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REBUILDING BELL, CALIFORNIA

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



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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.

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.

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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.

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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.

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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.

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

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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-in-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>.

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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.

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>.

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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.

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