more information about such boards, see Mark Davies, *How to Make an Ethics Program Work*, (July 12, 2008), http://crew.3cdn.net/8db9ec6ed34ac8f114_eum6iiv5.pdf, at 1. One benefit such a board would have, in addition to its narrower and more thorough focus on Bell specifically, is to involve local Bell residents in the governance of their city, increasing civic engagement. But given the breadth of the coverage of the FPPC, and the challenges of finding enough Bell residents willing and able to serve capably and of paying for administering the board, CAPI does not make that recommendation here.

⁷¹ Pursuant to Resolution No. 2013-48, only disclosure forms for the mayor, city councilmembers, planning commissioners, city manager, city attorney and city treasurer are submitted to the FPPC. The other employees listed as “designated employees” subject to disclosures (including the Chief of Police, the City Clerk, and the Director of Finance, among others) file their statements only with the City Clerk.

⁷² See Resolution No. 2013-48, Section 4.

dedicated public servant to act as an Ombudsman⁷³ or an Inspector General. The Ombudsman must be independent, and should not be subject to dismissal except for cause and after a public hearing. We are aware that Bell is a small city with limited funds. However, it is our belief that the duties described further herein are important and substantial enough to require a dedicated public servant.

CAPI is also aware of the proposed Policy for Fraudulent or Unethical Behavior, which if implemented will provide some corruption oversight. Specifically, the Policy would set up an Anti-Fraud Committee, comprised of the City Manager, Police Chief, and Human Resources Analyst. The Policy would require all employees, elected officials, and volunteers, along with all outside consultants, contractors, and vendors doing business with Bell, to report any suspected violation of the Policy to the City Manager or the Anti-Fraud Committee, and would provide procedures for members of the public to do the same. The Policy also would permit complaints to be made anonymously, and would state that the identity of complainants will remain confidential to the extent possible. It would prohibit retaliation against any complainant, thus providing so-called whistleblower protection.

Procedurally, the proposed Policy would state that the Anti-Fraud Committee will appoint an investigator and will oversee the investigation, referring the matter to law enforcement if potential criminal activity is uncovered. If no criminal activity is suspected, the City Manager would conduct the investigation with the assistance of other appropriate Bell officials. If the subject of the investigation is the City Manager, the Committee would assign an investigator. The City Council would be kept apprised as deemed appropriate by the City Manager, and a confidential report would be issued at the end of the investigation to the City Council, City Manager, and City Attorney, with later copies to the head of the relevant department and the Human Resources Analyst.

As indicated above, the Policy if enacted as currently drafted is a very positive step in terms of Bell's efforts to address the issue of its lack of corruption oversight, and it has much to recommend it in terms of its substantive provisions as well. CAPI recommends, however, that Bell consider hiring a separate employee to serve as the primary enforcer of this policy. Placing the primary responsibility for enforcement with the City Manager position violates one of the fundamental tenants of a corruption oversight authority: namely that it have independence from the people and entities being overseen. Here, that means that the person doing corruption oversight should be independent from the individuals with decision making authority over running the city of Bell and spending its money. The City Manager is the primary person involved in running the city, and has significant authority to spend city funds, making him or her an imperfect choice for corruption oversight. An independent Ombudsman for corruption oversight is a much better choice.

⁷³ We use Ombudsman for ease of reference in the rest of this report, but the terminology is not crucial.

Duties of the Ombudsman should include:

- Receiving complaints from city employees and officials and the public about fraud, waste, and corruption in Bell, and conducting an initial review of those claims for merit.
- Acting on colorable complaints by initiating an investigation.
- Referring any cases potentially dealing with criminal conduct to the proper law enforcement authorities.
- Referring any cases dealing with violations of the Political Reform Act or Bell's COI code (adopted from FPPC regulations) to the FPPC.
- Conducting an investigation into conduct comprising a violation of Bell's regulations, utilizing where necessary the City Council's powers to subpoena documents and call witnesses.
- Referring violations of Bell's regulations to the City Council for personnel or other action as appropriate, with a recommendation as to proposed discipline.
- Directing the annual review of Bell's procedures as described below and preparing the annual report.

In order to fulfill his or her duties, the Ombudsman should have full access to city records and equipment, including computers, and the full cooperation of city staff and officials.

D. Annual Review

We also recommend that Bell undertake an annual review of its Accountability, Oversight, and Enforcement Procedures. The Ombudsman should have the primary responsibility for conducting the review and issuing a publicly available annual report.⁷⁴ This review should cover the areas listed below and should be discussed, along with the public report and any proposed actions stemming from the review and report, by the City Council at a regular meeting with input from the public.

⁷⁴ The annual report may exclude confidential information such as information about complaints or investigations into city personnel that were deemed unsubstantiated, although a nonpublic version of the report should include a listing of all complaints made to the Ombudsman.

Areas for review:

- Substantive provisions of the Ethics Code and other applicable ethical requirements.
- Ethics training materials.
- Compliance with ethics training requirements.
- Procedures for investigating complaints of unethical behavior.
- How to increase public awareness of procedures for making complaints of illegal or unethical behavior by officials/employees.
- Any concerns raised by the Auditors after the Annual Financial Audit.⁷⁵
- Review of the transparency of governing procedures.
- Review of procurement procedures and contract awards (over \$50,000) for prior year.
- Review of website to ensure information is being posted in a complete manner (*i.e.* documents are complete and legible) and in a timely fashion.
- Review of procedures whereby public accesses city documents/information.
- Review of what additional information/documents should be added to the list of what is posted on the website.

⁷⁵ Bell utilizes a private firm to perform a financial audit. CAPI proposes adding a limited number of tasks to the annual financial audit, under the oversight of the Ombudsman and the City Council, designed to minimize corruption risks. Such tasks could include, for example, a check of publicly declared compensation for all city employees against disbursements by the city for the year. Other suggestions of items to have the auditors check may come from the audit report of the State of California Controller's Office issued after the Rizzo scandal. – Chiang, *Controller's Report*, supra.

TRANSPARENCY

Transparency is the third component of a meaningful integrity system, and is critical for two reasons. First, corruption is much less likely where citizens are empowered through a robust transparency program that keeps the public adequately informed about government activities. Second, transparency features assist local governments in their efforts to ensure accountability and oversight.

A. Public Access to Information

The first, and arguably most important, goal of transparency is to increase the information available for consumption by the public. More public information creates more watchdogs to help the city root out corruption, waste, and mismanagement and to ensure ethical government. After the Rizzo scandal, the new administration undertook a major effort to add transparency in Bell by significantly increasing the amount of information available on its website, and by improving its procedures of governance to permit more public information and participation.

Bell's efforts have been largely successful; Bell now has an award winning website with a dedicated transparency section.⁷⁶ In making certain of the City's records open and available, Bell has done much to empower citizens to monitor their elected officials and city administrators in the hopes of preempting any further abuses of power.

B. Bell Website

Bell worked in conjunction with the Sunlight Foundation to enhance its website after the scandal to increase transparency.⁷⁷ The Sunlight Foundation is a nonprofit organization that advocates using technology to make governments more open and accountable.⁷⁸ The completed site earned Bell a grade of A- in the Sunlight Foundation's 2013 "Sunny Awards," the highest mark given that year.⁷⁹ In proactively seeking out and achieving these reforms, Bell has done a great deal to ensure online transparency.

⁷⁶ City of Bell, *Homepage*, (Last accessed February 11, 2015), <http://www.cityofbell.org/?NavID=1>.

⁷⁷ Sunlight Foundation, *Bell, California: Moving From Secrecy to Sunshine (Secrecy to Sunshine)*, (Last accessed February 11, 2015), <http://sunlightfoundation.com/blog/2013/03/21/bell-california-moving-from-secrecy-to-sunshine/>.

⁷⁸ Sunlight Foundation, *About*, (Last accessed January 21, 2015), <http://sunlightfoundation.com/about/>.

⁷⁹ The Sunlight Foundation commended Bell's efforts at increased transparency for (1) its enhanced online portal; (2) its use of public input; and (3) its incorporation of the City's ethnic and linguistic diversity. Points 2 and 3 fall outside the scope of this report. For further information on these points, see Sunlight Foundation, *Secrecy to Sunshine*, *supra*.

The Transparency Portal section of Bell’s website is the public-facing culmination of Bell’s effort at fostering a more open government. It is seamlessly integrated into the homepage of the municipal website, can be easily seen on all of the site’s subpages, and is available in Spanish. There is also a mobile version of the site, a useful tool for lower-income residents who often rely on smartphones to access city services.

There are a number of particularly noteworthy features of the transparency portal, including a helpful contact page that includes a place to submit questions,⁸⁰ and a link to Bell’s finance department, which publishes numerous important documents.⁸¹ The portal also includes downloadable versions of the Bell City Charter, the Municipal Code, and a directory of minutes from past meetings of the City Council and various other departments.⁸² Notably, the City Council under the Rizzo administration routinely either merely rubber-stamped questionable contracts or did not actually hold meetings that Councilmembers were paid to attend, so the accessibility of council minutes helps guard against this particular form of corruption going again unnoticed.

The Bell website provides access to the ethics codes applicable to City Councilmembers (the Council Code) and employees (the Employee Code), and the Procedures Manual. City records can now be requested online, through a fillable submission form.⁸³ The Bell site

⁸⁰ City of Bell, *Contact Us*, (Last accessed February 11, 2015), <http://www.cityofbell.org/?NavID=171>.

⁸¹ These documents include:

- Bell’s annual budget, going back three years, as a downloadable PDF; and financial audits from 2010 to 2013.
- A “City Checkbook” section which includes a downloadable PDF of a list of all checks issued by the City, on a monthly basis, dating back two years.
- Every contract with the City currently in effect, with a link to report or inquire about any missing or questionable contracts.
- An “Investments (Bonds)” page that explains the purpose of a bond and lists all seven of Bell’s outstanding debt obligations. This is of particular importance as mismanaged bonds were a significant issue in the corruption of the Rizzo administration.
- A disclosure of the City’s two lobbying efforts; its 11-month contract with lobbying firm DiMare, Van Vleck and Brown and the City’s membership in the California League of Cities.
- All interim reports conducted by, or on behalf of, the City. Crucially, this includes the City’s most recent “FY 13/14 Midyear Financial Status Review.”
- A section dedicated to the salaries of public officials and employees with a downloadable list of each employee’s current salary. It also includes a 2012 report conducted by an outside consulting firm that detailed not only current salary, but total compensation when factoring in benefits (a major source of additional income for the corrupt Rizzo administration).
- Current “Requests for Proposals” (RFP) and bids by outside vendors to do business with the City. As loans and improperly bid contracts were a major source of personal enrichment during the Rizzo administration, bringing transparency to the City’s procurement and spending processes is of particular importance.

⁸² City of Bell, Government, (Last accessed January 21, 2015), <http://www.cityofbell.org/?NavID=190>.

⁸³ City of Bell, Public Records Request Online, (Last accessed February 10, 2015), <http://www.cityofbell.org/?NavID=208>. During the course of research for this report, CAPI staff submitted a

also contains many items required by state law, including the financial/conflict-of-interest disclosure forms required of high-ranking city employees,⁸⁴ and records of all appointments to public offices by the Bell City Council.

The Bell transparency portal now publicizes the process by which permits are obtained, tax rates established, and assessment districts delineated, and includes hotlines to the relevant city departments and assessment districts. This is an important reform because this area was a central area of abuse under the Rizzo administration, when tax rates, utility assessments, and business license fees were all illegally inflated to pay off the exorbitant compensation packages of the City Council and top administrators.

Bell residents can also sign up for a system of email alerts to receive notifications about a wide range of City activities.⁸⁵

C. Assessment and Recommendations

Bell has made impressive progress in the past few years on its website and, specifically, the transparency portal. The site now includes a significant amount of information that can be accessed by the public. Indeed, in many ways, the Bell website, as suggested by the Sunlight Foundation, is a model for other cities.

There are a few ways in which Bell could improve its website even further, however. First, Bell's website has some gaps in the data collected and displayed. The most important is that the site does not have a category for ethics requirements that includes all of the relevant provisions, as explained above. The site would also benefit by a document compiling all of the different requirements into one explanatory document, and by a one-page version of the most important provisions.

In addition, while the site clearly intends to provide the agendas, minutes, and various other materials for all City Council meetings, the minutes of many past meetings are either incomplete or missing. Given the prior issues with meetings that didn't happen, or were called to order and immediately adjourned, Bell should make a greater effort to ensure that all minutes are included online. In addition, some of the Statements of Economic Interest (Form 700) are missing for current elected officials. The City Clerk (or another official designated by the City Council) should be responsible for ensuring the completeness of Bell's online document trove, and the Ombudsman's annual report should include a report

request to the Office of the City Clerk. City Clerk staff responded to our submission within the deadlines as required by law with an itemized list of all available documents requested.

⁸⁴ City of Bell, Statement of Economic Interest (Form 700), (Last accessed January 21, 2015), <http://www.cityofbell.org/?NavID=187>.

⁸⁵ City of Bell, E-Notify (Email Alerts), (Last accessed February 11, 2015), <http://www.cityofbell.org/?NavID=37>.

from the City Clerk or other official on this aspect of transparency reform, along with an assessment of whether other categories of information should be added to what is publicly available online.

It is vital that the information included on the website about Bell's policies and its financial status be accurate and up-to-date. Indeed, it would be better not to have such information available at all, than to have the mere illusion of transparency. Bell should ensure that the policies and procedures posted as applicable are actually in force, and that the information posted, particularly as it relates to Bell's governing procedures and spending, is accurate.

Second, in an age where citizens expect greater technological integration on the part of their governments, it is important that the Bell website not only makes data *available*, but also reflects the growing need for that information to be *accessible*. For example, as pointed out by the Sunlight Foundation, while Bell provides municipal spending information through its City Checkbook page, the data is in PDF format, meaning it cannot be downloaded, searched, and/or sorted.⁸⁶ This same limitation is true of other information on Bell's website. By providing information in a searchable format, the transparency portal would make it easier for citizens and watchdog groups to follow Bell's operations, generating more oversight, and, therefore, fewer episodes of corruption.

D. Bell's Transparency Efforts in City Procedures

Along with revamping its website, Bell enacted numerous transparency-related changes to its procedures. These changes are very important for two reasons. First, they matter for the same reason that Bell's website efforts matter – because transparency in procedural reforms results in more information getting to the public, leading to a more informed and more engaged citizenry. Second, procedural transparency is important for its ability to help shore up the other integrity components of accountability and oversight. For example, if the rules governing procurement, bids, resulting contracts, payments by the city on those contracts, and information about the resulting project are publicly available, interested parties (such as bidders), will get involved to hold officials accountable and to provide their own private oversight to these important processes. CAPI has examined two procedural areas in which transparency is essential if corruption is to be minimized: governing procedures and procurement.

⁸⁶ Sunlight Foundation, *Secrecy to Sunshine*, supra.

1. Governing Procedures

Bell's governing regulations are spelled out in its Procedures Manual, which lists the procedures of the City Council and other city entities such as agencies, the housing authority, and all commissions. Among other things, the Procedures Manual indicates that all City Council meetings are open to the public (except specifically described closed sessions), that agendas for such meetings are public, that there be a public comment period at meetings, that no items not on the agenda may be considered (with delineated exceptions) and that minutes – available to the public – must be kept of these meetings.⁸⁷ Legislative officials (City Councilmembers) are subject to a few additional procedures. Beyond Bell's Procedures Manual, certain provisions of state law govern how the city is to be run and how much transparency is present in those functions. The Ralph M. Brown Act applies to city governments like Bell; Bell's provisions as outlined above essentially mirror the requirements of the Brown Act.⁸⁸

Bell's governing procedures appear to be adequately transparent. Again, however, execution is important; Bell should be vigilant about ensuring that the public has adequate information about and access to the governance of the city by making sure complete agendas and minutes of meetings are posted online and that the procedures for how proceedings are to be conducted are followed.

2. Procurement Procedures

Procurement is an area where transparency is vital because of the high corruption risks inherent in a process involving the spending of public funds. Following the Rizzo scandal, Bell thoroughly revised its procurement procedures in a transparent process after public review and comment.

Bell's procurement procedures as they currently exist appear to be reasonably transparent and thorough, and appropriate for a city of its size. They cover the necessary bases in terms of disclosing which entities have authority to enter into contracts and lay out the bidding procedures, including specific procedures for single source procurement and multiple-year contracts.⁸⁹ Bell's Procedures Manual already included a provision requiring recusal of a decision maker laboring under a conflict of interest, and the Procurement Procedures add to that a waiver provision in the competitive bidding procedures in justified cases with City Council approval.⁹⁰ The Manual also provides a protest procedure that is thoroughly set out in writing.⁹¹

⁸⁷ Bell Procedures Manual §§ 5.1, 5.7, 5.9, 5.10.

⁸⁸ CA Gov't Code §§ 54950-54963.

⁸⁹ Bell Municipal Code §§ 3.12.060-3.12.090.

⁹⁰ Id. §§ 3.12.060-3.12.090, 3.12.120. Generally speaking, recusal and waiver provisions are particularly important in smaller cities, given the greater likelihood of conflicts of interest where there are fewer businesses

IV. CONCLUSION

After weathering a major scandal, Bell's post-Rizzo administration has made impressive progress in addressing the ways in which Rizzo and his coconspirators exploited the city's lack of protections against corruption. Indeed, a review of the three cornerstones of municipal integrity – Accountability, Oversight, and Transparency – reveals a concerted effort on the part of Bell to tighten ethics requirements, ensure some level of oversight, and increase transparency. Many of these efforts have been successful in strengthening Bell's ethical and anti-corruption protections. CAPI's recommendations take these efforts even further, and would provide Bell and its citizens with an even stronger system of integrity to which its public servants should be held.

Ethics and anti-corruption measures like the ones suggested in this report ensure that officials and employees are aware of what is expected of them: namely, that they act with integrity and in the best interests of their city. Such measures provide strong enforcement mechanisms, and limit the opportunities for corruption. They ensure a transparent government so that those outside government can assist in the watchdog effort, and encourage Bell's residents to participate in the running of their city. In short, stronger integrity mechanisms are a win-win proposition for Bell, as well as for small cities nationwide.

available to bid on city projects. This is not particularly a problem for Bell, given its location in the greater Los Angeles area where there should be ample bidders. Nonetheless, it is important to have these escape provisions in order to make the policy workable, as long as each instance of recusal or waiver is scrutinized by the oversight body.

⁹¹ Id. § 3.12.140.

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ACKNOWLEDGEMENTS:

Authored by Jennifer Rodgers and Jacob Watkins.

CAPI would like to thank the following individuals and organizations for their help during the research phase of this report:

- Giannina Segnini, Visiting Professor at the Columbia Journalism School
- Ana Maria Quintana, Councilwoman, Bell, California
- Douglas Willmore, City Manager, Bell, California

WHO ARE WE?

The **Center for the Advancement of Public Integrity (CAPI)** is a new anti-corruption resource center, the first and only of its kind to specialize in city and municipal governance.

As the world continues its rapid pace of urbanization, cities are fast becoming the front line in policy innovation and development. Growing urban communities worldwide have increasingly demanded higher standards of integrity from their government officials and representatives. Rising to this mounting demand, leaders at the New York City Department of Investigation partnered with Columbia Law School in 2013 to create the center.

CAPI is an independent, non-profit resource center dedicated to bolstering municipal anti-corruption research, promoting essential tools and best practices, and cultivating a professional network to share new developments and lessons learned, both online and through regular conferences.

OUR MISSION:

CAPI aims to improve the capacity of public offices and practitioners to deter, identify, and combat corruption. We work to:

- Build and support a vibrant community of leaders in the public integrity field.
- Develop tools and resources to help governments and practitioners fight corruption.
- Promote research and scholarship on important public integrity issues

To join our community and receive information about our activities and upcoming events, visit our website at www.law.columbia.edu/CAPI.

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of March, 2015. Nevertheless, CAPI cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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