

File No. 200515

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 13, 2020

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
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- Award Letter
- Application
- Form 700
- Vacancy Notice
- Information Sheet
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Charter Amendment _____
- _____
- _____
- _____
- _____
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- _____

Completed by: Victor Young Date July 9, 2020

Completed by: _____ Date _____

1 [Charter Amendment - Police Department Staffing Levels]

2
3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **3, 2020, to amend the Charter of the City and County of San Francisco to remove the**
5 **minimum police staffing requirement, to require the Police Department to submit a report**
6 **and recommendation regarding police staffing levels to the Police Commission every two**
7 **years, and to require the Police Commission to consider the report and recommendation**
8 **when approving the department’s proposed budget.**
9

10 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City
11 and County, at an election to be held on November 3, 2020, a proposal to amend the Charter of
12 the City and County by revising Section 4.127 and 16.123, to read as follows:

13 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
14 **Additions** are *single-underline italics Times New Roman font*.
15 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Charter
17 subsections.

18 **SEC. 4.127. POLICE DEPARTMENT.**

19 The Police Department shall preserve the public peace, prevent and detect crime, and
20 protect the rights of persons and property by enforcing the laws of the United States, the State of
21 California, and the City and County.

22 The Chief of Police may appoint and remove at pleasure special police officers.

23 The Chief of Police shall have all powers which are now or that may be conferred upon a
24 sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the
25 public peace or organized resistance against the laws or public authority.

1 DISTRICT POLICE STATIONS. The Police Department shall maintain and operate
2 district police stations. The Police Commission, subject to the approval by the Board of
3 Supervisors, may establish additional district stations, abandon or relocate any district station, or
4 consolidate any two or more district stations.

5 BUDGET. Monetary awards and settlements disbursed by the City and County as a result
6 of police action or inaction shall be taken exclusively from a specific appropriation listed as a
7 separate line item in the Police Department budget for that purpose.

8
9 POLICE STAFFING. By no earlier than October 1 and no later than November 1 in
10 every odd-numbered calendar year, the Chief of Police shall transmit to the Police Commission
11 a report describing the department's current number of full-duty sworn officers and
12 recommending staffing levels of full-duty sworn officers in the subsequent two fiscal years. The
13 report shall include an assessment of the Police Department's overall staffing, the workload
14 handled by the department's employees, the department's public service objectives, the
15 department's legal duties, and other information the Chief of Police deems relevant to
16 determining proper staffing levels of full-duty sworn officers. The report shall evaluate and
17 make recommendations regarding staffing levels at all district stations and in all types of jobs
18 and services performed by full-duty sworn officers. By no later than July 1 in every odd-
19 numbered calendar year, the Police Commission shall adopt a policy prescribing the
20 methodologies that the Chief of Police may use in evaluating staffing levels, which may include
21 consideration of factors such as workload metrics, the Department's targets for levels of service,
22 ratios between supervisory and non-supervisory positions in the Department, whether particular
23 services require a fixed number of hours, and other factors the Commission determines are best
24 and services performed by full-duty sworn officers. By no later than July 1 in every odd-
25 numbered calendar year, the Police Commission shall adopt a policy prescribing the

1 practices or otherwise relevant. The Chief of Police may, but is not required by this Section
2 4.127 to, submit staffing reports regarding full-duty sworn officers to the Police Commission in
3 even-numbered years.

4 The Police Commission shall hold a public hearing regarding the Chief of Police's
5 staffing report by December 31 in every odd-numbered calendar year. The Police Commission
6 shall consider the most recent report in its consideration and approval of the Police
7 Department's proposed budget every fiscal year, but the Commission shall not be required to
8 accept or adopt any of the recommendations in the report. The police force of the City and
9 County shall at all times consist of not fewer than 1,971 full duty sworn officers. The staffing
10 level of the Police Department shall be maintained with a minimum of 1,971 full-duty sworn
11 officers thereafter. That figure may be adjusted pursuant to Section 16.123.

13 ~~All officers and employees of the City and County are directed to take all acts necessary~~
14 ~~to implement the provisions of this section.~~ The Board of Supervisors is empowered to adopt
15 ordinances necessary to effectuate the purpose of this section regarding staffing levels including
16 but not limited to ordinances regulating the scheduling of police training classes.

18 Further, the Police Commission shall initiate an annual review to civilianize as many
19 positions as possible ~~to maximize police presence in the communities~~ and submit that report to
20 the Board of Supervisors annually for review and approval.

21 ~~The number of full duty sworn officers in the Police Department dedicated to~~
22 ~~neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years,~~
23 ~~and all new full duty sworn officers authorized for the Police Department shall also be dedicated~~
24 ~~to neighborhood community policing, patrol and investigations.~~

1 * * * *

2 **SEC. 16.123. CIVILIAN POSITIONS WITHIN THE POLICE DEPARTMENT.**

3 ~~(a) The Controller shall review sworn and civilian staffing needs in the San Francisco~~
4 ~~Police Department. As part of that review, the Controller shall review police staffing levels and~~
5 ~~patterns in comparable jurisdictions, and best practices regarding police staffing.~~

6 ~~———— The Controller and the Chief of Police shall also audit all positions in the Police~~
7 ~~Department and identify those positions that must be filled by sworn officers and those that could~~
8 ~~be filled by civilian personnel or that, under best practices in other jurisdictions, typically are~~
9 ~~filled by civilian personnel.~~

10 ~~———— In conducting these studies, the Controller and the Chief of Police shall consult with the~~
11 ~~Board of Supervisors' Budget Analyst, the Director of the Department of Human Resources, and~~
12 ~~a representative of the bargaining unit representing sworn members of the Police Department.~~

13 ~~———— Upon the completion of these studies, the Controller and the Chief of Police shall~~
14 ~~forward to the Mayor and the Board of Supervisors a list of positions in the Police Department~~
15 ~~currently filled by sworn officers that could be filled by civilian personnel.~~

16 ~~———— Upon submission of the list of positions to the Mayor and the Board of Supervisors, the~~
17 ~~provisions of subsection (a) shall expire and the City Attorney shall cause them to be deleted~~
18 ~~from future publications of the Charter, and shall cause the remaining provisions to be relettered~~
19 ~~accordingly.~~

20 (a) (b) Positions in the Police Department may only be converted from sworn to civilian
21 as they become vacant. No sworn officer shall be laid off in order to convert a position to
22 civilian personnel.
23
24
25

1 (b) If the Mayor ~~and~~ or any member of the Board of Supervisors proposes to convert
2 positions in the Police Department from sworn officers to civilian personnel through the budget
3 process, ~~the minimum staffing level set in Section 4.127 shall be reduced by the same number of~~
4 ~~positions~~ if the Controller and the Chief of Police shall report on whether jointly certify that the
5 reduction would ~~will not~~ decrease the number of police officers dedicated to neighborhood
6 community policing, patrol, and investigations or would ~~and will not~~ substantially interfere with
7 the delivery of City public safety services, including services to protect the public ~~police services~~
8 ~~or the ability of the Police Department to protect the public~~ in the event of an emergency. In
9 preparing the report required by this subsection (b), the Chief of Police shall solicit input from
10 the Police Commission.
11

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/ _____
16 ALICIA CABRERA
17 Deputy City Attorney

18 n:\legana\as2020\2000501\01448391.docx

LEGISLATIVE DIGEST

Revised 07/09/20

[Charter Amendment - Police Department Staffing Levels]

Describing and setting forth a proposal to the voters at an election to be held on November 3, 2020, to amend the Charter of the City and County of San Francisco to remove the minimum police staffing requirement, to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years, and to require the Police Commission to consider the report and recommendation when approving the department's proposed budget.

Existing Law

Under the Charter, the San Francisco Police Department must maintain at least 1,971 full duty sworn officers. The Charter also requires the City to maintain the number of sworn officers dedicated to neighborhood policing and patrol at least at the level in fiscal year 1993-1994, and to dedicate new sworn officers to neighborhood community policing, patrol and investigations.

Amendments to Current Law

The proposed measure would amend the Charter to require the Chief of Police to transmit to the Police Commission a report describing the department's current number of full-duty sworn officers and recommending staffing levels of full-duty sworn officers. The report will include an assessment of the Police Department's overall staffing, the workload handled by the department's employees, the department's public service objectives, the department's legal duties, and other information the Chief of Police deems relevant to determining proper staffing levels of full-duty sworn officers. The measure would require the Police Commission to adopt a policy at least once every two years setting the methodologies for the Chief of Police to use in evaluating staffing levels.

The Charter would require the Police Commission to hold a public hearing on the staffing report. The Police Commission would be required to consider the staffing report in its consideration and approval of the Police Department's proposed budget every fiscal year, but the Commission would not be required to accept or adopt any of the recommendations in the report.

The measure would also remove the requirements for the City to maintain the number of sworn officers dedicated to neighborhood policing and patrol at least at the level in fiscal year 1993-1994, and to dedicate new sworn officers to neighborhood community policing, patrol and investigations.

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OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller
Todd Rydstrom
Deputy Controller

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

July 6, 2020

RE: File 200515 – Charter amendment to remove the minimum police staffing requirement and to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years for budgeting purposes

Dear Ms. Calvillo,

Should the proposed Charter amendment and ordinance be approved by the voters, in my opinion, in and of itself it would not affect the cost of government.

The proposed Charter amendment would eliminate the minimum staffing requirement of 1,971 sworn full-duty officers and instead require the Police Department to prepare a report describing the current number of full-duty sworn officers and recommending staffing levels of full-duty sworn officers.

The report will include an assessment of overall staffing, workload, public service objectives, legal duties, and other relevant information to determining proper staffing levels of full-duty sworn officers. The Police Commission would be required to hold a public hearing to consider the staffing report when approving the Police Department's proposed budget every fiscal year, but would not be required to accept or adopt any of the recommendations in the report.

The amendment would make it possible for the City to achieve cost savings in the annual budget process by allowing for reallocation of funding that is currently set aside to meet the minimum staffing requirement, and the Mayor and the Board of Supervisors would have additional discretion to use some portion of this funding for any public purpose under the normal budgetary and fiscal provisions of the Charter. The estimated annual salary and fringe benefit cost of a full duty sworn officer is approximately \$155,000.

Sincerely,

Natasha Mihal

Ben Rosenfield
Controller

FOR

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 26, 2020

File No. 200515

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

On May 19, 2020, the following proposed Charter Amendment for the November 3, 2020, Election was received by the Board of Supervisors' Rules Committee:

File No. 200515

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to remove the minimum police staffing requirement, to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years, and to require the Police Commission to consider the report and recommendation when approving the department's proposed budget; at an election to be held on November 3, 2020.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

06/02/2020

A handwritten signature in black ink that reads "Joy Navarrete".

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 26, 2020

File No. 200515

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

On May 19, 2020, the following proposed Charter Amendment for the November 3, 2020, Election was received by the Board of Supervisors' Rules Committee:

File No. 200515

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to remove the minimum police staffing requirement, to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years, and to require the Police Commission to consider the report and recommendation when approving the department's proposed budget; at an election to be held on November 3, 2020.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller

FROM: Victor Young, Assistant Clerk, Rules Committee
Board of Supervisors

A handwritten signature in cursive script that reads "Victor Young".

DATE: May 26, 2020

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 3, 2020 Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 3, 2020, Election. This matter is being referred to you in accordance with Rules of Order 2.22.3.

File No. 200515

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to remove the minimum police staffing requirement, to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years, and to require the Police Commission to consider the report and recommendation when approving the department's proposed budget; at an election to be held on November 3, 2020.

Please review and prepare a financial analysis of the proposed measure prior to the first Rules Committee hearing.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please email or forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Deputy City Controller
Peg Stevenson, City Performance Director
Natasha Mihal, City Services Auditor

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Sophia Kittler, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Chief William Scott, Police Department
Police Commission
Micki Callahan, Director, Department of Human Resources

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: May 26, 2020

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 3, 2020 Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 3, 2020, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 200515

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to remove the minimum police staffing requirement, to require the Police Department to submit a report and recommendation regarding police staffing levels to the Police Commission every two years, and to require the Police Commission to consider the report and recommendation when approving the department's proposed budget; at an election to be held on November 3, 2020.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Andres Power, Mayor's Office

Rebecca Peacock, Mayor's Office
Kanishka Cheng, Mayor's Office
Patrick Ford, Ethics Commission
Rowena Carr, Police Department
Asja Steeves, Police Department
Sergeant Rachael Kilshaw, Police Commission
Jayne Campbell, Police Commission
Carol Isen, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources

From: [Beinart, Amy \(BOS\)](#)
To: [Vejby, Caitlin \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Young, Victor \(BOS\)](#)
Subject: File 200515 - please add Supervisor Ronen
Date: Thursday, June 25, 2020 1:43:48 PM

Please add Supervisor Ronen as co-sponsor to File 200515 – [Charter Amendment - Police Department Staffing Levels]

Thanks so much,

~Amy

<<<<<<>>>>>>

Amy Beinart | Legislative Aide/Chief of Staff

Office of Supervisor Hillary Ronen

[415.554.7739](tel:415.554.7739) | amy.beinart@sfgov.org

<https://sfbos.org/supervisor-ronen-district-9>

From: [BOS Legislation, \(BOS\)](#)
To: [Angulo, Sunny \(BOS\)](#); [Vejby, Caitlin \(BOS\)](#); [BOS Legislation, \(BOS\)](#); [Young, Victor \(BOS\)](#)
Subject: RE: File No. 200515 - Add Supervisor Peskin as Cosponsor
Date: Monday, July 6, 2020 2:07:27 PM

Looping in Rules Clerk, Victor for processing.

Thank you,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

From: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Sent: Monday, July 6, 2020 1:35 PM
To: Vejby, Caitlin (BOS) <caitlin.vejby@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: RE: File No. 200515 - Add Supervisor Peskin as Cosponsor

Thank you, Caitlin!

From: Vejby, Caitlin (BOS) <caitlin.vejby@sfgov.org>
Sent: Monday, July 6, 2020 1:35 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Subject: File No. 200515 - Add Supervisor Peskin as Cosponsor

Please add Supervisor Peskin as a cosponsor to File No. 200515 [Charter Amendment - Police Department Staffing Levels].

Thank you!

Caitlin

Caitlin Vejby
Legislative Assistant
Supervisor Norman Yee
President, Board of Supervisors
415.554.6516
www.sfbos.org/yee

From: [Gee, Natalie \(BOS\)](#)
To: [Vejby, Caitlin \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Gallardo, Tracy \(BOS\)](#); [Young, Victor \(BOS\)](#)
Subject: Re: Please add Supervisor Walton as Cosponsor to File No. 200515 [Charter Amendment - Police Department Staffing Levels]
Date: Wednesday, July 8, 2020 12:16:42 PM

Confirmed for Supervisor Walton. Thank you!

Natalie Gee 朱凱勤, Chief of Staff
Office of District 10 **Supervisor Shamann Walton**
1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 282
Direct: 415.554.7672 | **Office:** 415.554.7670

I am currently working from home due to COVID-19 Shelter-In-Place orders and will be most responsive by email.

District 10 COVID-19 Resources: <http://bit.ly/covid19d10>

From: "Vejby, Caitlin (BOS)" <caitlin.vejby@sfgov.org>
Date: Wednesday, July 8, 2020 at 12:16 PM
To: "BOS Legislation, (BOS)" <bos.legislation@sfgov.org>
Cc: "Gee, Natalie (BOS)" <natalie.gee@sfgov.org>, "Gallardo, Tracy (BOS)" <tracy.gallardo@sfgov.org>, "Young, Victor (BOS)" <victor.young@sfgov.org>
Subject: Please add Supervisor Walton as Cosponsor to File No. 200515 [Charter Amendment - Police Department Staffing Levels]

Please add Supervisor Walton as a cosponsor to File No. 200515 [Charter Amendment - Police Department Staffing Levels]. I am cc'ing Tracy Gallardo and Natalie Gee to confirm.

Thank you!

Caitlin

Caitlin Vejby
Legislative Assistant
Supervisor Norman Yee
President, Board of Supervisors
415.554.6516
www.sfbos.org/yee

From: [BOS Legislation, \(BOS\)](#)
To: [Angulo, Sunny \(BOS\)](#); [Vejby, Caitlin \(BOS\)](#); [BOS Legislation, \(BOS\)](#); [Young, Victor \(BOS\)](#)
Subject: RE: File No. 200515 - Add Supervisor Peskin as Cosponsor
Date: Monday, July 6, 2020 2:07:27 PM

Looping in Rules Clerk, Victor for processing.

Thank you,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

From: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Sent: Monday, July 6, 2020 1:35 PM
To: Vejby, Caitlin (BOS) <caitlin.vejby@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: RE: File No. 200515 - Add Supervisor Peskin as Cosponsor

Thank you, Caitlin!

From: Vejby, Caitlin (BOS) <caitlin.vejby@sfgov.org>
Sent: Monday, July 6, 2020 1:35 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Subject: File No. 200515 - Add Supervisor Peskin as Cosponsor

Please add Supervisor Peskin as a cosponsor to File No. 200515 [Charter Amendment - Police Department Staffing Levels].

Thank you!

Caitlin

Caitlin Vejby
Legislative Assistant
Supervisor Norman Yee
President, Board of Supervisors
415.554.6516
www.sfbos.org/yee

July 6, 2020

Members of the Rules Committee
San Francisco Board of Supervisors
San Francisco, CA

Re: Item 200515 – Charter Amendment, Police Department Staffing Levels

Dear Supervisors Stefani, Mar and Ronen,

I am writing to strongly support the proposed Charter Amendment that would remove the police minimum staffing requirement from the SF Charter and replace it with a requirement for a bi-annual report recommending staffing levels that would be considered by the Police Commission in developing the SFPD budget.

As the former ED of Coleman Advocates for Children and Youth, the former Director of DCYF, and as a private citizen I have spent many years involved in the San Francisco budget process working to ensure that our budget reflects the needs of our families and the priorities of the public. This measure would ensure a rational process for determining the police staffing pattern, and would allow not only for a regular study of the matter, but adequate public input into the decision.

This measure is particularly important given the current recognition that as a society we must reassess the proper role of police. There is a growing consensus that many functions that have been traditionally assumed by police should be more appropriately taken on by other types of personnel, such as mental health workers, social workers, and community outreach staff. Unless this charter amendment is passed, San Francisco will have its hands tied in developing a more responsive and effective structure for the Police Department and other functions of government.

Thank you for your consideration.



Margaret Brodtkin
45 Graystone Terrace
San Francisco, 94114
415-794-4963

From: [Andrea Gremer](#)
To: [Young, Victor \(BOS\)](#)
Subject: Public Comment on Item 3 Charter Amendment - Police Department Staffing Levels
Date: Tuesday, July 7, 2020 11:00:49 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Rules Committee,

I am writing today in support of the Charter Amendment to amend the City Charter to remove the minimum police staffing requirement. Minimum staffing levels don't take into consideration any current conditions or overall City needs. That requirement takes away flexibility that may be needed, not only at a time when the City is asking for significant budget cuts, but at a time when the purpose of the police department itself may be under greater scrutiny. I would encourage the City to not paint itself into a corner by imposing arbitrary staffing levels in any department at any time.

Thank you, and I look forward to seeing this on the November ballot!

Best Regards,
Andrea Gremer

From: [xima](#)
To: [Young, Victor \(BOS\)](#)
Subject: For Public Comment at Rules Committee Meeting 7/9
Date: Tuesday, July 7, 2020 4:29:22 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Rules Committee Members:

On May 19, Board President Norman Yee introduced a Charter Amendment that would mandate some manner of data-driven process be used to determine the optimal size of San Francisco's police department, thereby undoing the city's current (and arbitrary) minimum of 1,971 sworn police officers. This is crucial, as the current minimum police staffing level was set in 1994 — 26 years ago —which, given the calls for defunding the police that have arisen in the last month, might as well be 26,000 years ago.

I support the amendment to remove the current SFPD minimum staffing requirement and would like to see it on the ballot this November.

Thank you,
Xima Avalos
Mission District



THE BAR ASSOCIATION OF SAN FRANCISCO

2020 OFFICERS AND BOARD OF DIRECTORS

Stuart C. Plunkett
President

Marvin K. Anderson
President-Elect

Mary McNamara
Treasurer

Vidhya Prabhakaran
Secretary

Alexis A. Amezcua
Cristine Soto DeBerry

Jamie L. Dupree
Terrance J. Evans

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Steven A. Hirsch

Erick C. Howard
Charles H. Jung

Sebastian Kaplan
David Kelly

Miriam Kim
Lisa P. Mak

Phyra McCandless
David Otsuka

Peggy Otum
Karen Scarr

Ragesh Tangri
Erica Villanueva

BARRISTERS CLUB OFFICERS

Kelly Matayoshi
President

Jessica Ryland
President-Elect

Anjali Kulkarni
Treasurer

Lindsey Mignano
Secretary

EXECUTIVE DIRECTOR AND GENERAL COUNSEL

Yolanda M. Jackson

July 8, 2020

Mr. Dennis Herrera
City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Ms. Micki Callahan
Human Resources Director
Department of Human Resources
One South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Dear Mr. Herrera and Ms. Callahan:

The Bar Association of San Francisco's Criminal Justice Task Force ("BASF-CJTF"¹) writes to you concerning recent reports that the City Attorney's Office has advised Board of Supervisors President Norman Yee that the decision to place on the ballot for public vote his proposed amendment to the City Charter ("Yee Amendment") concerning staffing levels at the San Francisco Police Department ("SFPD") must—even before being submitted to the voters—be negotiated with the San Francisco Police Officers' Association ("SFPOA").

The Yee Amendment is simple, straightforward, and democracy in action. It would require the Police Department every two years to submit to the Police Commission a report and recommendation regarding police staffing levels, require the Police Commission to consider the report and recommendation when approving the department's proposed budget, and remove any minimum police staffing level that arguably is required by the current City Charter.

As you know, the Yee Amendment must be placed on the ballot by July 21, 2020, in order to be considered by voters in the November election; otherwise, a City Charter amendment will have to be delayed until 2022.

¹ The Bar Association of San Francisco represents 7,500 members and is the largest legal organization in Northern California dedicated to criminal justice reform. In 2015, BASF established the Criminal Justice Task Force, consisting of judges, prosecutors, public defenders, law enforcement, private defense counsel, civil liberties advocates, and others, to advance systemic reforms in San Francisco.

We are very concerned that an interpretation that requires bargaining right now over the Yee Amendment with SFPOA will prevent voters from considering it in the November election. Following the death of George Floyd and national and local protests, there is currently extraordinary public demand for a reexamination of SFPD's staffing and fundamental responsibilities. Permitting SFPOA to delay passage of the Yee Amendment will tie the City's hands in regards to staffing for another two years, and virtually guarantee that the Mayor, the Supervisors, the Police Commission, and the Chief cannot deliver the reforms San Francisco expects.

Moreover, and as set forth below in detail, we respectfully disagree that bargaining with SFPOA is legally required or appropriate under the circumstances. To the contrary, the Yee Amendment is a classic managerial matter that should not be the subject of bargaining as a matter of law and policy.

I. The Yee Amendment does not at this time change police staffing levels; it directs the Chief to submit a report re: staffing levels and the Police Commission to consider that report, without an artificial minimum staffing level.

The Yee Amendment does *not* cut police staffing levels at this time. Instead, it puts in place a process to evaluate staffing levels. It requires the Chief to analyze staffing levels and submit a report to the Police Commission, and requires the Police Commission to consider the Chief's report. It eliminates the artificial "minimum" staffing level of 1,971 officers, and instead simply allows that Chief's report on staffing, and the Police Commission's consideration of that report, to proceed.

The Yee Amendment will not necessarily result in any reduction in police forces. At present, there is no live controversy over which to meet and confer with SFPOA, as there are at least three conditions that have to materialize before there is any potential reduction in staffing. First, in order for there to be a potential reduction in staffing, the voters would have to approve the Yee Amendment in the November 3, 2020 election; if they do not approve it, there is no change via the Yee Amendment and no impact on SFPOA nor the staffing levels. Second, even if the voters approve the Yee Amendment in the election, the Chief would have to submit a report that recommends cuts in staffing, or else there is no impact on staffing traceable to the Yee Amendment. Third, the Police Commission would have to accept such a recommendation to reduce staffing², and then exercise its independent discretion to approve a budget that includes staffing reductions, in order for there to be an adverse impact on staffing.

² The Yee Amendment expressly states that the Police Commission need *not* accept or adopt any recommendation made by the Chief.

Thus, the Yee Amendment itself does not result in any reduction in staffing, and there is no live controversy with SFPOA that could conceivably be subject to meet and confer and/or arbitration, at least unless and until the Police Commission moves to implement staffing reductions through the budget process.

II. Even if the Yee Amendment were to be interpreted as putting forth a live controversy by potentially reducing staffing levels, a decision to reduce staffing levels, which is not driven by labor costs, is a classic managerial decision not subject to meet and confer bargaining.

The Meyers-Milias-Brown Act (Gov. Code Section 3500, *et seq.*; “MMBA”) sets forth California’s public sector labor law provisions. It requires that under certain circumstances a public sector employer must meet and confer and bargain with the Union-representative of a recognized bargaining unit of employees. Section 3504, requires management to bargain over matters within the “scope of [union] representation,” which includes “all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.”

The “however” qualifier of Section 3504 (i.e., the principle that any “consideration of the merits, necessity, or organization of any service or activity provided by law or executive order” is not included in “the scope of representation”) was added by the California legislature to “forestall any expansion of the language of ‘wages, hours and working conditions’ to include more general managerial policy decisions.” *Santa Clara Cnty. Corr. Peace Officers’ Ass’n v. Cnty of Santa Clara*, 224 Cal. App. 4th 1016 (2014) (“*Santa Clara*”), quoting *Building Material & Construction Teamsters’ Union v. Farrell*, 41 Cal. 3d 651, 657 (1986) (“*Building Materials*”).

Importantly, the MMBA recognizes “the right of employers to make unconstrained decisions when fundamental management or policy choices are made.” *Claremont Police Officers Ass’n v. City of Claremont*, 39 Cal. 4th 623, 632 (2006) (“*Claremont*”), quoting *Building Materials*, at 663. Management decisions are not subject to bargaining. “To require public officials to meet and confer with their employees regarding fundamental policy decisions . . . would place an intolerable burden upon fair and efficient administration of state and local government.” *Berkeley Police Ass’n v. City of Berkeley*, 76 Cal. App. 3d 931, 937 (1977) (“*Berkeley Police*”). Notably, the case law teaches that management’s prerogative is particularly strong in cases involving police department policy matters that implicate public trust in law enforcement. *San Francisco Police Officers’ Ass’n v. San Francisco Police Comm’n*, 27 Cal.App.5th 676, 690(2018) (“*San Francisco Police*”) quoting *Building Materials*, at 664 (matters involving “the avoidance of unnecessary deadly force are of obvious importance, and directly affect the quality and

nature of public services,” are not within the scope of representation); *Berkeley Police*, at 937 (creation of a citizen review panel to make disciplinary recommendations was considered “a matter of police-community relations,” such that the city’s challenged policies “constitute[d] management level decisions which are not properly within the scope of union representation and collective bargaining”); *Claremont*, at 632-33 (racial profiling study designed to “improve relations between the police and the community” is not subject to bargaining).

Where fundamental management decisions have a significant adverse effect on wages, hours, or working conditions, the California Supreme Court has adopted a balancing test to determine whether those effects must be subject to the meet and confer requirement under the MMBA. *Claremont*, at 638; *Building Materials*, at 660. The test asks whether “the employer’s need for unencumbered decision making in managing its operations is outweighed by the benefit to employer-employee relations of bargaining about the action in question.” *Building Materials*, at 660; *Claremont*, at 630. In performing this balancing, “a court may also consider whether the ‘transactional cost of the bargaining process outweighs its value.’” See *Building Materials*; *Claremont*; *Santa Clara*, at 1030. Delays instituted by extended bargaining and legal process should be considered a cognizable “transactional cost” to management under this analysis. *San Francisco Police*, at 764.

As an initial matter, the Yee Amendment itself has no adverse impact on wages, hours, or working conditions. As noted above, any such claim by SFPOA is premature at best. Instead, the Yee Amendment merely establishes a process by which staffing is evaluated.

Second, the Yee Amendment is a classic managerial decision about staffing, not driven by labor costs, which the courts consistently find to be *outside* of the meet and confer requirement. It replaces a minimum staffing requirement—that arguably impinges on appropriate management decision-making—with a management-driven process by which the Chief provides an executive-level assessment of staffing, operations, and the department’s public safety and legal duties, as well as a staffing recommendation for the Police Commission’s consideration in connection with the budget. Reinforcing the conclusion that it falls within management’s prerogative, the Yee Amendment is also responsive to the recent, widespread, and urgent calls from the San Francisco community for police reforms, including specifically changes to staffing levels. See *Claremont*, at 632-33; *Berkeley Police*, at 937; *San Francisco Police*, at 764.

Leading cases have explained that the decision by management to reduce staffing of public safety employees is not subject to bargaining; only the effect of that decision, *i.e.*, the manner in which those reductions occur, must be negotiated. Thus, where a City decided to layoff firefighter employees, and the Union demanded to meet and confer over the layoff decision, the court concluded that the City did *not* need to meet and confer

before making that decision to lay off employees; instead, the City only was required to bargain over the way in which layoffs were to be implemented. *Int'l Ass'n of Fire Fighters v. Public Employment Relations Board I*, 51 Cal.4th 259, 264-65 (2011). Similarly, in *Santa Clara*, the County wanted to cut the Department of Corrections budget and reduce the work schedules of corrections officers; the court found that the county was *not* required to meet and confer about the need to reduce the budget of the Department of Corrections, nor about the policy decisions to avoid layoffs by undertaking hours reductions.³ *Santa Clara*, at 1041.

Third and finally, even if the *Claremont* balancing test were to apply, any reasonable analysis under it comes down strongly on the side of allowing the Yee Amendment to be submitted to the voters. Time is of the essence, and unencumbered managerial decision-making is critical to preserving public trust in the City's reform efforts and in SFPD. The Yee Amendment must be submitted within days in order to be timely placed on the November 3, 2020 ballot to the voters. Any requirement that the parties complete a meet and confer right now would be a death sentence for the Yee Amendment. Yet allowing the Amendment to be placed on the ballot still gives SFPOA plenty of time and opportunity to meet and confer—if that were to be found, down the road, to be necessary. The voters should have an opportunity to speak on the issue, and the Yee Amendment provides that opportunity.

III. The City should stop voluntary bargaining with SFPOA over managerial matters because doing so is contrary to the law, and has delayed and undermined reforms; instead, the City must prioritize transparency, timeliness, public input, and real and meaningful change in negotiating with SFPOA.

We appreciate that the City has long adopted an approach toward labor relations that favors voluntary, and often exhaustive, discussion of any matters that are of concern to unionized employees, regardless of whether they are within the scope of representation. We do not question the wisdom of this approach in other domains, where the considerations are very different from those presented by policing.

³ By contrast, in *Building Materials*, the City, in order to reduce labor costs, wanted to lay off bargaining unit workers and reassign the work to workers outside of the bargaining unit. That clearly was considered a management decision that had a significant effect on hours, and given that management's motivation in making a staffing change was to save labor costs by taking work away from unionized workers, the Supreme Court found on balance that the employer should meet and confer with the Union. Here, there is nothing to indicate that the Yee Amendment was motivated by labor costs.

However, we do not believe this approach to labor negotiations with SFPOA has served SFPD, the City, or the San Francisco community, well. BASF-CJTF has been involved in police reform efforts for a number of years and has observed the meet and confer process with SFPOA delay—*by many months to years*—urgent reforms that promote public safety and reinforce public trust in SFPD. Indeed, the extensive delays instanced by negotiations with SFPOA have been a serious concern ever since the U.S. Department of Justice publicly cautioned that negotiations over SFPD’s revised use of force policy must not unreasonably delay adoption and implementation of the changes at issue. The meet and confer process with SFPOA has recently and unacceptably delayed many other key reforms, such as changes to the body camera policy, and the Department General Order on bias, just to name a few.

A new approach to negotiating police department matters with SFPOA is overdue. Full communication with the union *to the extent required by law*, and the improvement of labor-management relations, should remain important objectives of the meet and confer process. However, these cannot be the only principles guiding the City’s strategy. The City’s approach must also prioritize transparency, timeliness, and the advancement of substantive police reforms. The law supports these principles. It recognizes that formulating policies that promote public safety and trust between police agencies and the communities they serve is a fundamental duty of local government that must not be encumbered with undue delays, or worse, bargained away behind closed doors.

There is no legal requirement that the City meet and confer, at this time, with SFPOA regarding the Yee Amendment. It is time for the City to prioritize transparency and reform, and allow the Yee Amendment to proceed to the next step—review by the voters.

Sincerely,



Stuart Plunkett
President, Bar Association of San Francisco

Cc: Mayor Breed, Supervisors, Commissioners, Chief Scott



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**GLIDE EXECUTIVE
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Karen Hanrahan
President & CEO

July 9, 2020

The Honorable Hillary Ronen
Chair, Rules Committee
City Hall 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Submitted via electronic mail

RE: Charter Amendment - Police Department Staffing Levels—SUPPORT

Dear Supervisor Ronen and Distinguished Members of the Rules Committee:

On behalf of GLIDE, I am writing in support of Supervisor Norman Yee's proposed amendment to the Charter of the City and County of San Francisco to remove the minimum police staffing requirement.

GLIDE is a leading social service provider in San Francisco's Tenderloin neighborhood, and closing the civil justice gap is crucial for GLIDE's community. We have worked for decades to break cycles of poverty and marginalization for low-income San Franciscans, and we know that people thrive not by punishment but through education, opportunity, supportive services, and respect.

Existing law states that the San Francisco Police Department must maintain at least 1,971 full duty sworn officers. Removing the minimum staffing requirement would be a first step toward healing for communities that have been most targeted by policing and imprisonment. This includes Black, Latinx, and Indigenous communities, trans communities, and our unhoused neighbors.

In its current state, the mandate represents needless premature death, incarceration, punishment, and harassment of community members for generations. Money allocated to uphold minimum staffing translates to less money available to be spent on desperately needed community-led infrastructure. This is especially damaging during the current pandemic, as this infrastructure is currently facing proposed budget cuts across departments.

We need a more rational and informed approach to determine staffing levels, instead of relying on an arbitrary and inflated number. This will help ensure our decisions can directly respond to the demonstrated needs of all San Franciscans. For these reasons and more, GLIDE supports this amendment, and we respectfully request your "Aye" vote.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wesley Saver', written in a cursive style.

Wesley Saver
Policy Manager, GLIDE

Cc: Victor Young, Committee Clerk via victor.young@sfgov.org

From: [Emily Gable](#)
To: [Young, Victor \(BOS\)](#)
Subject: Public Comment on Rules Committee Meeting 7/9/20
Date: Thursday, July 9, 2020 4:58:41 PM

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Hello,

I'm a resident of district 4 here in San Francisco. I'm writing in support of the charter amendment to eliminate the SFPD minimum staffing requirement. Further, I demand that any language be removed regarding "maximizing police presence in the community" in the city charter. Removing the minimum staffing requirement is the first step in healing for communities that have been most targeted by policing and imprisonment including Black, Indigenous and People of Color, trans communities and our unhoused residents.

Thank you,

Emily Gable

From: [Kiley McLaughlin](#)
To: [Young, Victor \(BOS\)](#)
Subject: PUBLIC COMMENT BECAUSE I WAS NOT ALLOWED TO SPEAK
Date: Thursday, July 9, 2020 9:05:25 PM

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My name is Kiley McLaughlin and I am a resident of district 6. I waited to speak for 3 hours, repeatedly re-raising my hand, and was not allowed to speak. How many more people were left out of this public comment space? This is a disgrace.

I am in support of the charter amendment to eliminate the SFPD minimum staffing requirement. Further, I DEMAND that any language regarding "maximizing police presence in the community" in the city charter be removed. I want to remind the supervisors that this year, the SFPD implicit bias trainer with Cal DOJ reported that "The degree of anti-black sentiment throughout SFPD is extreme." **and this is after years of expensive reform efforts-- it's absurd to think that the city mandates a minimum of almost 2,000 violent, armed, and anti-black officers be deployed in our city**, this is a significant threat to the safety of our communities of color, & removing the minimum staffing requirement is **the very first baby step** in healing for these communities that have been most harmed by policing and imprisonment.

BLACK, TRANS, DISABLED, HOUSELESS LIVES MATTER. DEFUND & ABOLISH SFPD

Enraged,
Kiley McLaughlin