

File No. 160759

Committee Item No. \_\_\_\_\_

Board Item No. 17

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: July 26, 2016

#### Cmte Board

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|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
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| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER

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Prepared by: Brent Jalipa

Date: July 7, 2016

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Urging the California Public Utilities Commission to Adopt Conviction History Regulations In  
2 Furtherance of a Level Regulatory Playing Field And In Compliance With San Francisco's 2014 Fair  
3 Chance Ordinance]

4 **Resolution urging the California Public Utilities Commission to adopt regulations of**  
5 **Transportation Network Companies that comply with San Francisco's 2014 Fair Chance**  
6 **Ordinance, recognizing the importance of a level regulatory playing field between Transportation**  
7 **Network Companies and traditional taxi cab companies, and supporting the California Public**  
8 **Utilities Commission's solicitation for comment regarding the current method of criminal**  
9 **background checks for Transportation Network Companies.**

10 WHEREAS, On June 22, 2016, the California Public Utilities Commission (CPUC) opened  
11 solicitation for comments regarding whether the current method of conducting criminal background  
12 checks for Transportation Network Company (TNC) drivers is as effective as fingerprint-based  
13 criminal background checks; and

14 WHEREAS, The CPUC's current inquiry is in furtherance of an its Order Instituting  
15 Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled  
16 Transportation Services, which was issued in December 2012; and

17 WHEREAS, The CPUC has stated that among its goals is "to assess public safety risks, and to  
18 ensure that the safety of the public is not compromised" in the operation of so-called "Transportation  
19 Network Companies," which include for-hire service providers Uber, Lyft, and other such companies,  
20 and to ensure that the services of a regulated utility are provided in a safe manner; and

21 WHEREAS, The CPUC does not have jurisdiction over and cannot regulate traditional taxi cab  
22 companies, but has nevertheless asserted jurisdiction over the regulation of TNCs, thereby preempting  
23 and preventing the City and County of San Francisco from regulating those TNCs; and  
24

1           WHEREAS, By preempting the City and County of San Francisco from regulating TNCs, the  
2 CPUC has facilitated the development of a two-tiered and anti-competitive playing field for traditional  
3 taxi cab services and TNCs, respectively; and

4           WHEREAS, The City and County of San Francisco recognizes that traditional taxi companies  
5 are subject to stricter regulation than TNCs – including limits on the number of taxis on the road,  
6 regulation of the prices that taxis can charge passengers, requirements that taxi cab drivers complete a  
7 certified driver training course to operate vehicles that have commercial license plates and 24/7  
8 commercial insurance, mandatory participation in the SFMTA’s Paratransit Program, and for the  
9 provision of basic benefits like workers’ compensation for all employee taxi drivers on the road –  
10 which regulations do not apply to TNCs; and

11           WHEREAS, The City and County of San Francisco further recognizes the merit in the  
12 aforementioned regulations and other non-mentioned regulations of traditional taxi cab service  
13 providers, and also recognizes the importance of creating a level regulatory playing field for traditional  
14 taxi cab companies and TNCs that incorporates existing responsible regulations of the traditional taxi  
15 cab industry; and

16           WHEREAS, Taxi regulators in the most populous parts of California, including San Francisco,  
17 currently require drivers to undergo fingerprint-based criminal background checks processed by the  
18 California Department of Justice (CALDOJ), utilizing fingerprint images to automatically search  
19 government criminal record databases maintained by the CALDOJ and the FBI; and

20           WHEREAS, Unlike the regulations governing taxi cabs, there is no current requirement for  
21 prospective TNC drivers to undergo fingerprint-based criminal background checks; and

22           WHEREAS, Irrespective of the relative accuracy of various criminal background check  
23 procedures, the City and County of San Francisco in 2014 recognized that individuals in San Francisco  
24 and across the country are often unnecessarily plagued by old or minor arrest or conviction records that  
25

1 discourage them from applying for jobs that would automatically exclude them from consideration  
2 upon disclosure of their criminal history; and

3 WHEREAS, In recognition of the health and safety benefits to increasing access to employment  
4 for people with arrest or conviction records, in order for them to reintegrate into their communities, in  
5 2014 the City and County of San Francisco adopted the "Fair Chance Ordinance," which limits an  
6 employer's use of any criminal history information in the hiring process and specifically prohibits any  
7 consideration of arrests not leading to conviction, participation in diversion or deferral of judgment  
8 programs, expunged convictions, juvenile convictions, convictions more than 7 years old, and criminal  
9 offenses other than felonies or misdemeanors; and

10 WHEREAS, The 2014 Fair Chance Ordinance also restricts consideration of prior conviction  
11 histories to those convictions that directly relate to the job in question and which have a specific  
12 negative bearing on the person's ability to perform the duties of the job in question; and

13 WHEREAS, Recognizing that fingerprint-based background checks, without sufficient and  
14 enforceable controls on the use of information, and without reliable means of ensuring that information  
15 contained in law enforcement databases is complete and accurate, can have a discriminatory impact on  
16 communities of color; and

17 WHEREAS, The City and County of San Francisco nevertheless recognizes that the disparity  
18 between background checks for traditional taxi cab drivers and TNC drivers contributes to a grossly  
19 unequal regulatory framework; and

20 WHEREAS, The CPUC's current solicitation for comment presents an opportunity for  
21 advancing a criminal background check process that advances the safety of TNC passengers as well as  
22 the public health and safety of prospective drivers, including those with unrelated prior conviction  
23 histories seeking to reintegrate into society while eliminating the two-tiered regulatory system for  
24 traditional taxi cab services and TNCs; now, therefore, be it  
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RESOLVED, That the City and County of San Francisco appreciates and hereby responds to the California Public Utilities Commission's solicitation for comment regarding whether the current method of conducting criminal background checks for TNC drivers is as effective as fingerprint-based criminal background checks; and, be it

FURTHER RESOLVED, Irrespective of the relative accuracy of various means of conducting criminal background checks, that the City and County of San Francisco urges the California Public Utilities Commission to adopt regulations that would require TNC drivers to submit to the same *fingerprint-based* criminal background checks that are *currently* required of traditional taxi cab drivers and to seek other means of creating a level regulatory playing field between traditional taxi cab companies and TNCs.; *and, be it*

FURTHER RESOLVED, That the use of any information obtained through a criminal background check, regardless of form, should be restricted in accordance with the 2014 Fair Chance Ordinance, which, among other restrictions, prohibits consideration of arrests not leading to a conviction, participation in or completion of diversion or deferral of judgment programs, expunged or inoperative convictions, juvenile convictions, convictions over 7 years old, criminal offenses other than felonies or misdemeanors, and convictions not directly-related to the employment in question.

BOS-11 : 2 pages

**From:** Alyssa Kies <akies@spur.org>  
**Sent:** Thursday, July 07, 2016 5:59 PM  
**To:** Board of Supervisors, (BOS)  
**Cc:** Avalos, John (BOS); Kim, Jane (BOS); Cohen, Malia (BOS); Yee, Norman (BOS); Mar, Eric (BOS); Peskin, Aaron (BOS); Breed, London (BOS); Campos, David (BOS); Tang, Katy (BOS); Farrell, Mark (BOS); Wiener, Scott  
**Subject:** SPUR letter regarding Resolution 160759 (TNCs)  
**Attachments:** SPUR ltr to BoS re 160759 7.7.16 .pdf

Dear Board President Breed and Supervisors:

Please find attached a letter from SPUR President & CEO Gabriel Metcalf, in opposition to Resolution 160759.

Thank you.

—  
Alyssa Kies  
Executive Assistant + Board Liaison  
SPUR • Ideas + Action for a Better City  
(415) 644-4286  
[akies@spur.org](mailto:akies@spur.org)

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**SPUR**

San Francisco | San Jose | Oakland

July 7, 2016

Supervisor John Avalos  
President of the Board of Supervisors London Breed  
Supervisor David Campos  
Supervisor Malia Cohen  
Supervisor Mark Farrell  
Supervisor Jane Kim  
Supervisor Eric Mar  
Supervisor Aaron Peskin  
Supervisor Katy Tang  
Supervisor Scott Wiener  
Supervisor Norman Yee

San Francisco Board of Supervisors  
1 Dr. Carlton B Goodlett Place  
San Francisco, CA 94102

**Re: Opposition to Resolution 160759**

Dear President Breed and Supervisors:

I'm writing to express our concerns about the proposed resolution about fingerprinting and background checks for TNC drivers.

We are living through a time of extraordinary change in our transportation system, perhaps more dramatic than anything we have seen since mass adoption of the automobile a century ago. The new technologies and the cultural changes that go along with them will require us to develop the right rules and regulations. So it is entirely appropriate for elected officials to be thinking about what we need as a regulatory framework for new mobility services.

Unfortunately, the proposal to add fingerprinting and background checks would be a step in the wrong direction. Ridesharing companies already require drivers to undergo background checks, in-person screenings and vehicle inspections, all of which are requirements enforced by the CPUC. The CPUC already subjects ride-sharing companies to continuing review, requiring these companies to report annual on accidents, service levels and other criteria.

The main effect of the proposed resolution is not going to be to increase the safety of passengers, but rather to reduce the ability of people to go to work as a TNC driver. By introducing the duplicative and intrusive process, we expect part time drivers, in particular to be deterred from joining the driving platforms. (The average TNC driver drives around 15 hours per month.)



# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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 [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) 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

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

ponsor(s):

eskin

subject:

Urging the California Public Utilities Commission to Adopt Regulations Requiring Fingerprint-Based Criminal Background Checks of TNC Drivers

The text is listed below or attached:

Resolution supporting the California Public Utilities Commission's solicitation for comment regarding the current method of criminal background checks for Transportation Network Companies and urging the California Public Utilities Commission to adopt new regulations of Transportation Network Companies that would require the same fingerprint-based criminal background checks currently required of traditional taxi cab companies.

Signature of Sponsoring Supervisor:

For Clerk's Use Only: