

BOARD of SUPERVISORS



City Hall
1 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: William Scott, Police Chief
Paul Miyamoto, Sheriff
Chesa Boudin, District Attorney
Manohar Raju, Public Defender
Shakirah Simley, Director, Office of Racial Equity

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee,
Board of Supervisors

DATE: July 15, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Walton on July 7, 2020:

File No. 200735

Ordinance amending the Police Code to make it unlawful to cause a peace officer to contact a person solely to discriminate against the person on the basis of the person's race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity; creating a civil cause of action and providing for damages for violating the prohibition.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Rowena Carr, Police Department
Asja Steeves, Police Department
Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Nancy Crowley, Sheriff's Department
Christine Soto DeBerry, Office of the District Attorney
Tera Anderson, Office of the District Attorney

1 [Police Code - Discriminatory Reports to Law Enforcement]

2

3 **Ordinance amending the Police Code to make it unlawful to cause a peace officer to**
 4 **contact a person solely to discriminate against the person on the basis of the person's**
 5 **race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity;**
 6 **creating a civil cause of action and providing for damages for violating the prohibition.**

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

11

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

13

14 Section 1. Findings.

15 (a) There have been numerous incidents across the country involving individuals
 16 contacting law enforcement to report innocuous behaviors as suspicious, or to falsely report
 17 alleged criminal behavior, for what appear to be solely discriminatory reasons. Discriminatory
 18 law enforcement reports against people of color for racially motivated reasons are common
 19 enough that many people of color have experienced one or more incident of being contacted
 20 by law enforcement when engaging in normal day-to-day activities. These incidents cause
 21 serious harm to the person falsely accused of a crime, cause anxiety and distrust among
 22 people of color, and put an unnecessary strain on law enforcement officers responding to
 23 frivolous and false calls.

24 (b) The misuse of law enforcement by members of the public to discriminate against
 25 others should not be tolerated and the City should take action to stop such behavior in every

1 way possible. Creating a means for people who suffer this kind of discrimination to seek
2 redress from those who have targeted them through a civil cause of action for damages will
3 discourage this type of behavior and provide a tangible way for these victims to be
4 compensated for this wrong.

5
6 Section 2. The Police Code is hereby amended by adding Section 637, to read as
7 follows:

8 **SEC. 637. DISCRIMINATORY REPORTS TO LAW ENFORCEMENT.**

9 (a) Discriminatory Reports to Law Enforcement Prohibited. It shall be unlawful to knowingly
10 cause a peace officer to arrive at a location to contact a person with the specific intent to discriminate
11 against that person on the basis of the person's actual or perceived race, ethnicity, religious affiliation,
12 gender, sexual orientation, or gender identity.

13 (b) Civil Cause of Action. Any aggrieved person may enforce the provisions of this Section 637
14 by means of a civil action.

15 (c) A person found to have violated subsection (a) in a cause of action under subsection (b)
16 shall be liable to the aggrieved person for special and general damages, but in no case less than \$1,000
17 plus attorneys' fees and the costs of the action. In addition, punitive damages may be awarded in a
18 proper case.

19 (d) Nothing in this Section 637 shall preclude any person from seeking any other remedies,
20 penalties, or procedures provided by law.

21
22 Section 3. Undertaking for the General Welfare. In enacting and implementing this
23 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
24 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
25

1 is liable in money damages to any person who claims that such breach proximately caused
2 injury.

3
4 Section 4. No Conflict with Federal or State Law. Nothing in this ordinance shall be
5 interpreted or applied so as to create any requirement, power, or duty in conflict with any
6 federal or state law.

7
8 Section 5. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

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

15 By: /s/ _____
16 BRADLEY A. RUSSI
17 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Discriminatory Reports to Law Enforcement]

Ordinance amending the Police Code to make it unlawful to cause a peace officer to contact a person with the specific intent to discriminate against the person on the basis of the person's race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity; creating a civil cause of action and providing for damages for violating the prohibition.

Existing Law

It is not currently unlawful under City law to cause a peace officer to contact a person with the intent to discriminate against that person on the basis of the person's race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity.

Amendments to Current Law

The proposed ordinance would make it unlawful to cause a peace officer to contact a person with the specific intent to discriminate against that person on the basis of race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity. The ordinance creates a civil cause of action for the victim of such discrimination against the person who caused such contact to occur, allowing a successful plaintiff to recover special and general damages of at least \$1,000 plus costs and attorney's fees, and punitive damages in the proper case.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Walton, Ronen, Stefani, Yee, Preston, Safai, Haney, Peskin, Fewer, Mar

Subject:

Police Code - Discriminatory Reports to Law Enforcement

The text is listed:

Ordinance amending the Police Code to make it unlawful to cause a peace officer to contact a person solely to discriminate against the person on the basis of the person's race, ethnicity, religious affiliation, gender, sexual orientation, or gender identity; creating a civil cause of action and providing for damages for violating the prohibition. This ordinance is also known as the Caution Against Racially and Exploitative Non-Emergencies, the CAREN Act.

Signature of Sponsoring Supervisor: /s/ Shamann Walton

For Clerk's Use Only