

1 [Administrative Code - Clarifying Duties of Office of Victim and Witness Rights (OVWR);
 2 Moving Office of Sexual Harassment and Assault Response and Prevention to OVWR]

3 **Ordinance amending the Administrative Code to provide for the confidentiality of client**
 4 **information received by the Office of Victim and Witness Rights (“OVWR”); establish**
 5 **and clarify the responsibilities of OVWR; move the Office of Sexual Harassment and**
 6 **Assault Response and Prevention (“SHARP”) from the Human Rights Commission to**
 7 **OVWR, and require SHARP to offer trauma-informed assistance to victims in navigating**
 8 **City processes, including by supporting victims in non-custodial law enforcement**
 9 **interviews, provided a SHARP employee’s presence does not obstruct a police**
 10 **investigation or interfere with the District Attorney’s investigative or prosecutorial**
 11 **function.**

12 NOTE: *Unchanged Code text and uncodified text* are in plain Arial font.
 13 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 15 **Board amendment additions** are in double-underlined Arial font.
 16 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 17 **Asterisks (* * * *)** indicate the omission of unchanged Code
 18 subsections or parts of tables.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. Findings.

21 Victims of crime often have to navigate a complex criminal and/or civil legal system in
 22 order to protect themselves. The Mayor’s Office of Victim and Witness Rights (the “Office”)
 23 must prioritize protecting the confidentiality and privacy interests of victims in order to provide
 24 the assistance that victims need and deserve. Information shared by victims can be highly
 25 sensitive, personal, and expose them to the risk of harm; the possibility of disclosure can be
 sufficient to cause victims to hesitate or refrain from seeking help. Moreover, exposure of a

1 victim's confidential information may subject them to humiliation, professional and personal
2 injury, and retaliatory physical, mental, or financial harm. With an assurance that their
3 communications are, and will remain, confidential, victims are able to make complete and
4 frank disclosures to the Office, thereby allowing the Office to better protect victims' rights and
5 ensure that their needs are being met.

6
7 Section 2. Article XXVII of Chapter 2A of the Administrative Code, and Chapter 12A of
8 the Administrative Code, are hereby amended by revising Section 2A.430, and by
9 renumbering Section 12A.18 as Section 2A.431, moving it to Article XXVII of Chapter 2A, and
10 revising it, to read as follows:

11
12 **SEC. 2A.430. MAYOR'S OFFICE OF VICTIM AND WITNESS RIGHTS.**

13 (a) **Establishment.** There shall be a ~~an~~ Mayor's Office of Victim and Witness Rights (the
14 "Office") to coordinate services provided by the City to victims and witnesses of all types of
15 crime. The Office shall be a department of the City, and shall include such officers and
16 employees as are authorized pursuant to the budgetary and fiscal provisions of the Charter.
17 The Mayor shall appoint a Director of the Office (the "Director"). The Director shall be a
18 department head, and shall have the powers and duties given to a department head under the
19 Charter and Municipal Code.

20 (b) **Duties and functions.** Except as otherwise provided in the Charter, and in
21 addition to any other duties assigned by ordinance or pursuant to Charter Section 4.132, the
22 Office shall have the following duties:

23 (1) **Services to Victims and Witnesses.**

24 _____ (A) The Office shall itself provide, or shall monitor and coordinate the
25 provision of, comprehensive services to victims and witnesses (referred to, collectively, as

1 “clients”) of all types of crimes. Such comprehensive services shall include but not be limited
2 to assisting to ensure compliance with Article I, § 28, section (b) of the California Constitution;
3 translation services for non-English-speaking victims and witnesses and interpretation
4 services for the deaf or hard of hearing; follow-up contact to determine whether a client
5 received necessary assistance; field visits to a client’s home, place of business, or other
6 location, whenever necessary to provide services; facilitation of volunteer participation in the
7 provision of client services to encourage community involvement; and services to ~~for elderly~~
8 clients, ~~as appropriate to~~ for their particular needs.

9 _____ (B) The Office shall also oversee, or itself perform, the functions of, the Office of
10 Sexual Harassment and Assault Response and Prevention (“SHARP”) as set forth in Section 2A.431.

11 _____ (C) The Office is required to maintain the confidentiality of any information that
12 is legally mandated to be kept confidential, and shall honor and protect the confidentiality of client
13 information to the fullest extent that the law allows. The Office may notify clients orally and in writing
14 that client information will be treated as confidential to the fullest extent permitted by law, but in no
15 event shall the Office’s failure to provide such notice be deemed to waive a client’s right to
16 confidentiality. Nothing in this subsection (b)(1) shall otherwise restrict the City’s ability to maintain
17 the confidentiality of information where such confidentiality is permitted (but not required) by law.

18 (2) **Consultation and coordination with public safety agencies; cooperation**
19 **with other City departments; power to issue subpoenas.** The Office shall consult and coordinate
20 with all relevant City agencies, including but not limited to the Police Department, District
21 Attorney’s Office, Sheriff’s Office, Adult Probation Department, Department of Public Health,
22 Human Rights Commission, and Department on the Status of Women, as needed to provide
23 effective services in the areas listed in Section 2A.430(b)(1) above. City departments shall
24 cooperate with the Office in its performance of these duties. The Office shall also have the power and
25 authority to subpoena witnesses, compel their attendance and testimony, administer oaths and

1 affirmations, take evidence, and require by subpoena the production of books, papers, records or other
2 items in furtherance of its duties.

3 (3) **Survey.** On at least an annual basis, the Office shall survey clients served
4 by the Office for feedback regarding the quality, adequacy, and scope of services to clients
5 provided, monitored, or coordinated by the Office. In conducting this survey, the Office shall
6 seek input from community groups in evaluating whether the services to clients have been
7 culturally competent and tailored to meet the priorities of historically underserved communities
8 marginalized groups. No later than March 1 of each year, starting in ~~2023~~2025, the Office shall
9 present to the Board of Supervisors a report summarizing the results of the survey covering
10 the prior calendar year and the Office's plan for adapting its operations to meet the needs
11 identified in the survey, including the priorities expressed by members of historically
12 underserved communities ~~marginalized groups~~. At the time it submits the report, the Office shall
13 make available to the Board of Supervisors the raw survey results used to compile the report.
14 Such data shall be presented in deidentified form and may, at the discretion of the Office, be
15 presented in aggregate form.

16 (4) **City service evaluation.** The Office shall, in coordination with other City
17 departments, analyze survey results and other data reflecting the needs of clients and the
18 degree to which specific categories of needs are being met by current City services, and shall
19 recommend to the Board of Supervisors policies for addressing identified unmet needs. The
20 Office's evaluation and reporting procedures shall comply with the standards set forth in Part
21 4, Title 6, Chapter 4, Article 2 of the California Penal Code, as may be amended from time to
22 time.

23 (5) **Consolidation plan.** No later than one year after appointment of a Director
24 of the Office, the Office shall introduce at the Board of Supervisors an ordinance that
25

1 describes a proposed plan for consolidating all City services for victims and witnesses under
2 the Office.

3 (6) **Other duties.** The Board of Supervisors may modify the duties of the Office
4 set forth in subsections (b)(1) through (b)(5), and may add to those duties or transfer any of
5 those duties to other City departments, by ordinance approved by a majority of the Board.
6

7 ~~SEC. 12A.18~~ 2A.431. **OFFICE OF SEXUAL HARASSMENT AND ASSAULT**
8 **RESPONSE AND PREVENTION.**

9 (a) **Creation of Office.** There is hereby created the Office of Sexual Harassment and
10 Assault Response and Prevention (“Office”), which shall be a division of the *Human Rights*
11 *Commission department Mayor’s Office of Victim and Witness Rights* under the authority and
12 direction of the ~~Executive Director of the Human Rights Commission~~ Director of the Mayor’s Office
13 of Victim and Witness Rights (the “OVWR Director”).

14 (b) **Powers and Duties of Office.** The Office of Sexual Harassment and Assault
15 Response and Prevention shall have the powers, and shall perform the duties, set forth in this
16 subsection (b).

17 (1) The Office shall have the authority to receive complaints from any member
18 of the public concerning the manner in which any City department has responded, or has
19 failed to respond, to allegations that the complainant—or a person under the care or custody
20 of the complainant—has been a victim of sexual assault or sexual harassment. The Office
21 shall promptly confirm receipt of all such complaints, and shall work diligently to assist each
22 complainant in navigating their way through City government. In particular, the Office shall
23 work diligently to assist each complainant in contacting relevant City departments, and shall
24 take all appropriate steps to encourage those City departments to respond fully and
25 conscientiously to the complainant’s concerns. The Office shall treat each complainant with

1 dignity, professionalism, and compassion. For purposes of this Section ~~12A.18~~ 2A.431, “City
2 department” means any department, agency, office, or commission, or any other part of the
3 government of the City and County of San Francisco. It includes, but is not limited to, the
4 Police Department, ~~the Office of the~~ District Attorney’s Office, Sheriff’s Office, Adult Probation
5 Department, and the Department of Public Health, Human Rights Commission, and Department on
6 the Status of Women.

7 (2) The Office shall have the power to compel the attendance of officers or
8 employees from any City department at meetings with the complainant, and may require that
9 the officers or employees who attend any such meetings have detailed knowledge of the
10 complainant’s case. Attendance at such meetings shall be considered part of the officers’ and
11 employees’ employment with the City, for which they shall be compensated. Such meetings
12 shall be scheduled at reasonable times and locations that do not compromise the powers of
13 the Office under this subsection (b)(2). Such meetings shall be held within two weeks of the
14 Office’s request for a meeting, unless the Office, for good cause shown, waives this
15 requirement.

16 (3) In any instance in which the Office determines that any City department, or
17 any City officer or employee, has failed to perform a duty imposed by law in connection with a
18 complaint of sexual assault or sexual harassment, or has promised to perform an act and has
19 failed to perform the promised act, or has unreasonably failed to respond to the complainant’s
20 or Office’s requests, or has otherwise not fully and conscientiously responded to the
21 complainant’s or the Office’s concerns, the Office shall notify the relevant City department of
22 such failure, in writing. If, after a reasonable period of time as determined by the Office, not to
23 exceed six weeks, the relevant City department has not corrected such failure to the Office’s
24 satisfaction, the Office shall report this failure, in writing, to the Mayor and the Board of
25 Supervisors.

1 (4) In any instance in which the Office determines that there is a reasonable
2 basis to believe that any City officer or employee should be subject to any form of discipline,
3 the Office shall have the power to refer that officer or employee to any appropriate disciplinary
4 authority, which may include, but is not limited to:

5 (A) The officer or employee's appointing authority;

6 (B) The Department of Human Resources; and,

7 (C) For uniformed members of the Police Department, the Department of
8 Police Accountability.

9 Any City department that receives a referral from the Office shall promptly
10 open an investigation into the conduct for which the Office has referred the City officer or
11 employee.

12 (5) The Office shall have the power to require any City department to report, at
13 times and in the manner of the Office's reasonable choosing, aggregated or otherwise de-
14 identified information concerning that department's handling of allegations of sexual assault
15 and sexual harassment. Such information may include, but is not limited to, the number of
16 open cases involving allegations of sexual assault and sexual harassment; the number of
17 such cases resolved in particular time frames; the ways in which such cases were resolved,
18 and related information (including, but not limited to, information about the age and number of
19 cases reaching each particular kind of resolution); the average time it takes the department to
20 resolve each such case; information about the number and age of unresolved cases; and the
21 number and substance of complaints the department has received (from members of the
22 public, the Office, or any other source) regarding the department's handling of allegations of
23 sexual assault and sexual harassment. The Office may request assistance from the
24 Controller in obtaining the information described in this subsection (b)(5), and the Controller
25 shall cooperate with any such requests.

1 (6) The Office shall, at such times and in such ways as the Office deems most
2 effective, engage with members of the community (including, but not limited to, community
3 organizations dedicated to preventing or redressing sexual assault or sexual harassment) and
4 with other entities in City government (including, but not limited to, the Department on the
5 Status of Women and any Sexual Assault Response Team that may be established pursuant
6 to Sections 13898-13898.2 of the California Penal Code) to explore ways in which the City
7 can improve its efforts to combat sexual assault and sexual harassment. The Office shall
8 develop recommendations for improving the City's efforts to combat sexual assault and sexual
9 harassment (including, but not limited to, recommendations regarding education and training
10 for City officers and employees who handle allegations of sexual assault and sexual
11 harassment), and shall make reports about such recommendations to relevant City
12 departments, the Mayor, and the Board of Supervisors. Such reports shall include, but are
13 not necessarily limited to, an annual report to the Mayor, the Board of Supervisors, and all
14 relevant City departments. In developing such recommendations, in collaboration with the
15 Department on the Status of Women, the Office shall consider, and seek to build upon,
16 previous recommendations developed the Department on the Status of Women.

17 (7) In addition to the other reports described in this subsection (b), the Office
18 shall make regular reports to the Mayor's Office of Victim and Witness Rights~~Human Rights~~
19 ~~Commission~~. Subjects addressed by these reports may include, but are not limited to, the
20 Office's activities, the City's efforts to combat sexual assault and sexual harassment, and
21 proposed recommendations for improving the City's efforts to combat sexual assault and
22 sexual harassment (including, but not limited to, proposed recommendations regarding
23 education and training for City officers and employees who handle allegations of sexual
24 assault and sexual harassment).

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1 (8) The Office must make available to any victim of sexual assault or sexual harassment
2 trauma-informed assistance in navigating any relevant City processes, including but not limited to the
3 submission of a police report, participation in criminal cases filed by the District Attorney, and
4 processes for obtaining available City services. The Office must make staff available to accompany a
5 victim of sexual assault or sexual harassment to interviews with law enforcement agencies, if the victim
6 requests such support. The Police Department and the District Attorney shall allow an employee of the
7 Office to be present during a non-custodial interview conducted by either of those agencies with a
8 victim of sexual assault or sexual harassment, to the extent those agencies determine that the
9 employee's presence does not delay or obstruct a police investigation in violation of California Penal
10 Code Section 148, or interfere with the District Attorney's state law investigative or prosecutorial
11 functions in violation of California Government Code Section 25303.

12 (89) In fulfilling the powers and duties described in this subsection (b), the Office
13 shall maintain the confidentiality of information required by law to be kept confidential, and
14 shall respect the complainant's wishes for confidentiality to the maximum extent permitted by
15 law. Nothing in this subsection (b)(98) shall otherwise restrict the City's ability to maintain the
16 confidentiality of information where such confidentiality is permitted (but not required) by law.

17 (c) **Appointment of Director.** The ~~Executive Director of the Human Rights Commission~~
18 ~~("Executive Director")~~ OVWR Director shall appoint the Director of the Office ~~("Director")~~.
19 ~~Before the Executive Director appoints a Director of the Office, the Executive Director shall first solicit~~
20 ~~recommendations regarding potential candidates from a three-member advisory committee, to be~~
21 ~~appointed by the Executive Director. One member of this advisory committee shall be a sexual-assault~~
22 ~~survivor, another member of the committee shall be a person who has engaged in community-based~~
23 ~~advocacy on behalf of survivors of sexual assault or sexual harassment, and the remaining member~~
24 ~~shall be an academic whose scholarship has focused on issues relating to sexual assault or sexual~~
25 ~~harassment. The advisory committee shall be empowered to review applications, interview applicants,~~

1 ~~and recommend that the Executive Director appoint particular candidates for the Director position.~~
2 ~~The Executive Director shall consider any recommendations made by the advisory committee, but~~
3 ~~nothing in this subsection (c) shall be construed to interfere with the Executive Director's authority to~~
4 ~~appoint the Director.~~ The Director shall possess the qualifications of a "sexual assault
5 counselor" within the meaning of Section 1035.2 of the California Evidence Code. If the
6 Director does not already possess the qualifications of a "sexual assault counselor" within the
7 meaning of Section 1035.2 ~~of the California Evidence Code~~ at the time of appointment, the
8 Director shall undergo at least 40 hours of training as a sexual assault counselor, in a manner
9 consistent with Section 1035.2(a)(2) ~~of the California Evidence Code~~, within one year of
10 appointment.

11 (d) **Composition of Office.** Subject to the budgetary and fiscal provisions of the
12 Charter, the Office shall be staffed by no fewer than the equivalent of three full-time
13 employees; for purposes of this requirement, the Director of the Office may be counted as the
14 equivalent of a full-time employee. At least one full-time employee, other than the Director,
15 shall be responsible for interacting directly with individual survivors of sexual assault and
16 sexual harassment, and their advocates, to receive and resolve individual complaints,
17 consistent with subsections (b)(1)-(4), (8). At least one other full-time employee, other than
18 the Director, shall be responsible for engaging with community-based organizations and City
19 departments to gather information, produce reports, and promote systemic change in the
20 City's policies and practices towards sexual assault and sexual harassment, consistent with
21 subsections (b)(5)-(7). All employees of the Office shall, to the extent permitted by law,
22 promptly receive sufficient education or training to qualify as "sexual assault counselors"
23 within the meaning of Section 1035.2 of the California Evidence Code, if they do not already
24 qualify as sexual assault counselors at the time of appointment.

1 ~~(e)~~ *Powers and Duties of Human Rights Commission. With respect to the work of the Office,*
2 *the Human Rights Commission shall hold all the powers and duties set forth in Section 12A.5 of this*
3 *Administrative Code and Section 4.102 of the City Charter. This includes, but is not limited to, the*
4 *power to hold public hearings on any subject relevant to the Office. In holding any such public hearing,*
5 *the Commission shall maintain the confidentiality of information required by law to be kept*
6 *confidential, and shall respect a complainant's wishes for confidentiality to the maximum extent*
7 *permitted by law, in a manner consistent with subsection (b)(8).*

8 ~~(f)~~(e) **Services Available to City Employees.** For purposes of subsection (b)(1),
9 “member of the public” does not include a City employee interacting with the City in its
10 capacity as an employer. Complaints arising out of the employment relationship between the
11 City and its employees are excluded from this Section ~~12A.18~~ 2A.431, and shall instead be
12 governed by Charter Section 10.103, which provides that the City’s Human Resources
13 Director shall review and resolve allegations of discrimination against employees or
14 applicants, and shall investigate all employee complaints concerning job-related conduct of
15 City employees. This authority under Charter Section 10.103 includes enforcement of the
16 City’s policies and procedures for handling employee complaints of sexual assault or sexual
17 harassment, including, but not limited to, policies or procedures established or administered
18 by the Department of Human Resources, determinations by the Human Resources Director
19 under Charter Section 10.103, and appeals to the Civil Service Commission. Nothing in this
20 subsection ~~(f)~~(e) shall prevent City employees from submitting, on the same terms as other
21 members of the public, complaints arising out of the City’s handling of a criminal investigation
22 or other criminal-justice functions.

23 ~~(g)~~(f) **Language Access.** The Office shall comply with Chapter 91 of the
24 Administrative Code, the Language Access Ordinance.

1 ~~(h)~~(g) **Construction with Other Laws.** Nothing in this Section ~~12A.18~~ 2A.431 shall be
2 construed to conflict with any State or ~~F~~ederal law, or with any provision of the City Charter.
3 In particular, nothing in this Section shall be construed to interfere with the investigative and
4 prosecutorial functions under State law of the District Attorney and the Sheriff, or to
5 compromise the rights of peace officers under California Penal Code Section 832.7 or the
6 Public Safety Officers Procedural Bill of Rights Act, California Government Code Sections
7 3300 et seq.

8 ~~(i)~~(h) **Undertaking for the General Welfare.** In enacting and implementing this
9 Section ~~12A.18~~ 2A.431, the City is assuming an undertaking only to promote the general
10 welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
11 breach of which it is liable in money damages to any person who claims that such breach
12 proximately caused injury.

13 ~~(j)~~(i) **Severability.** If any section, subsection, sentence, clause, phrase, or word of this
14 Section ~~12A.18~~ 2A.431, or any application thereof to any person or circumstance, is held to be
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions or applications of the Section. The Board
17 of Supervisors hereby declares that it would have enacted this Section, including each and
18 every subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional,
19 without regard to whether any other portion of this Section or application thereof would be
20 subsequently declared invalid or unconstitutional.

21
22 Section 3. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

