



**BERKELEY PUBLIC LIBRARY
BOARD OF LIBRARY TRUSTEES**

SPECIAL MEETING

In accordance with the authority in me vested, I do hereby call the Board of Library Trustees in special session as follows:

**TUESDAY, MAY 20, 2008
4:30 P.M.
South Branch Library
1901 Russell Street, Berkeley**

AGENDA

PRELIMINARY MATTERS

- A. **Call to Order**
- B. **Public Comments** (Limited to items on this agenda only)
- C. **Approval of Agenda**

ACTION CALENDAR

- A. **Discussion of City's Supplemental Voter Survey Results and a \$26M Neighborhood Library Bond Measure for the November 4, 2008 General Municipal Election**
Recommendation: Discussion of the City's supplemental voter survey results and possible-related actions for a \$26M Neighborhood Library Bond Measure.

ADJOURNMENT

To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter, assistive-listening device or other accommodation for the meeting, please call (510) 981-6195 (voice) or (510) 548-1240 (TDD). Providing at least five (5) working days' notice prior to the meeting will help to ensure availability.

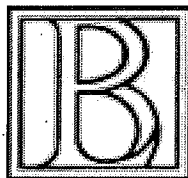
I hereby certify that the agenda for this special meeting of the Board of Library Trustees of the City of Berkeley was posted in the display cases located at 2134 Martin Luther King, Jr. Way and in front of the Central Public Library at 2090 Kittredge Street, as well as on the Berkeley Public Library's website on May 16, 2008.



Donna Corbell, Director of Library Services
Serving as Secretary to the Board of Library Trustees

For further information, please call (510) 981-6195.

Please refrain from wearing scented products at public meetings.



BERKELEY PUBLIC LIBRARY

ACTION CALENDAR

May 20, 2008

TO: Board of Library Trustees

FROM: Donna Corbeil, Director of Library Services

SUBJECT: DISCUSSION OF CITY'S SUPPLEMENTAL VOTER SURVEY RESULTS AND A \$26M NEIGHBORHOOD LIBRARY BOND MEASURE FOR THE NOVEMBER 4, 2008 GENERAL MUNICIPAL ELECTION

RECOMMENDATION

Discussion of the City's supplemental voter survey results and possible-related actions for a \$26M Neighborhood Library Bond Measure.

ATTACHMENTS

1. 2007 California Library Ballot Measures
2. May 20, 2008 City Council Action Item Report re: November 4, 2008 General Municipal Election, pages and attachments:
 - a. Page 6: Ballot Measure Schedule
 - b. Page 7: Attachment 1 - Possible Ballot Measures
 - c. Pages 10-11: Neighborhood Libraries Bond Measure Information
3. Memo re: Legality of Using City Resources for Election-Related Activity
4. Libraries Prosper with Passion, Purpose and Persuasion! (pages 10-23)
5. Providing for Knowledge, Growth, and Prosperity

2007 California Library Ballot Measures

(All local special tax library ballot measures in California require a 2/3's supermajority to pass)

San Francisco Public Library San Francisco, CA	November 6, 2007 Operating & Capital	Passed 74% Yes Vote
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Renewal of Library Preservation Fund (a set-aside for the library), which was originally approved in 1994. These funds are a property tax (.025 for each \$100 assessed) and amount to approximately 54% of the library's operating budget. In addition, it would authorize the library commission to request, and upon the mayor's recommendation the Board of Supervisors to authorize, the issuance of debt for the acquisition, construction, reconstruction, rehabilitation and / or improvement of real property and/or facilities that will be operated by the library for library purposes and for the purchase of related equipment.

Pasadena Public Library Pasadena, CA	March 6, 2007 Operating	Passed 80% Yes Vote
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Renewal of an existing tax for the library at a different rate. This was the third renewal. Originally passed in 1993 for 5 years, extended in 1997 for 10 years. Property parcel tax for single family detached or non-detached unit raised \$4.25 to \$30.52: apartment raised \$3.00 to \$20.10 and business, non-residential use raised by \$30 to \$223.40.

Sunnyvale Public Library Sunnyvale, CA	November 6, 2007 Capital	Failed 59% Yes Vote
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If approved the ballot measure would have made available \$108 million for the construction of a new Central Library building. The measure was a bond issue with a rate of \$19.52 per \$100,000 of assessed value.

Yolo County Public Library Davis, CA	November 6, 2007 Operating & Capital	Passed 73% Yes Vote
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The measure was for the Davis Branch Library to maintain the library's services, expand its collection, enlarge and modernize it's building and authorize library services in south Davis. This measure increased the parcel tax of \$42 per parcel authorized in 1989 to \$88 per parcel, and includes multiple family dwellings at \$44 per unit.

South San Francisco Public Library South San Francisco, CA	November 6, 2007 Operating	Passed 73% Yes Vote
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Measure B boosted the business license tax to \$15 per employee in order to fund the city's general services such as police, fire, streets and park maintenance and library services. This was a general tax (not a special library tax) and only required a simple majority (51%) to pass.

Monrovia Public Library Monrovia, CA	March 6, 2007 Capital	Passed 70% Yes Vote
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Measure L was for \$15.5 million to build a new central library building. Funds are being generated from proceeds of a special tax of \$62 per year per parcel.

Covina Public Library Covina, CA	March 6, 2007 Operating	Failed 36% Yes Vote
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The measure was for renewal of a general city utility users tax, which had passed twice before and would have provided \$5 million of operating funds for the library. The measure will be on the ballot again in June of 2008.

November 4, 2008 General Municipal Election

ACTION CALENDAR
May 20, 2008

The preparation of ballot materials requires many hours of time to prepare and revise these materials. The attached timelines will enable the City to prepare ballot measure materials with careful consideration and integrity in a timeframe that adheres to agenda deadlines and allows for the best possible outcome.

Council will have the opportunity to continue its discussion and review of proposed ballot measures at future meetings. In between these meetings, staff will continue its work to respond to input from the Council in order to have the most fully developed language for the ballot titles, analysis by the City Attorney, and draft ordinance language.

Ballot Measure Schedule:

Feb 12, 2008	Work Sessions Existing Taxes and Fees - Comparative data and impact on Berkeley residents
Feb 26	Work Session - All Public Safety and Youth
March 25	Work Session - Infrastructure & Capital Improvement
April 22	Voter Survey Review
May 6	Direct Staff to draft preliminary text on proposed ballot measures
May 20	Draft ballot language for non-revenue measures; Supplemental Voter Survey Review; Direct staff to draft preliminary text on proposed revenue ballot measures
June 10	Draft ballot measure language; revised cost charts for average homeowner
June 24	Review Final Ballot Measure Language; City Attorney to provide impartial analyses
July 8	Council Resolution on ballot measures for Nov 2008; Comment on impartial analyses
July 15	Argument Authorization

CONTACT PERSON

Lisa Caronna, Deputy City Manager	981-7000
Zach Cowan, Acting City Attorney	981-6950
Deanna Despain, Deputy City Clerk	981-6900
Bob Hicks, Finance Director	981-7300

Attachments:

1. List of Potential Ballot Measures
2. Charter Amendment Draft Ballot Measure Text
 - 2A. Option 1
 - 2B. Option 2

ATTACHMENT 1

**POSSIBLE BALLOT MEASURES
NOVEMBER 2008**

	Title	Date Confirmed by Council
NON-REVENUE MEASURES		
1.	Ordinance 6,958-N.S. Landmarks Preservation Referendum Petition	2/13/2007
2.	Resubmission of Measure R from 2004- -Patient's Access to Medical Cannabis	1/15/2008
3.	GANN Limit Override Renewal for Parks, Library, Emergency Medical*	5/6/2008
4.	Charter Amendment Regarding Redistricting Timelines	
POSSIBLE REVENUE MEASURES		
5.	Fire and Disaster Preparedness Tax	
6.	Pools Bond	
7.	Library Seismic Safety Bond	
POSSIBLE INITIATIVES		
	Transit Lanes	
	Marine Recruiting Offices	
	Equal Employment Initiative	

*Pending final resolution to place on ballot.

Neighborhood Libraries Bond Measure

Objectives:

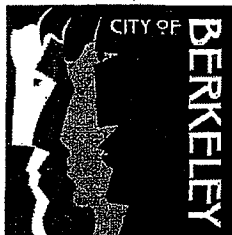
- To update the four neighborhood branches including the Tool Lending Library to current code standards in all pertinent areas, including structural, mechanical, electrical, architectural finishes, hazardous materials, ADA compliance
- To improve seismic safety, make the neighborhood branches fully accessible to people with disabilities, improve energy efficiency and increase space for seating, programming and collections
- To construct and/or renovate the neighborhood library branches to meet current and future service needs

Neighborhood Libraries: This measure would significantly improve all four neighborhood library branches and the Tool Lending Library. A 2008 Master Plan Facilities Study has identified that Berkeley's four neighborhood library branches, (three of which were built in the 20's or 30's) are in physical disrepair, unable to fully function, and have not been renovated since the early 1970s. A \$26 Million bond measure would address seismic safety, accessibility, and the need for expanded space for services in the neighborhood libraries. Completing this work would bring the buildings up to current code standards; meet seismic requirements; make all of the branches fully accessible to Berkeley's diverse population; provide environmentally sustainable "green" operations; and create adequate space for the Tool Library, and the adult literacy program, *Berkeley Reads*.

Program Name	Description	One-Time Funding (\$)
Claremont Branch	The historical and functional aspects of the branch would benefit from a renovation and completion of full lobby space through a minor expansion.	7,300sf / \$4.2m (renovate existing) 7,440sf / \$4.3m (small addition)
North Branch	Two options for modest additions to the rear of the building are proposed, the larger-size addition would allow for library programming space and quiet reading areas.	7,590sf / \$5.6m (one story addition) 8,640sf / \$6.3m (one story addition)
South Branch	This branch has serious structural defects that would make it susceptible to significant damage during a major seismic event. Further, its infrastructure systems – electrical, mechanical, and telecommunications - are not constructed to adapt to current needs and the space lacks adequate flexibility.	6,730sf / \$5.1m (one story addition) 8,000sf / \$5.8m (new building)
Tool Lending Library	This facility is in dire need of additional space to store, display and repair the tools it loans. The construction of a new building would allow the development of a branch to meet the community's library needs and would significantly improve the tool library operation.	750sf 1,000sf (space/costs included in South Branch figures)

Neighborhood Libraries Bond Measure		
West Branch	The building has some structural and infrastructure damage that need attention. In addition, the Literacy office is severely constrained for a highly successful program, competing with branch community programming space. The additional square footage would provide more space for the growing <i>Berkeley Reads</i> program as well as branch programming space.	8660sf / \$6.3m (one story addition) 14,600sf / \$10.7m (two story addition)
Total		\$21,200,000 - \$27,100,000

- **Bond Amount:** **26 million**
- Annual cost to homeowner: \$33.00/year for a set period



Office of the City Attorney

Date: May 1, 2006

To: Honorable Mayor,
Members of the City Council and
City Manager

From: Manuela Albuquerque, City Attorney *MA*

Re: Legality of Using City Resources for Election-Related Activity

Issue:

What is the scope of the prohibition on using City resources for election-related activity?

Conclusion:

State law prohibits the use of city resources for campaign-related purposes, including supporting or opposing the election of a candidate or passage of a ballot initiative or measure. City resources are broadly defined by statute and case law to include personnel time of public employees, use of city facilities, partaking in city-reimbursed travel, and utilization of city equipment and supplies, including telephones, facsimile machines, internet, email, printers, photocopiers, computers, typewriters, stationary, postage, and labels. As discussed below, limited exceptions exist for incidental and de minimus campaign and personal activities.

Analysis:

This memorandum is prompted by a series of questions posed by individual Council members regarding the scope of the prohibition on using city resources for election-related activities.

Background and common law limitations:

Courts have long found unlawful the use of public resources by elected officials in furtherance of their personal campaigns or to support or oppose the campaign of another candidate. (See *People v. Nathanson* (1955) 134 Cal.App.2d 43, *People v. Holtzendorff* (1960) 177 Cal.App.2d 788, *People v. Sperl* (1976) 54 Cal.App.3d 640, and *People v. Battin* (1978) 77 Cal.App.3d 635; See also *Mines v. Del Valle* (1927) 201 Cal. 273, *Stanson v. Mott* (1976) 17 Cal.3d 206, and *Common Cause v. Duffy* (1987) 200 Cal.App.3d 730.) The

California Supreme Court has noted that a "fundamental precept of this nation's democratic electoral process is that the government may not 'take sides' in election contests or bestow an unfair advantage on one of several competing factions. A principal danger feared by our country's founders lay in the possibility that the holders of governmental authority would use official power improperly to perpetuate themselves, or their allies, in office ..." (*Stanson v. Mott, supra*, 17 Cal.3d at p. 217.) Those "who either retain custody of public funds or are authorized to direct the expenditure of such funds bear a peculiar and very grave public responsibility, and . . . courts and legislatures, mindful of the need to protect the public treasury, have traditionally imposed stringent standards upon such officials." (*People v. Groat* (1993) 19 Cal.App.4th 1228, 1232.)

In *People v. Battin*, a county supervisor running for Lieutenant Governor authorized his county staff to use work hours and county facilities and supplies to carry out campaign activities, including placing telephone calls to potential fundraisers, organizing campaign events, making photocopies, typing letters, and addressing envelopes. (*People v. Battin, supra*, 77 Cal.App.3d at pp. 643-645.) In affirming his criminal conviction under Penal Code section 424, the court held, "it is our view that defendant's diversion of county employees to the performance of tasks in aid of the defendant's personal political campaign amounted to a use of public moneys for a purpose not authorized by law." (*Id.* at p. 650; See also *People v. Nathanson, supra*, 134 Cal.App.2d 43 (Council member properly indicted for embezzlement under Penal Code section 504 for using stationary for his political campaign provided by the city to council members for city business.)

Public officials and employees are also barred from using public resources to aid or hinder another person's campaign. For example, a county marshal was convicted of misappropriating public money where he furnished a county car and the services of a deputy marshal on county time to a political candidate, his staff and family. (*People v. Sperl, supra*, 54 Cal.App.3d at p. 658.) Similarly, in *People v. Holtendorff*, the executive director of the housing authority instructed several employees to type mailing labels for the incumbent mayor's campaign and were paid for this labor from housing authority funds. The court found the housing authority director had violated the law, as the employees' on-duty time was a public expenditure. (*People v. Holtendorff, supra*, 177 Cal.App.2d at p. 804-806.)

In *Common Cause v. Duffy*, a California appellate court upheld an award of attorneys' fees and costs to the plaintiff against a sheriff who had been using government resources in a "campaign" against the retention of Justice Rose Bird as Chief Justice. (*Common Cause v. Duffy, supra*, 200 Cal.App.3d at p. 745.) The defendant argued he was simply providing non-political information to the public about Justice Bird. The Court rejected this argument, and found the following uses of public resources to be improper partisan political activity: (1) distributing anti-Bird postcards to the public during work hours, both directly and through 25 of his deputy officers; (2) authorizing the postcards to be distributed in department substations; (3) issuing a memo to personnel indicating the availability of the postcards; (4) allowing an on-duty deputy sheriff to drive to another town to pick up more postcards; (5) using clerical help to mail out postcards and a cover letter to the public; and (6) utilizing

sheriff's department stationery, envelopes and postage meter to mail out the postcards and cover letter. (*Id.* at p. 746-747.)

Recent additions to the Government Code have further clarified the limitations on campaign or personal use of government resources. Specifically, the state legislature expanded Government Code section 8314¹ in 2002, which previously applied only to state officials and employees, to also prohibit public expenditures by city officials and employees for campaigning and other personal purposes. Under Government Code section 8314(a), "it is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law."

'Campaign activity' under Section 8314 (b)(2) means "an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025." A contribution has been broadly construed to include in-kind services, such as those of an on-duty public employee, for campaign purposes. (See *Fair Political Practices Com. v. Suit* (1979) 90 Cal.App.3d 125, 131 [the Court found that an assemblyman violated campaign reporting requirements by failing to report as a contribution the services of a state-paid employee, noting that the definition of 'payment' in Government Code section 82044 includes in-kind services].)

Types of resources considered public in nature:

Government Code section 8314(b)(3) defines "public resources" broadly to include "any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time." An official is making a "use" of public resources, including staff time, as long as it is substantial enough to result in "a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated." (Government Code § 8314(b)(4).)

Section 8314(b)(2) does create an exception for the "incidental and minimal use" of public resources, such as equipment or office space, for campaign purposes, including "the referral of unsolicited political mail, telephone calls, and visitors to private political entities." So, for example, if a constituent visited an official in city offices for city business, but then mentioned his interest in making a contribution to the official's reelection campaign, the

¹ Thus far, no published cases have interpreted Government Code section 8314, and but it has been referenced in a few Attorney General Opinions. The opinions referenced the statute along with previously discussed case law as standing for the proposition that public employees and officials cannot make unauthorized expenditures for personal or political purposes. (See *88 Op. Atty Gen. Cal. 46 (2005)*; *88 Op. Atty Gen. Cal. 213(2005)* [A hospital district may reimburse an emergency room physician for expenses incurred in traveling to Sri Lanka and providing emergency medical care to tsunami victims if the district reasonably determines that the performance of such services will directly assist the district in accomplishing its authorized public responsibilities].)

official could direct the constituent to his campaign committee or treasurer, but could not accept the contribution or substantively discuss campaign issues. Penal Code 424(c) affirms that such "incidental and minimal" use of public resources (as authorized by Section 8314 of the Government Code discussed above) does not constitute criminal conduct.

Government Code section 54964 is similar to section 8314, but specifically restricts the use of public funds for campaign-related *communications*, stating: "An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters." "Expenditure" is defined at section 54964 to mean a payment of local agency funds that is used for communications that expressly advocate the approval or rejection of a clearly identified ballot measure, or the election or defeat of a clearly identified candidate, by the voters.²

Berkeley's personnel laws affirm the concept that city staff's time, as well as city buildings and supplies, are public resources that cannot be used for political purposes, stating: "There shall be no improper political activity on the part of City employees. City employees may not engage in political activities or services of any nature during these hours in which they are employed by the City; nor shall City funds, supplies, property or equipment be utilized in performing any services of a political nature." (B.M.C. § 4.04.200.) Further, elected officials and candidates cannot seek campaign funding from City employees: "No officer or employee under the government of the City and no candidate for any City office shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, for any political purpose whatever, from anyone on the employment lists or holding any position under the provisions of this chapter." (B.M.C. § 4.04.210.)

Other limits on campaign-related expenditures:

While not directly relevant to the issue of candidate campaigns, elected officials should note that public expenditures to pursue an advocacy position related to bond measures or other ballot initiatives are also improper. For example, in *Stanson v. Mott*,³ the Director of the California Department of Parks and Recreation improperly authorized his department to expend public resources, including staff time, government-paid travel, and mailing of

² "Expenditure" shall not include membership dues paid by the local agency to a professional association.

³ This concept is confirmed in numerous cases following *Stanson*, including the following: *Miller v. Miller* (1978) 87 Cal.App.3d 762 (public finances improperly used to finance an appeal to voters to lobby for the ratification of the Equal Rights Amendment); *League of Women Voters v. Countywide Crim. Justice Coordination Com.* (1988) 203 Cal.App.3d 529 (county expenditure of public funds to develop, draft, and seek a sponsor for a statewide initiative on criminal justice matters did not involve an attempt to persuade or influence a vote, and thus did not constitute partisan campaign activity); *Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199 (wording on a ballot form regarding a card room which referenced possible positive impacts without similarly noting adverse impacts found to be illegal campaigning); *Schroeder v. Irvine City Council* (2002) 97 Cal.App.4th 174 (expenditure found to be for an allowable informational purpose rather than a political purpose because it funded communications urging the public to vote but did not *how* to vote).

campaign materials, to promote the passage of a bond act. (*Stanson v. Mott, supra*, 17 Cal.3d at p. 209- 211.) The Court contrasted improper "campaign" activities with allowable "informational" activities, recognizing that "a public agency pursues a proper 'informational' role when it simply gives a 'fair presentation of the facts' in response to a citizen's request for information." (*Id.* at p. 221.) A "fair presentation of the facts will necessarily include all consequences, good and bad ..." (*Id.* at p. 220.) Government Code §54964(c) similarly allows local agencies to expend funds to provide information to the public about the possible effects of a ballot measure without violating the law, only if both of the following conditions are met: "(1) the informational activities are not otherwise prohibited by the Constitution or laws of this state, and (2) the information provided constitutes an accurate, fair, and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure." (For further guidance on this issue see *Ballot Measure Advocacy and the Law: Legal Issues Associated with City Participation in Ballot Measure Campaigns*, a 2003 Memorandum by the League of California Cities, attached.)

Enforcement-what are the penalties and who enforces:

Criminal penalties:

A public official may face criminal penalties under Penal Code section 424, which make it a felony to use public resources for any purpose that is not authorized by law. Section 424 states, in relevant part: "each officer of this state, or of any county, city... and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either: 1. Without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another; or, 2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; ... is punishable by imprisonment in the state prison for two, three or four years, and is disqualified from holding any office in this state."⁴ In addition to Section 424, Penal Code section 504 addresses public embezzlement, stating "Every officer ...of any county, city, ... who fraudulently appropriates to any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that trust, or secretes it with a fraudulent intent to appropriate it to that use or purpose, is guilty of embezzlement."

Civil penalties:

Misuse of public resources, as referenced in the above cases, can be enforced through a private civil suit. (See, for example, *Stanson and Duffy*.) A public official may be held personally liable to repay expended funds if he failed to exercise due care in authorizing the expenditure of the funds. (*Stanson v. Mott, supra*, 17 Cal.3d at p. 210.) Injunctive relief can

⁴ An official can be liable under Section 424 even without actual custody of public funds or resources. "It is sufficient if the public official controls public funds so as to cause their expenditure for nonpublic purposes." (*Webb v. Superior Court* (1988) 202 Cal.App.3d 872; *People v Groat* (1993) 19 Cal.App.4th 1228.)

also be sought against a city officer to restrain illegal expenditure of funds. (Code of Civil Procedure § 526a.)

In addition to private enforcement, the district attorney or the attorney general can civilly prosecute unauthorized expenditures. Intentional or negligent violation of Government Code section 8314 merits civil penalties "not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs; plus three times the value of the unlawful use of public resources..." The Attorney General's Office under *Code of Civil Procedure sections 803-810*, may also bring what is called a "*quo warranto*" action "in the name of the people . . . against any person who usurps, intrudes into, or unlawfully holds or exercises any public office..." (73 *Op. Atty Gen. Cal. 69 (1990)*.) Interestingly, the Fair Political Practices Commission (FPPC) has no authority to determine whether a public official has made unauthorized government expenditures. Instead, the FPPC "can only advise whether such expenditures are a violation of the provisions of the Political Reform Act," including whether a candidate should have disclosed as a contribution use of public staff time. (1993 *Cal. Fair-Pract. LEXIS 192, 4-5 (Cal. Fair-Pract. 1993)*.)

Specific examples:

As evidenced by the foregoing discussion, whether a use of public resources is a violation of civil or criminal law depends on a specific analysis of the facts in each situation. Nevertheless, from the statutes and case law, we derive the following guidance:

Improper activities:

- **Fundraising activities:** Use of city facilities or city resources for fundraising, including using staff to organize a fundraiser, meeting with contributors about contributions in city offices, seeking contributions directly from city staff, sending thank you notes to contributors on city letterhead, with city-owned postage or generated on a city computer or typewriter.
- **Campaign activities related to one's own or another's campaign:** The circulation of nomination and signature in lieu of filing fee petitions for candidacy in city hall or city council offices, using a city computer to draft a campaign speech or a copy machine to print campaign flyers, conducting campaign meetings or discussions using city resources, such as phones and offices.
- **Other political activities:** Using city funds, staff or other resources to advocate to the public for passage or defeat of a ballot initiative or measure.

Permissible activities:

By contrast, we conclude that the following would be permitted activities:

- **Incidental campaign activities:** The referral of unsolicited political mail, telephone calls, and visitors to private political entities.

Re: Legality of Using City Resources for Election-Related Activity

May 1, 2006

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- **Calendaring:** Placement on an elected official's office calendar campaign-related and other personal obligations so that city employees will know when the official will be available for city business.

Attachment

Cc: City Clerk

II.B.2.; II.D.1.; II.G.10.e.; III.A., III.G



BALLOT MEASURE ADVOCACY AND THE LAW:

LEGAL ISSUES ASSOCIATED WITH CITY PARTICIPATION IN BALLOT MEASURE CAMPAIGNS

September 2003

This paper was prepared with the assistance of:

*Steven S. Lucas
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
slucas@NMGovLaw.com*

and

*Betsy Strauss
Special Counsel, League of California Cities
City Attorney, City of Rohnert Park
Munilaw@aol.com*

INTRODUCTION

The electorate through the initiative and referendum process is increasingly making important policy decisions affecting California cities.¹ Whereas cities have specific statutory authority to participate in the legislative process at the state and federal levels,² their authority to take part in the initiative and referendum process is more limited.

What role may cities and city officials play in the initiative and referendum process? The following series of questions and answers provide some general guidelines.

USE OF PUBLIC RESOURCES TO SUPPORT A BALLOT MEASURE

May cities contribute public funds to a ballot measure campaign that has qualified for the ballot?

No, the courts have made it clear that government cannot use public funds to "take sides" in a campaign.³ Doing so gives one side an unfair advantage that may distort the electoral process. But this does not mean that cities cannot prepare and disseminate a fair and impartial analysis of the measure.

Is there a difference between using public resources to develop a measure for the ballot and to support the measure once it has qualified?

Yes, public resources may be used to develop a measure for the ballot.⁴ And local agencies have prepared ballot measures for years.⁵

May cities form a nonprofit corporation and use public funds to finance its operation for the purpose of qualifying a statewide initiative measure that relates to the day-to-day functions of every city in the state?

No, the money for such an effort may not come from public funds. Because a city cannot directly fund such an operation, it cannot do so indirectly.⁶

Is there a difference between the generally accepted practice of using public funds for legislative lobbying efforts and using such funds to promote a ballot measure?

Yes, courts have drawn a clear distinction between the two activities.⁷ Various statutes specifically authorize the use of public funds for lobbying activities, such as traveling to Sacramento to testify at a legislative hearing.⁸ There are no similar provisions permitting the use of public funds in election campaigns.⁹

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Activities In Support
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Civil And Criminal
Penalties For
Misuse Of Public
Resources

Conclusion

The legislative process contemplates public involvement to assist in explaining the potential benefits or detriments of proposed legislation. Courts do not see public agency lobbying as undermining or distorting this process.

However, the use of public funds to directly influence the electorate is seen as a potential threat to the integrity of the electoral process. According to California courts, permitting a public agency to "take sides" in an election campaign may give one side an unfair advantage.¹⁰ The importance of governmental impartiality in electoral matters cannot be overstated.¹¹

What is the difference between "informational" and "express advocacy" materials?

Purely informational materials present a fair and balanced presentation of the relevant facts.¹² Materials of express advocacy are those that explicitly and by their own terms urge the election or defeat of an identified candidate or the passage or defeat of an identified measure.¹³ Express terms of advocacy include "vote for," "cast your ballot," and "defeat."¹⁴

May individual city officials use public resources to support a ballot measure?

No, a city official may not use public resources to support or oppose a ballot measure or engage in campaign activity.¹⁵ "Public resources" include any property owned by the local agency, including buildings, facilities, funds, equipment, telephones, supplies, computers, vehicles, and travel.¹⁶ The misuse of public resources for campaign purposes may result in civil and criminal penalties.¹⁷

May cities use city staff, equipment, and supplies to generate promotional materials on behalf of ballot measures that have already qualified for the ballot?

No, just like public funds, cities may not use public resources to support a ballot measure. To do so raises the possibility that the electoral process may be distorted by giving one side an unfair advantage in the campaign.

TAKING A POSITION ON A BALLOT MEASURE

May a city council officially endorse or oppose a ballot measure?

Yes, the decision by a city council to go on record in support of or in opposition to a ballot measure has been held to be a permissible use of public resources. The council's decision should be made during a regular meeting that is open to the public and to the expression of the public's views.¹⁸ If the City Council adopts a resolution endorsing or opposing a ballot measure, the resolution should include a statement that no public funds shall be used in the campaign for or against the measure.

There are two simple, but very important rules city officials and employees should follow if they want to get involved in campaign activities. Don't use public funds and campaign on your own time.

May an elected official take a position on a ballot measure?

Yes, a public official has a first amendment right to speak out on governmental matters upon being elected to office.¹⁹ However, a public official should not use public resources to campaign for or against a ballot measure. City officials should not take part in ballot measure campaigns while on "city time" and should be careful to separate their official work from their political and campaign work.

May a public employee support or oppose ballot measures?

Yes, a public employee does not give up his or her constitutional rights upon joining a public agency.²⁰ With certain exceptions, no restrictions may be placed on the political activities of public employees.²¹

However, public employees must be careful not to use public resources to advocate a position on a ballot measure.²² As a precautionary measure, many cities prohibit or restrict their employees from engaging in political activities during work hours or while on city property.²³

May cities analyze the effect of ballot measures on cities and publicize this information?

Yes, cities may use public resources to objectively evaluate a ballot measure's impact on the city.²⁴ The results of a fair and impartial analysis may then be made available to the newspapers, advocacy groups, and others who may make use of the information if they choose.²⁵

Public funds must be used only for materials that are strictly informational and not for those that expressly advocate a position.

CAMPAIGN ACTIVITIES IN SUPPORT OF A BALLOT MEASURE

May city officials respond to telephone calls, letters, and e-mails about a ballot measure while on city time?

Yes, but only as long as their response is limited to (1) stating that the city has either endorsed or opposed the measure and (2) presenting fair and impartial information about the measure.²⁶ An official must be careful not use public resources to "take sides" on the measure. Incidental and minimal use of public resources by a local officer is not subject to criminal prosecution.²⁷

May a public employee respond to a request for information on a public agency's analysis of or position on a ballot measure?

Yes, as long as the employee provides a fair and impartial representation of the facts.²⁸ The response may include speaking to public or private organizations interested in the city's position.²⁹

Public resources may not be used for campaign materials that expressly advocate a position on a ballot measure. Terms of express advocacy include:

- Vote for
- Elect
- Cast your ballot
- Defeat
- Vote against

May city officials add a link from the city's website to a ballot campaign website?

No, this would be an inappropriate expenditure of public resources.

May city officials hold a campaign rally in support of or in opposition to a ballot measure on the steps of city hall or elsewhere on city property?

Yes, as long as city officials do not take part in the rally while on city time and the public facility is open and available for the expression of all viewpoints on the measure or for any other political activity.³⁰ It is a good practice for a city official to inform the audience that he or she is appearing as a private party and not as an official of the city.

May a public employee wear his or her uniform when engaged in political activities after work hours?

No, a public employee is specifically prohibited from participating in any sort of political activity while in uniform.³¹

May a public employee make a presentation on a public agency's position on a ballot measure at local organizations, such as the Chamber of Commerce?

Yes, as long as the employee presents fair and impartial information on the ballot measure. It is good practice to use a prepared script that may be used each time the presentation is made.

FUNDRAISING ACTIVITIES IN SUPPORT OF A BALLOT MEASURE

May city officials use city funds to attend a fundraiser in support of a ballot measure?

No, it is a crime to use city funds to attend a political fundraiser.³²

May elected officials solicit ballot measure campaign contributions from city vendors?

Yes, because it is not a conflict of interest for an elected city official to solicit or receive a campaign contribution from a vendor.³³ However, public resources must not be used in making these solicitations. Elected officials should not engage in such fundraising activities while on city time. Any solicitation should admonish and advise vendors that they may not charge back the amount contributed to the city either directly or indirectly.

City officials and employees may NOT:

Distribute campaign materials through the city's internal mail system

Place campaign literature on employee bulletin boards

Make public appearances speaking in favor of the ballot measure during compensated work hours

Walk precincts, draft campaign ads, or perform other campaign tasks during compensated work hours

Use city copy machines, telephones, fax machines, computers, stationery, etc. for campaign purposes

Urge other city employees to vote for the measure during compensated work hours

Send or receive campaign-related e-mails on city computers

May a city official obtain a list of city vendors for fundraising activities?

Yes, if such a list exists, it is a public record and therefore is available to anyone asking for it. If no vendor list exists, it is not a misuse of public resources if the city would create a list for anyone who asked for such a list. If the city creates the list for the purpose of allowing fundraising from the list, this would be a misuse of public resources.

May city officials solicit financial support from their colleagues for a ballot measure?

No, city officials may not directly or indirectly solicit campaign contributions from other local officials or employees. The only exception is if the solicitation is part of a general effort that incidentally includes local officials and employees.³⁴

May a public employee ask his or her fellow public employees for contributions to a ballot measure campaign?

No, local public employees may not solicit contributions from fellow employees unless:

- The solicitation is made to a significant segment of the public in which the fellow employees are included,³⁵ or
- The funds are solicited to promote or defeat a ballot measure affecting the rate of pay, working hours, retirement, civil service, or other working conditions.³⁶

Such solicitations should not take place during city time or make use of public resources.

In addition, an employee or officer of one city may solicit contributions from officials and employees of a different city.

May an elected official contribute his or her own campaign political action committee funds to qualify, support, or oppose a measure for the ballot?

Yes, as long as the contribution is reasonably related to a political, legislative, or governmental purpose of the committee.³⁷ However, there may be federal income tax implications for doing so. Candidate campaign funds are tax-exempt under Internal Revenue Code section 527 only when used primarily for "exempt functions."³⁸ Such purposes are generally limited to expenditures for a candidate to get elected or for officeholder purposes once a candidate is elected.³⁹

How should such contributions from campaign funds be reported?

City officials and employees MAY:

- Work on the campaign during their personal time, including lunch hours, coffee breaks, vacations, etc.
- Make a campaign contribution to a ballot measure campaign committee using personal funds, and/or attend a campaign fundraiser during personal time.
- Make public appearances during personal time advocating the ballot measure.
- Have the city council adopt a resolution at a public meeting that officially endorses the ballot measure and confirms the prohibition on using government's funds for political purposes.

The Fair Political Practices Commission says the recipient of the funds should report the receipt of funds as contributions received; the local official's campaign committee should report the contribution as an expenditure made and as a contribution made.⁴⁰

Are there any other restrictions in the Political Reform Act that might restrict a local elected official's participation in ballot measure campaigns?

The Fair Political Practices Commission notes that a local elected official who also serves as an appointed, voting member of another agency (e.g., a Local Agency Formation Commission, special district board, joint powers authority or regional planning agency) may, under certain circumstances, be prohibited from accepting, soliciting, or directing contributions on behalf of a ballot measure committee.⁴¹

CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF PUBLIC RESOURCES

Are there potential criminal consequences for misusing public resources?

Yes, improper use of public resources can be a criminal offense.⁴² Local officials should be careful to separate their official city work from their political and campaign work. One potential consequence of a criminal conviction for misappropriation of public resources is disqualification from holding any office in the state.⁴³

Are there potential civil consequences for misusing public resources?

Yes, the individual involved may be required to reimburse the agency for the value of the resources used.⁴⁴ The person may also be responsible for the attorney fees of the party challenging the use of resources.⁴⁵ In addition, engaging in such activities gives rise to reporting obligations for public agencies under the Political Reform Act.⁴⁶ Failure to comply with the requirements may subject an agency to additional penalties.⁴⁷

CONCLUSION

Public officials and employees have many ways to exercise their right to promote or oppose ballot measures. The key is **not to use the public's time, money, or other resources** to do so. Public resources may be used, however, to provide objective analysis and information about a ballot measure.

Charges that a city official or employee has misused and misappropriated public resources are extremely serious. When the propriety of any activity is in doubt, it is the League's view to err on the side of caution.

A city official should always first consult with the city's attorney concerning the propriety of any given course of conduct.

ENDNOTES

¹ Through the initiative process, groups originate and seek to pass laws and constitutional amendments without resort to the Legislature. No subject is exempt from the process and the only constitutional restrictions are that an initiative proposal must deal with only one main subject and must not constitute a "revision" (as opposed to a mere "amendment") of the state Constitution. See Cal. Const. art. II, § 8.

Up through the 1998 election, over 560 initiatives have appeared on California ballots, with about one-fourth of them being approved. The average cost to qualify an initiative for the ballot was approximately \$700,000. (It is believed that average cost to qualify an initiative for the ballot in 2003 would be over \$1 million.)

Bernard L. Hyink & David H. Provost, *Politics and Government in California* 98-103 (15th ed. 2001).

² Government Code section 50023 provides:

The legislative body of a local agency, directly or through a representative, may attend the Legislature and Congress, and any committees thereof, and present information to aid the passage of legislation that the legislative body deems beneficial to the local agency or to prevent the passage of legislation that the legislative body deems detrimental to the local agency. The legislative body of a local agency, either directly or through a representative, may meet with representatives of executive or administrative agencies of the state, federal, or local government to present information requesting action that the legislative body deems beneficial to, or opposing action deemed detrimental to, such local agency. The cost and expense incident thereto are proper charges against the local agency.

Cal. Gov't Code § 50023.

³ See *Stanson*, 17 Cal.3d at 217. See also *Schroeder v. Irvine City Council*, 97 Cal.App.4th 174, 118 Cal.Rptr.2d 330 (4th Dist. 2002) (governmental agency cannot spend public funds for a partisan campaign advocating the passage or defeat of a ballot measure).

⁴ See *League of Women Voters v. Countrywide Criminal Justice Coordination Committee*, 203 Cal.App.3d 529, 250 Cal.Rptr. 161 (2nd Dist. 1988).

⁵ See Cal. Elec. Code § 9222.

⁶ See California Legislative Counsel Op. No. 154 (September 18, 1980).

⁷ See *Stanson v. Mott*, 17 Cal.3d 206, 130 Cal. Rptr. 697 (1976) (holding that California Department of Parks and Recreation could not spend public money to prepare promotional material and pay for speakers expenses to support a 1974 park bond measure).

⁸ See Cal. Govt. Code §§ 50023, 53060.5, 82039, and 86300.

⁹ See *Stanson*, 17 Cal.3d at 218.

¹⁰ See *id.* at 217.

¹¹ See *id.* at 218-219.

¹² See *Stanson*, 17 Cal.3d at 220 (discussing with approval *Citizens to Protect Public Funds v. Board of Education*, 13 N.J. 172, 179-180, 98 A.2d 673, 676 (1953), which recognized the broad legislative and fiscal authority possessed by locally autonomous schools boards to make reasonable expenditures to give voters relevant facts to aid them in making an informed judgment when voting).

¹³ See *Governor Gray Davis Committee v. American Taxpayers Alliance*, 102 Cal.App.4th 449, 125 Cal.Rptr.2 534 (1st Dist. 2002).

14 See Cal. Code Regs., tit. 2, § 18225(b)(2).

15 California Government Code section 8314 provides:

It shall be unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes that are not authorized by law.

Cal. Gov't Code § 8314(a). See also Cal. Gov't Code § 54964.

16 See Cal. Gov't Code 8314(b)(3).

17 California Government Code section 8314 provides for civil penalties including fines of up to one thousand dollars for each day a violation occurs, plus three times the value of the unlawful use of public resources. California Penal Code section 424 provides for criminal penalties of up to four years in state prison. Furthermore, a conviction disqualifies the party from holding any office in the state. See also *People v. Battin*, 77 Cal.App.3d 635 (1978) (county supervisor prosecuted for misusing public funds for improper political purposes); *People v. Sperl*, 54 Cal.App.3d 640, 126 Cal.Rptr. 970 (2nd Dist. 1976) (county marshal convicted of Penal Code section 424 for having deputies make telephone calls in connection with testimonial dinner for political candidate).

18 See *League of Women Voters*, 203 Cal.App.3d at 560. See also *Choice-in-Education League v. Los Angeles Unified School District*, 17 Cal.App.4th 415, 21 Cal.Rptr.2d 303 (2nd Dist. 1993) (schools district's expenditure of funds to broadcast a public meeting where the school board adopted a resolution opposing an initiative was permissible and serves purposes unrelated to advocating a partisan position on an initiative.)

19 See *City of Fairfield v. Superior Court of Solano County*, 14 Cal.3d 768, 780-82, 122 Cal.Rptr. 543, 550-51 (1975) (city councilman has not only a right but an obligation to discuss issues of vital concern with his constituents).

20 See *Bagley v. Washington Township Hospital District*, 65 Cal.2d 499, 55 Cal.Rptr. 401 (1966) (hospital district's prohibition of employees from participating in any ballot measures pertaining to the district was unconstitutionally overbroad); *Rosenfield v. Malcolm*, 65 Cal.2d 559, 55 Cal.Rptr. 505 (1967) (holding that county cannot dismiss a county employee on the grounds that it disagrees with the employee's activities).

21 See Cal. Gov't Code § 3207.

22 California Government Code section 54964(a) provides:

An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure or the election or defeat of a candidate, by the voters.

Cal. Gov't Code § 54964.

23 See *Fair Political Practices Commission v. Suitt*, 90 Cal.App.3d 125, 153 Cal.Rptr. 311 (3rd Dist. 1979) (state employees may not participate in campaign activities during work hours or use public resources for campaign activities).

24 See *Stanson*, 17 Cal.3d at 221. See also Cal. Elec. Code § 9212 (permitting local agency to prepare a report analyzing the effects a proposed local initiative measure may have on the city).

25 See *id.* at fn.6 (The need for the dissemination of a fair and impartial analysis of a ballot measure by a local agency is somewhat diminished by the preparation of pro and con ballot arguments and an impartial analysis of the ballot measure by the Legislative Analysis. But nothing "suggests that other public agencies are foreclosed from providing objective information on a proposed ballot measure").

26 California Government Code section 8314(d) provides:

Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the information activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

Cal. Gov't Code § 8314(d).

²⁷ California Government Code section 8314(e) provides:

The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

Cal. Gov't Code § 8314(e).

²⁸ See *Stanson*, 17 Cal.3d at 221, 130 Cal.Rptr. at 707-08.

²⁹ *Id.*

³⁰ See Cal. Gov't Code § 3207 (allowing local agencies to prohibit or restrict officers and employees from engaging in prohibited activity during work hours and on the local agency's premises).

³¹ See Cal. Gov't Code § 3206.

³² California Penal Code section 72.5(b) provides:

Every person who, knowing a claim seeks public funds for reimbursement of costs incurred to gain admittance to a political function expressly organized to support or oppose any ballot measure, presents such a claim for allowance or for payment to any state board or officer, or to any county, city, or district board or officer authorized to allow or pay such claims is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine.

Cal. Penal Code § 72.5.

³³ See Cal. Gov't Code § 82030. See also *Breakzone Billiards v. City of Torrance*, 81 Cal.App.4th 1205 (2000) (an elected official does not have a financial interest in a contract between a vendor and the city).

³⁴ California Government Code section 3205(a) provides:

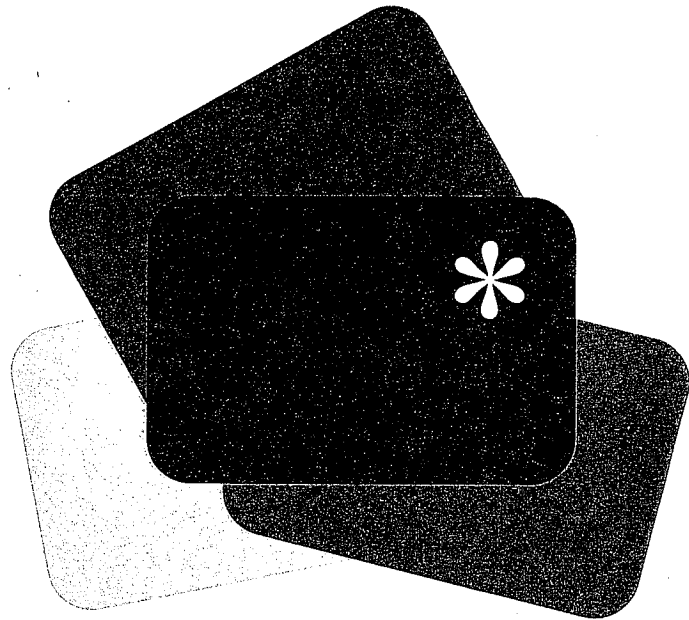
An officer or employee of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.

Cal. Gov't Code § 3205(a).

³⁵ See Cal. Gov't Code § 3205

³⁶ California Government Code section 3209 provides:

Nothing in this chapter prevents an officer or employee of a state or local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would



Libraries Prosper with Passion, Purpose and Persuasion!

A PLA TOOLKIT FOR SUCCESS

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Passion

Establishing credibility and commitment



TIP: If you are new to advocacy or public communication, this worksheet is a good place to start. If you're an old pro, jump ahead to the audience section on page 13. If you've done your audience work already, skip to Advocacy in Action on page 24.

We've all seen or heard really passionate advocates and know how compelling they are in getting others excited about their cause. As a library advocate, your knowledge of the library and its many benefits, and your personal stories, credibility and commitment to delivering value to the community you serve are among the most powerful kinds of evidence you can use to persuade others to join you in advocating for your library. Part of your job as an advocate is to enlist others who are also passionate about your library and its work.

You can use this page as a worksheet, or just read it for a quick reminder of why you are passionate about your library.

Before you get started, ask yourself:

- 1. Why do I care about the library?**
- 2. What is needed in my community that I believe the library can provide?**
- 3. What are the most powerful examples of my library's impact that I can think of?**
- 4. Who are the people in my community who can be passionate advocates for the library?**

Purpose

Defining problems and setting goals



TIP: If you have already defined a problem and have a clear proposal to solve it, skip ahead to the audience worksheets on page 13. If you haven't, stop here.

WHAT IS THE PROBLEM WE ARE TRYING TO SOLVE AND HOW DO WE PROPOSE TO SOLVE IT?

Often, advocacy efforts don't work because we have not defined what the problem or need is that we are working to address, and we aren't clear about how to address it or what we want others to do about it. This worksheet will help you define the situation.

1. What is the problem?

(Example: Resources are insufficient to deliver services that meet community needs.)

2. What is the cause?

(Hint: What has/has not changed in the community? Examples: Population increase/loss of a major employer/expiring bond/decreased general fund resources.)

3. How do we want to solve the problem?

(Examples: New partnerships, more staff to do outreach, more card holders, more computers and technology resources, more audio books, etc.)

ADVOCACY PLANNING

4. How will our solution address the broader needs?

(Example: Enables service delivery at a level the community demands/expects, helps children start school ready to learn, helps adults learn new job skills.)

5. What is our goal?

(Examples: Pass bond/levy, increase general fund allocation, create new partnership.)

People

Identifying and understanding your audiences



TIP: If you already have a clear list of your audiences, skip ahead to the message portion of this section. If not, stop here and use this section. Knowing who you need to reach is a critical piece of any effective advocacy effort!

WHO CAN GIVE US WHAT WE WANT?

In order to achieve your library's goals, you must focus on the people who can help get you what you want. You probably already know many of the people or kinds of people who could help you successfully advocate for your issue. The grid below shows some of the broad categories of audiences for public libraries. It is important to think about your community and specific social, economic, political and cultural considerations. If you are using PLA's Planning for Results, refer to the audience work you did there as a guide. *(Remember, effective advocacy must be targeted. You still serve everyone, but you need to get key audience groups to take action in order to be successful in your advocacy efforts.)*

AUDIENCE/ SEGMENT Who are the people we need to reach? <i>If you know of others, note them</i>	WHO ARE THESE PEOPLE SPECIFICALLY IN YOUR COMMUNITY?	WHAT DO THEY NEED TO KNOW IN ORDER TO TAKE ACTION? (Key motivators)	WHO INFLUENCES THIS AUDIENCE? Who do they listen to?	PRIORITY RANKING A: Must reach in order to achieve stated goal(s), and/or will help us reach other priority audiences. B: Need to reach in order to achieve goals. C: Helpful, but not immediately necessary to achieve goals. Invest less time with them.
Library Family (board, Friends, foundation)		How the action meets community and constituency expectations; whether action is a wise investment (fiscally responsible) How the action builds community; meets stated needs; is a good use of resources	Library customers Policymakers	

ADVOCACY PLANNING

AUDIENCE/ SEGMENT

Who are the people we need to reach?

If you know of others, note them

WHO ARE THESE PEOPLE SPECIFICALLY IN YOUR COMMUNITY?

WHAT DO THEY NEED TO KNOW IN ORDER TO TAKE ACTION?

(Key motivators)

WHO INFLUENCES THIS AUDIENCE?

Who do they listen to?

PRIORITY RANKING

A: Must reach in order to achieve stated goal(s), and/or will help us reach other priority audiences.

B: Need to reach in order to achieve goals.

C: Helpful, but not immediately necessary to achieve goals. Invest less time with them.

How the action benefits library customers and helps us serve the public better

Staff (all, but are there key staff who are internal champions/opinion leaders you should ask for leadership?)

How the action benefits library customers and helps us serve the public better

Customers
Peers

Policymakers (elected officials)

How the action meets community and constituency expectations; whether action is a wise investment (fiscally responsible)

Their staff
Constituents

People with preschool-age children

How the action supports or creates opportunity for success of my child

Other parents
Teachers

ADVOCACY PLANNING

AUDIENCE/ SEGMENT Who are the people we need to reach? <i>If you know of others, note them</i>	WHO ARE THESE PEOPLE SPECIFICALLY IN YOUR COMMUNITY?	WHAT DO THEY NEED TO KNOW IN ORDER TO TAKE ACTION? (Key motivators)	WHO INFLUENCES THIS AUDIENCE? Who do they listen to?	PRIORITY RANKING A: Must reach in order to achieve stated goal(s), and/or will help us reach other priority audiences. B: Need to reach in order to achieve goals. C: Helpful, but not immediately necessary to achieve goals. Invest less time with them.
People with school-age children		How the action supports or creates opportunity for success of my child	Other parents	
Seniors		How the action delivers value for my money; helps children in my community	Peers Community leaders	
Community opinion leaders		How the action builds community; meets stated needs; is a good use of resources	Policymakers Parents Seniors Peers	
Business leaders/ organizations		How the action provides value to the business community; is a good use of resources	Peers Other community leaders Family members	

ADVOCACY PLANNING

AUDIENCE/ SEGMENT

Who are the people we need to reach?

If you know of others, note them

WHO ARE THESE PEOPLE SPECIFICALLY IN YOUR COMMUNITY?

WHAT DO THEY NEED TO KNOW IN ORDER TO TAKE ACTION?

(Key motivators)

WHO INFLUENCES THIS AUDIENCE?

Who do they listen to?

PRIORITY RANKING

A: Must reach in order to achieve stated goal(s), and/or will help us reach other priority audiences.

B: Need to reach in order to achieve goals.

C: Helpful, but not immediately necessary to achieve goals. Invest less time with them.

Community partners

How the action serves the population the partner is serving (e.g., youth, minority communities, etc.)

Voters (segment further based on your issue)

How the action benefits my life personally or the lives of my family members; the action is a good use of resources

Peers
Community opinion leaders
Library staff and leaders

Educators

How the action benefits achievement

Peers
Parents

Diverse populations

Need to define based on the groups you have defined

Need to define based on the groups you have defined

Persuasion

Messages that get to YES!



TIP: Even if you think you know exactly what to say, stop here. Understanding what your audience needs to hear (not just what you really want to say) is a vital part of a winning advocacy effort.




TIP: You can use these key messages as talking points, and can also use the Advocacy in Action message handout templates and the Advocacy Resources section of the toolkit to help you personalize them for your community

People make decisions first based on how they feel about something (with their heart) and then look for the data to rationalize their emotional choice (with their head). In order to effectively persuade others, you need “proof” that speaks to both the head and the heart. This head/heart equation is essential to successful messages for any communication effort.

The key advocacy messages in this toolkit connect the library with big things your audience already values and most likely wants to support—like education, stable communities, health, economic vitality and value for the dollar. Though the exact way a message is delivered may change for different audiences, the basics should not. Each key message can be illustrated with examples to make it relevant to specific audiences.

When using these messages and customizing them, place yourself in the shoes of each of your audiences. One of the biggest mistakes libraries make is crafting messages that appeal to those on the inside (a.k.a. preaching to the choir). **Messages must be tailored to resonate with each specific audience and connect to what motivates them.**

Message Framework and Value Themes

 **TIP:** Your message framework should always lead with how the library benefits the community (your value statement). Use the examples below to customize your own messages and highlight areas of special interest in your community.

If you are an old pro at message creation, you can skip ahead to the next page and see the prepared messages. If you want to understand more about the kinds of message you should create, keep reading.

Advocacy messages are most effective when they follow a logical sequence that begins with the ways in which the library impacts the things a community already values. It is difficult if not impossible to persuade an individual or a community to adopt a new value. Instead, we must understand how what we are advocating for (in this case, libraries) connects to the things that people already value.

The sequence used in this tool kit is **Value, Need, Cost, Benefit, Call to Action**. It takes the audience logically through a common framework for building effective arguments that begins with identifying how the library supports key community values and ends with a specific call to action. Complete messages appear on the next page.

1. **Value themes:** these messages describe how the library impacts/benefits the things a community already values. To assure the broadest application possible, this toolkit is focused on the four most broadly held community value areas: community vitality and stability, education/lifelong learning, health and wellbeing, economic health/return on investment.
2. **Need:** these messages define what is needed for the library to meet community expectations.
3. **Cost:** these messages define the cost (in household terms).
4. **Benefit:** these messages describe what the community receives as a result of supporting the library.
5. **Call to action:** these messages ask the audience to take action. Depending on the audience, these messages can be more powerful when delivered face to face.

One major advantage of this kind of framework is that the value themes in number one stay consistent over time so all your communication efforts reinforce those themes. The needs, cost, benefit and call to action can (and should) evolve as your library continues to respond to your community's evolving demographics.

TIP: You can see how these messages are used in different ways in the Advocacy in Action section. Value messages are reflected in the message handouts. The full spectrum of messages is used in the sample letters and opinion editorial. The fictional "ABC Library" is used as an example here.

VALUE THEMES

Primary theme:

- **ABC Library helps create vital, stable, livable communities.**
(every story you tell should link somehow to this theme)

Supporting themes:

- ABC Library is an **essential resource for the education and lifelong learning** of community residents and meets a critical community need at a time when investment in education is shrinking.
- ABC Library **helps residents live healthier lives** by providing access to health information that enables community members to be better advocates for their own health and well being. For some residents, we are the only health information resource.
- ABC Library is a **valuable resource to our business community** and helps support the vitality and economic health of our community.
- ABC Library delivers **an excellent return** on community investment.

NEED

- ABC Library is committed to meeting the needs of the community. Our recent survey shows that residents want X, Y, Z from our library.
- In order to meet this need, ABC Library will require XX in funding.

COST

- The funding requested will cost [insert per household breakdown]

BENEFIT

- The community has asked for increased hours, improved computer access, additional subscription databases for business and research purposes and more outreach programs to seniors. Full funding of ABC Library will enable us to meet these growing information technology and literacy needs of our changing community.

CALL TO ACTION

Be specific to the audience; but always translate your call to action to a specific form of support. Examples include:

- Tell a friend
- Support the library (volunteer, donate resources or services)
- Become a library partner
- Endorse the library's proposal
- Pass the budget
- Vote

(Note: Before you make a call to action, be sure to check with your legal counsel about what is and is not allowed)

Persuasion:

Strategies, Tools and Tactics



TIP: If you already know the best ways to reach your audience, skip to the Action Plan on page 53.



TIP: In each of these areas, the handouts in the Advocacy in Action section are a great tool to support your work.

HOW WILL WE REACH OUR AUDIENCES?

Successful strategies and the activities that flow from them can't be created using a cookie cutter approach. They must be based on the needs of your audiences. The tools you select must support your goals and the work you plan to carry out. Your core strategy is linking the library to existing community values, so you can tap into things people already care about.

STRATEGIES

The primary approaches to demonstrating the linkage between your library and the values of your community are:

- **Direct outreach**—Share your message directly with those in your community who have the ability to influence others in favor of your issue/problem and those who are or will be directly affected by your issue.
- **Grassroots outreach/partnership development**—Connect with the organizations and businesses that can join you in advocating for your issue because they share the same or a similar concern.
- **Word of Mouth**—Good old-fashioned conversation is one of the best ways to reach your audiences. Word of mouth is especially useful because it can be effectively used inside and outside of the library by all staff, foundation members, Friends, etc. Make sure you arm your staff with the information they need to be effective messengers. Talking points and fact sheets can be great tools for this. If you are using the Smartest Card materials, you are probably already aware of the power of word-of-mouth marketing.
- **Media and online communication**—Use media, websites, emails and other channels to support other forms of outreach and amplify your message.
- **Collateral**—Create print materials, the “stuff” you will use. Notice that this comes last on the list of approaches! People are most persuaded by other people, not posters or flyers.

ADVOCACY PLANNING

TOOLS AND TACTICS THAT SUPPORT EACH OF THE APPROACHES:

Direct Outreach (*Typically involves individuals or small groups you meet with directly*)


- *Coffees and Brown Bags*—Often used with elected officials or other community leaders, they are an informal opportunity to share your point of view.
- *Meetings/Town Halls*—Elected officials frequently hold meetings or town hall forums when they are in the community. Make sure you attend and/or partner with your elected official to create a meeting focused on the value of the library to the community.
- *Community meetings and public forums*—You can use existing community meetings/public forums about a variety of topics (schools, planning, etc.) to demonstrate the value of your public library, or you can create your own to talk specifically about the library. If you are trying to gather information about the needs of your community, these are a good place to reach an informed and interested citizen population.
- *Staff/committee meetings*—Elected officials have staff that deal with specific community issues and also serve on committees. In addition to connecting directly with your elected officials, form relationships with their policy staff.
- *Library and partner events*—Utilize library and partner events to demonstrate the value of the library. Opportunities include back-to-school nights, author events, faculty events, etc.
- *Program outreach*—Use existing program outreach, such as the bookmobile, to share your messages about the value of the library.
- *Speakers bureaus*—Create a speakers bureau of trained library messengers that can advocate for the library at a wide range of events.


Grassroots Outreach (*Outreach that is one to many; it will often, but not always, involve making connections through a partner or ally in the community such as Boys and Girls Clubs, schools, the YMCA, community centers and other organizations.*)

- *Action alerts*—Short message alerts can be sent to a predetermined group about a time-sensitive issue that requires immediate action. The call to action usually involves contacting an elected official or media outlet to advocate for the desired action.
- *Phone campaigns*—This campaign technique is used to deliver an advocacy message via the phone. It can be conducted by issuing an action alert asking participants to contact a person or group and/or by convening in a specific location and having volunteers call a predetermined list of people.
- *Partner mailings/Postings*—You can expand communication channels by getting mailing lists and/or including library information in partner publications, and partners' emails and websites.
- *Hearings*—Public hearings are held by committees to receive information about a specific topic from the constituents it will impact. This testimony becomes part of the public record.
- *Lobby days*—A group or coalition of groups with similar interests organizes a lobby day to gather a large number of people at a capitol/city hall/county seat to conduct personal meetings with elected officials about a key issue or upcoming vote.

ADVOCACY PLANNING

Media Outreach (*Using formal and informal media channels to extend the reach of your message. You may be familiar with a broad array of media relations tools. The information provided here focuses on the ways in which media can most effectively be used in support of advocacy efforts.*)

 **TIP:** Sample “In My Opinion” pieces and letters to the editor are included in the Advocacy in Action section on page 38.

 **TIP:** There are many tools and toolkits available to guide your media relations efforts (see the ALA Communication Toolkit for one example).

- *Editorial Board visits*—A meeting with the editorial staff of a publication to share your story and ask for an editorial.
- *Opinion editorial (op-ed)*—Editorials that appear in the editorial section of the newspaper. Developed by editorial staff, but can be influenced by advocates. Your goal is to get the editorial group to write a positive editorial about your issue.
- *“In my opinion”/editorials*—Signed opinion pieces submitted to an editorial page for consideration. Can be submitted by a library director, board, Friends or other library advocates.
- *Letters to the editor*—Responses to editorials or key issues in a community that can be submitted for editorial page publication. (Remember, not everything requires a response.)
- *News announcement*—Releasing news to the media. News is factual, timely.
- *Public service announcements*—Announcements that inform the public about safety and health information, community services or public affairs.
- *Radio and TV programming*—Appearing on local radio/TV current events programs to talk about your issue.
- *Paid advertising*—While not traditionally something most libraries can afford, supporting groups may use this tool to reinforce the library’s message.
- *Web*—Your own website as well as those of media or partners.
- *Email campaign*—A letter writing campaign can be conducted using email.
- *Blogs*—While a more informal tool than your website, community blogs are often widely read by respected opinion leaders.
- *Intranet (your own and those of partners)*—Internal websites (not available to the public) are another information outlet for messages about the library.

Measurement and Evaluation

Measurement and evaluation are critical tools for understanding how your advocacy efforts impacted your goals. Too often, we skip measurement and evaluation because it seems hard, unnecessary or self-evident (i.e. we won the ballot measure). Whether your efforts succeeded beyond your wildest expectations, failed miserably or hit somewhere in the middle, measurement and evaluation can help you understand what worked—and what didn't—and how to adapt your strategy appropriately. In ongoing advocacy efforts, measurement can serve as ongoing “touch points” in a constant process of evaluation and evolution.

The first step in successful measurement and evaluation is setting goals and objectives that are measurable (page 11). The second is knowing your start point—just one more reason to conduct even a simple community survey (page 36).

There are two primary ways to measure your accomplishments—process measures and outcome measures. Process measures look at activity while outcome measures look at what is different as a result. Each is a valid measure in its own right, but in order to create better understanding of what happened *and* why, you should measure and analyze both.

SAMPLE PROCESS MEASURES (What did you do?)

- How much “stuff” did you create (flyers, postcards, bookmarks, brochures, etc.)?
- Where and to whom did you distribute your materials?
- Did you conduct outreach? To how many people and where?
- Did you engage the media? If so, whom and with what frequency?
- Did you engage your staff, board, Friends and library foundation? If so how?

SAMPLE OUTCOME MEASURES (What happened?)

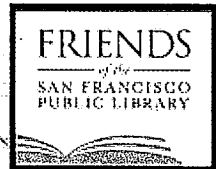
- Did you achieve your goal (bond or levy passed, budget fully funded, etc.)?
- How many impressions did you generate (how many people saw your stuff)?
- Did you receive positive media stories?
- Did you earn endorsements from other organizations? If so, whom?
- Who got involved? What did they do?

You can gather this information formally (through surveys, interviews or focus groups) or informally based on your own anecdotal evidence. Using both approaches will give you the fullest range of information.

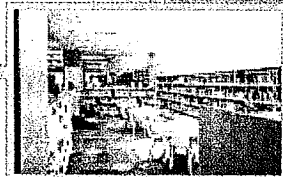
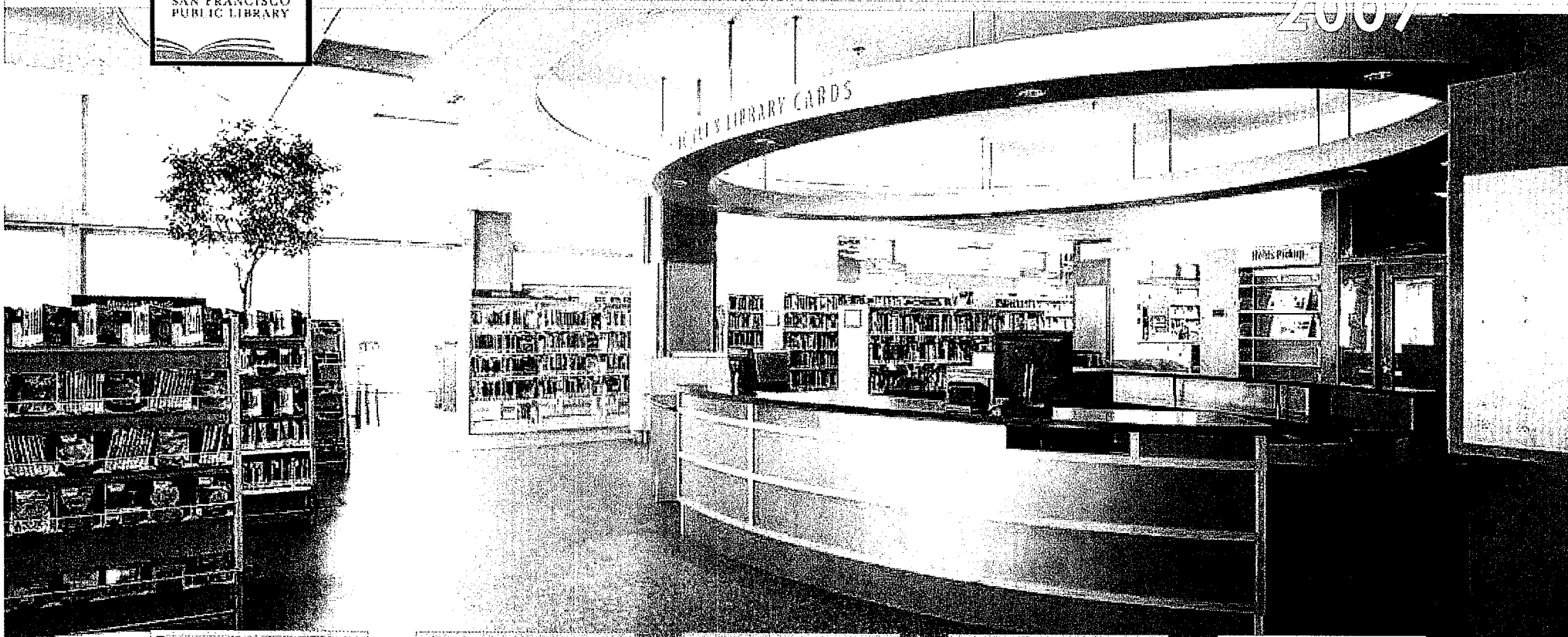
Having this information available will help you assess what worked, what didn't and most importantly why, so that you can make adjustments in your approach as you continue your important advocacy work.

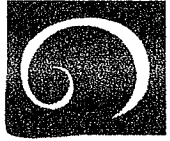
Providing for Knowledge, Growth, and Prosperity

A Benefit Study of the San Francisco Public Library



2007





Summary and Quantification of Benefits

Summary of Benefits

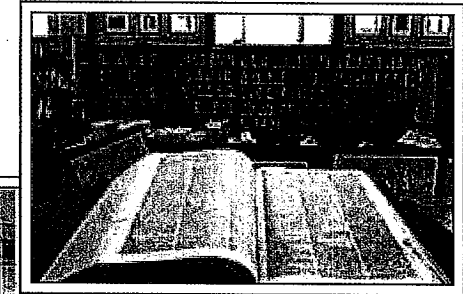
The preceding five chapters qualitatively describe the many benefits provided to the San Francisco community by its library system. These benefits derive from the diverse resources and services provided by the library, including:

- Materials for pleasure reading and personal enrichment
- Strong support of the public school system
- Specialized resources for entrepreneurs and job seekers
- Resources and activities for families with young children
- Public spaces for informal and formal community building
- Critical resources and connections to social service organizations for those in need.

The library also enhances San Francisco's attractiveness as a dynamic and diverse place to live, with high quality of life and vibrant neighborhoods.

A Focus on the Public Good. If these services were provided by any other entity, either for-profit or non-profit, the public benefit would not be the same. SFPL's mission and status as a public institution dictates that it provide these benefits under a particular philosophy:

- As a publicly funded institution, SFPL provides most services free of charge, meaning they are as accessible to those with few resources as they are to society's wealthy
- Privacy and free speech are paramount to the library's mission, meaning patrons are able to explore and ask questions confident that questions are answered without judgment and records are private
- The library values breadth and diversity and its collection not subject to screening for profitability, popularity, or political and social acceptability



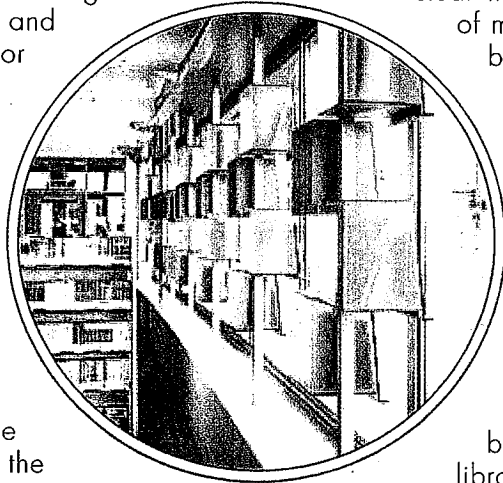
Quantitative Analysis of SFPL Benefits

The following analysis assigns a dollar value on a small portion of the diverse benefits provided to the San Francisco community by SFPL. These quantifiable benefits are related to the library's direct services, for which the library tracks usage data and for which a defensible methodology can be employed to determine their value. Quantifiable benefits include the circulation of library collections, the use

Providing for Knowledge, Growth, and Prosperity A Benefit Study of the San Francisco Public Library

of databases and reference materials; provision of research assistance and multi-lingual reference services; courses and trainings; events, and programs for children, teens, and adults; the use of library meeting space and exhibits; access to computers, viewing or listening stations, and assistive technology for special needs patrons; and library donations to the community.

The value of most of these services was estimated by determining the market cost of a comparable service or other means of acquiring the same benefit. This market value was then multiplied by the number of uses by SFPL patrons in the 2005-2006 fiscal year. For example, the value for use of a public access computers was estimated by multiplying the cost of using a comparable machine for an hour in an Internet café by the number of total public accessing computing hours used by SFPL patrons during the 2005-06 fiscal year.



Limitations to What is Quantifiable.

The benefits that are calculated in this section are only a portion of the actual benefits received by the community and are limited to those for which the library gathers data and for which there is a clear method for the calculation of market value. Many of the benefits provided by SFPL cannot reasonably be quantified due to a lack of information about the number of people benefiting or the value of the benefit to each recipient. In attempting to put a reasonable and defensible dollar figure to the value of benefits provided by the library, the following very significant categories of benefits are **not** captured (see Appendix B for definitions):

- The positive externalities of the information provided by library collections, programming, and trainings; these indirect benefits may include the value associated with a

more highly-educated population and the economic and social value generated by enhanced performance of the city's businesses.

- The positive externalities created through SFPL's partnership with SFUSD and the library's early literacy and school readiness initiatives, including the personal, social, and economic benefits associated with better educated youth who are more likely to be successful in their chosen careers.
- The library's contributions to civil society and an active and informed citizenry.
- SFPL's contributions to the character of San Francisco and its neighborhoods, including the library's function as a "Third Place."
- The avoided social costs associated with successful job seekers who
- The avoided social costs and enhanced economic and social contributions associated with connecting people with needed social services.

Summary and Quantification of Benefits

- The increased earnings associated with job seekers and entrepreneurs (and their employees) who receive support from SFPL.
- Contributions to San Francisco's image and identity, attracting residents, employees, and employers to the city.

As an example, in estimating the value of circulated materials, the circulation of each book is assigned the same value. If a patron reads a book on business planning, that book is valued the same as someone checking out a copy of the latest Danielle Steel novel or a copy of A Tale of Two Cities. However, the business planning book may provide essential information that helps advance that person's career—bringing benefits such as increased salary, and in turn, increased economic activity, or may help someone open a business—providing additional economic benefit to the entrepreneur and her employees.

Similarly, the person who attends an author reading at the library receives a benefit, valued in this analysis at the average price it would cost him or her to attend a similar activity elsewhere. The analysis does not capture the additional

benefit that person may receive simply by being able to attend a community activity, meet other people with similar interests, and gain knowledge that may enrich his or her life.

These are individual and unquantifiable positive externalities, and while they most certainly exist, the nature of such indirect benefits is often subjective and outside of the realm of the marketplace. They are beyond our ability to clearly and reasonably measure. With the omission of these important and real contributions to individuals and the community as a whole, the actual value of benefits provided by the library is a number substantially larger than the conservatively calculated value described below.

Results. Exhibit 3 presents a summary of the annual benefits associated with each of the quantifiable direct services provided by the library. For more detail regarding the usage and market value assumptions for each service, see Appendix A. The total value of these benefits for the 2005-06 year ranges from a low of \$87 million to a high of \$207 million.

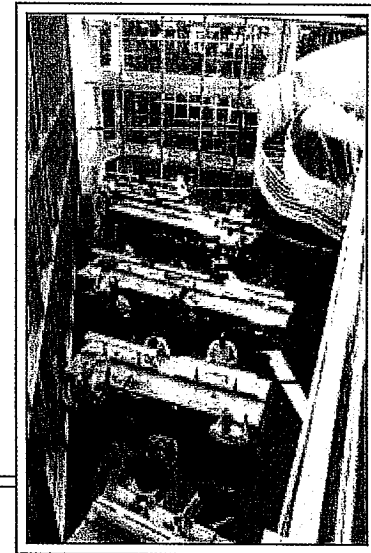


Photo: Michael Allen Jones



Source: Berk & Associates

Benefit	Total Estimated Annual Benefit	
	Low	High
Circulation Data		
Hardback books	\$ 17,299,481	\$ 42,597,900
Paperback books (Trade)	\$ 14,307,111	\$ 25,434,864
Paperback books (mass)	\$ 585,971	\$ 937,554
Library for the blind (special materials)	\$ 277,250	\$ 390,203
DVDs	\$ 1,295,230	\$ 5,504,728
VHS Video Cassettes	\$ 354,143	\$ 1,947,787
CDs, music	\$ 2,149,260	\$ 2,579,112
Audio books, cassette	\$ 309,551	\$ 1,100,624
Audio books, CD	\$ 400,565	\$ 762,980
Audio cassettes, music	\$ 12,392	\$ 23,013
Language Learning audio	\$ 261,368	\$ 1,437,521
Phonograph records	\$ 10,694	\$ 13,505
ebooks (text)	\$ 229,697	\$ 292,341
Downloadable ebooks	\$ 88,841	\$ 118,455
Magazines, adult	\$ 406,070	\$ 1,843,538
Magazines, children's	\$ 60,319	\$ 197,929
Magazines, non-English	\$ 130,950	\$ 436,500
Subtotal	\$ 38,178,890	\$ 85,618,553
Reference Services		
Reference materials	\$ 5,931,650	\$ 29,007,594
Reference services	\$ 11,395,807	\$ 26,661,350
Business Reference Questions	\$ 558,817	\$ 838,225
On-line Databases	\$ 24,358,427	\$ 49,483,059
Viewing/Listening Stations	\$ 82,500	\$ 220,000
Subtotal	\$ 42,327,201	\$ 106,210,228
Programming		
Adult		
Training/Instruction	\$ 127,227	\$ 339,271
Lecture Panel	\$ 77,446	\$ 154,891
Author Reading	\$ 52,635	\$ 210,539
Exhibit Openings	\$ 5,156	\$ 10,313
Film/Video	\$ 76,765	\$ 102,353
Clubs/Performances/Celebrations	\$ 14,554	\$ 36,386
Mission Bay Branch Opening	\$ 32,000	\$ 80,000
Children		
Story times	\$ 224,438	\$ 561,096
Media events	\$ 130,298	\$ 138,984
Special programs	\$ 508,872	\$ 1,272,180
SAT/Training classes	\$ 47,500	\$ 71,250
Library visits from schools	\$ 191,904	\$ 479,760
Librarian visits to schools	\$ 146,812	\$ 367,030
ASL Storytimes	\$ 34,560	\$ 47,520
Subtotal	\$ 1,670,166	\$ 3,871,573
Use of Space		
Meeting space rentals	\$ 377,425	\$ 793,075
Exhibits	\$ 262,989	\$ 631,174
Subtotal	\$ 640,414	\$ 1,424,249
Technology		
Computer Usage (including assistive technology)	\$ 3,398,160	\$ 8,863,327
WiFi	\$ 481,140	\$ 962,279
Subtotal	\$ 3,879,300	\$ 9,825,606
Donations		
Annual Donations	\$ 514,583	\$ 514,583
Subtotal	\$ 514,583	\$ 514,583
TOTAL ESTIMATED BENEFITS FOR FY05-06:	\$ 87,210,554	\$ 207,464,792

Exhibit 3
Summary of Estimated Annual Value of Benefits Provided by SFPL

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