

File No. 160586

Committee Item No. 4

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 6, 2016

Board of Supervisors Meeting

Date JULY 29, 2016

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input checked="" 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                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <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 type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- |                                     |                                     |                                  |
|-------------------------------------|-------------------------------------|----------------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Charter Amendment (Second Draft) |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____                            |

Completed by: Derek Evans Date July 1, 2016  
 Completed by: Derek Evans Date July 5, 2016

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
 The complete document can be found in the file.

1 [Charter Amendment - Department of Police Accountability]

2  
3 **Describing and setting forth a proposal to the voters, at an election to be held on**  
4 **November 8, 2016, to amend the Charter of the City and County of San Francisco to:**  
5 **re-name the Office of Citizen Complaints (OCC) as the Department of Police**  
6 **Accountability( DPA); give DPA direct authority over its proposed budget; and require**  
7 **DPA to conduct a performance audit every two years of how the Police Department has**  
8 **handled claims of officer misconduct and use of force.**

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 8, 2016, a proposal to amend the Charter of  
12 the City and County by revising Sections 4.127 and A8.343, and adding Section 4.136, to read as  
13 follows:

14 NOTE: **Unchanged Charter text and uncodified text** are in plain font.  
15 **Additions** are *single-underline italics Times New Roman font*.  
16 **Deletions** are *strike-through italics Times New Roman font*.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Charter  
18 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 ~~OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police~~  
6 ~~Commission as the director of the Office of Citizen Complaints, subject to confirmation by the~~  
7 ~~Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the~~  
8 ~~Board fails to act on the appointment within 30 days, the appointment shall be deemed approved.~~  
9 ~~In the event the office is vacant, until the mayor makes an appointment and that appointment is~~  
10 ~~confirmed by the Board, the Police Commission shall appoint an interim director who shall~~  
11 ~~serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil~~  
12 ~~service requirements of this Charter. The director shall never have been a uniformed member or~~  
13 ~~employee of the department. The director of the Office of Citizen Complaints shall be the~~  
14 ~~appointing officer under the civil service provisions of this Charter for the appointment, removal~~  
15 ~~or discipline of employees of the Office of Citizen Complaints.~~

16 ~~The Police Commission shall have the power and duty to organize, reorganize and~~  
17 ~~manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter,~~  
18 ~~the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1,~~  
19 ~~1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line~~  
20 ~~investigator for every 150 sworn members. Whenever the ratio of investigators to police officers~~  
21 ~~specified by this section is not met for more than 30 consecutive days, the director shall have the~~  
22 ~~power to hire, and the City Controller must pay, temporary investigators to meet such staffing~~  
23 ~~requirements. No full time or part time employee of the Office of Citizen Complaints shall have~~  
24 ~~previously served as a uniformed member of the department. Subject to rule of the Police~~  
~~Commission, the director of the Office of Citizen Complaints may appoint part time hearing~~

1 ~~officers who shall be exempt from the civil service requirements of this Charter. Compensation~~  
2 ~~of the hearing officers shall be at rates recommended by the Commission and established by the~~  
3 ~~Board of Supervisors or by contract approved by the Board of Supervisors.~~

4 ~~Complaints of police misconduct or allegations that a member of the Police Department~~  
5 ~~has not properly performed a duty shall be promptly, fairly and impartially investigated by staff~~  
6 ~~of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all~~  
7 ~~complaints of police misconduct, or that a member of the Police Department has not properly~~  
8 ~~performed a duty, except those complaints which on their face clearly indicate that the acts~~  
9 ~~complained of were proper and those complaints lodged by other members of the Police~~  
10 ~~Department. The Office of Citizen Complaints shall use its best efforts to conclude~~  
11 ~~investigations of such complaints and, if sustained, transmit the sustained complaint to the~~  
12 ~~Police Department within nine (9) months of receipt thereof by the Office of Citizen Complaints.~~  
13 ~~If the Office of Citizen Complaints is unable to conclude its investigation within such nine-month~~  
14 ~~period, the director of the Office of Citizen Complaints, within such nine-month period, shall~~  
15 ~~inform the Chief of Police of the reasons therefor and transmit information and evidence from~~  
16 ~~the investigation as shall facilitate the Chief's timely consideration of the matter. The Office of~~  
17 ~~Citizen Complaints shall recommend disciplinary action to the Chief of Police on those~~  
18 ~~complaints that are sustained. The director of the Office of Citizen Complaints, after meeting~~  
19 ~~and conferring with the Chief of Police or his or her designee, may verify and file charges with~~  
20 ~~the Police Commission against members of the Police Department arising out of sustained~~  
21 ~~complaints; provided, that the director may not verify and file such charges for a period of 60~~  
22 ~~days following the transmittal of the sustained complaint to the Police Department unless the~~  
23 ~~director issues a written determination that the limitations period within which the member or~~  
24 ~~members may be disciplined under Government Code Section 3304, as amended from time to~~  
25 ~~time or any successor provisions thereto, may expire within such 60-day period and either (i) the~~

1 ~~Chief of Police fails or refuses to file charges with the Police Commission arising out of the~~  
2 ~~sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and~~  
3 ~~confer with the director on the matter, or (iii) other exigent circumstances necessitate that the~~  
4 ~~director verify and file charges to preserve the ability of the Police Commission to impose~~  
5 ~~punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall~~  
6 ~~schedule hearings before hearing officers when such is requested by the complainant or a~~  
7 ~~member of the department and, in accordance with rules of the Commission, such a hearing will~~  
8 ~~facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the~~  
9 ~~Office of Citizen Complaints shall in the same manner investigate and make recommendations to~~  
10 ~~the Chief of Police regarding complaints of misconduct by patrol special police officers and their~~  
11 ~~uniformed employees.~~

~~Nothing herein shall prohibit the Chief of Police or a commanding officer from~~  
13 ~~investigating the conduct of a member of the department under his or her command, or taking~~  
14 ~~disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted;~~  
15 ~~and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of~~  
16 ~~Police and the Police Commission by other provisions of this Charter.~~

~~The Office of Citizen Complaints shall prepare in accordance with rules of the~~  
18 ~~Commission monthly summaries of the complaints received and shall prepare recommendations~~  
19 ~~quarterly concerning policies or practices of the department which could be changed or~~  
20 ~~amended to avoid unnecessary tension with the public or a definable segment of the public while~~  
21 ~~insuring effective police services. The Office of Citizen Complaints shall prepare a report for the~~  
22 ~~President of the Board of Supervisors each quarter. This report shall include, but not be limited~~  
23 ~~to, the number and type of complaints filed, the outcome of the complaints, and a review of the~~  
24 ~~disciplinary action taken. The President of the Board of Supervisors shall refer this report to the~~

1 ~~appropriate committee of the Board of Supervisors charged with public safety responsibilities.~~  
2 ~~Said committee may issue recommendations as needed.~~

3 ~~In carrying out its objectives the Office of Citizen Complaints shall receive prompt and~~  
4 ~~full cooperation and assistance from all departments, officers and employees of the City and~~  
5 ~~County which shall promptly produce all records requested by the Office of Citizen Complaints~~  
6 ~~except for records the disclosure of which to the Office of Citizen Complaints is prohibited by~~  
7 ~~law. The director may also request and the Chief of Police shall require the testimony or~~  
8 ~~attendance of any member of the Police Department to carry out the responsibilities of the Office~~  
9 ~~of Citizen Complaints.~~

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

13 POLICE STAFFING. The police force of the City and County shall at all times consist  
14 of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department  
15 shall be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure  
16 may be adjusted pursuant to Section 16.123.

17 All officers and employees of the City and County are directed to take all acts necessary  
18 to implement the provisions of this section. The Board of Supervisors is empowered to adopt  
19 ordinances necessary to effectuate the purpose of this section including but not limited to  
20 ordinances regulating the scheduling of police training classes eases.

21 Further, the Commission shall initiate an annual review to civilianize as many positions  
22 as possible to maximize police presence in the communities and submit that report to the Board  
23 of Supervisors annually for review and approval.

24 The number of full duty sworn officers in the Police Department dedicated to  
25 neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years,

1 and all new full duty sworn officers authorized for the Police Department shall also be dedicated  
2 to neighborhood community policing, patrol and investigations.

3 PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special  
4 police officers and for cause may suspend or dismiss patrol special police officers after a hearing  
5 on charges duly filed with the Commission and after a fair and impartial trial. Patrol special  
6 police officers shall be regulated by the Police Commission, which may establish requirements  
7 for and procedures to govern the position, including the power of the Chief of Police to suspend  
8 a patrol special police officer pending a hearing on charges. Each patrol special police officer  
9 shall be at the time of appointment not less than 21 years of age and must possess such physical  
10 qualifications as may be required by the Commission.

11 Patrol special police officers may be designated by the Commission as the owners of a  
12 certain beat or territory which may be established or rescinded by the Commission. Patrol special  
13 police officers designated as the owners of a certain beat or territory or the legal heirs or  
14 representatives of the owners may dispose of their interest in the beat or territory to a person of  
15 good moral character, approved by the Police Commission and eligible for appointment as a  
16 patrol special police officer.

17 Commission designation of beats or territories shall not affect the ability of private  
18 security companies to provide on-site security services on the inside or at the entrance of any  
19 property located in the City and County.

20  
21 **SEC. 4.136. DEPARTMENT OF POLICE ACCOUNTABILITY.**

22 (a) There shall be under the Police Commission a Department of Police Accountability  
23 ("DPA").

24 (b) The Mayor shall appoint a nominee of the Police Commission as the Director of  
25 DPA, subject to confirmation by the Board of Supervisors. The Director shall serve at the

1 pleasure of the Police Commission. If the Board of Supervisors fails to act on the appointment  
2 within 30 days, the appointment shall be deemed approved. In the event the office is vacant,  
3 until the Mayor makes an appointment and that appointment is confirmed by the Board, the  
4 Police Commission shall appoint an interim Director who shall serve at the pleasure of the  
5 Police Commission. The appointment of the Director shall be exempt from the civil service  
6 requirements of this Charter. The Director shall never have been a uniformed member or  
7 employee of the Police Department. The Director shall be the appointing officer under the civil  
8 service provisions of this Charter for the appointment, removal, or discipline of employees of  
9 DPA.

10 (c) The Police Commission shall have the power and duty to organize, reorganize, and  
11 manage DPA. Subject to the civil service provisions of this Charter, DPA shall include  
12 investigators and hearing officers. The staff of DPA shall consist of no fewer than one line  
13 investigator for every 150 sworn members. Whenever the ratio of investigators to police officers  
14 specified by this section is not met for more than 30 consecutive days, the Director shall have the  
15 power to hire, and the City Controller must pay, temporary investigators to meet such staffing  
16 requirements. No full-time or part-time employee of DPA shall have previously served as a  
17 uniformed member of the Police Department. Subject to rules of the Police Commission, the  
18 Director may appoint part-time hearing officers who shall be exempt from the civil service  
19 requirements of this Charter. Compensation of the hearing officers shall be at rates  
20 recommended by the Commission and established by the Board of Supervisors or by contract  
21 approved by the Board of Supervisors.

22 (d) DPA shall promptly, fairly, and impartially investigate all complaints regarding  
23 police use of force, misconduct or allegations that a member of the Police Department has not  
24 properly performed a duty, except those complaints which on their face clearly indicate that the  
25 acts complained of were proper and those complaints lodged by other members of the Police



1 Department. DPA shall use its best efforts to conclude investigations of such complaints and, if  
2 sustained, transmit the sustained complaint to the Police Department within nine months of  
3 receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month  
4 period, the Director, within such nine-month period, shall inform the Chief of Police of the  
5 reasons therefor and transmit information and evidence from the investigation as shall facilitate  
6 the Chief's timely consideration of the matter.

7 (e) DPA shall recommend disciplinary action to the Chief of Police on those complaints  
8 that are sustained. The Director, after meeting and conferring with the Chief of Police or his or  
9 her designee, may verify and file charges with the Police Commission against members of the  
10 Police Department arising out of sustained complaints; provided, that the Director may not  
11 verify and file such charges for a period of 60 days following the transmittal of the sustained  
12 complaint to the Police Department unless the Director issues a written determination that the  
13 limitations period within which the member or members may be disciplined under Government  
14 Code Section 3304, as amended from time to time or any successor provisions thereto, may  
15 expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with  
16 the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or  
17 her designee fails or refuses to meet and confer with the Director on the matter, or (3) other  
18 exigent circumstances necessitate that the Director verify and file charges to preserve the ability  
19 of the Police Commission to impose punishment pursuant to Section A8.343.

20 (f) The Director shall schedule hearings before hearing officers when such is requested  
21 by the complainant or a member of the Police Department and, in accordance with rules of the  
22 Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors  
23 may provide by ordinance that DPA shall in the same manner investigate and make  
24 recommendations to the Chief of Police regarding complaints of misconduct by patrol special  
police officers and their uniformed employees.

1           (g) Nothing herein shall prohibit the Chief of Police or a commanding officer from  
2 investigating the conduct of a member of the Police Department under his or her command, or  
3 taking disciplinary or corrective action, otherwise permitted by this Charter, when such is  
4 warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in  
5 the Chief of Police and the Police Commission by other provisions of this Charter.

6           (h) DPA shall prepare in accordance with rules of the Commission monthly summaries  
7 of the complaints received and shall prepare recommendations quarterly concerning policies or  
8 practices of the Police Department which could be changed or amended to avoid unnecessary  
9 tension with the public or a definable segment of the public while insuring effective police  
10 services.

11           (i) DPA shall prepare a report for the President of the Board of Supervisors each  
12 quarter. This report shall include, but not be limited to, the number and type of complaints filed,  
13 the outcome of the complaints, and a review of the disciplinary action taken. The President of  
14 the Board of Supervisors shall refer this report to the appropriate committee of the Board of  
15 Supervisors charged with public safety responsibilities. Said committee may issue  
16 recommendations as needed.

17           (j) In carrying out its objectives, including the preparation of recommendations  
18 concerning departmental policies or practices referenced above, the investigations referenced  
19 above, and the audits noted below, DPA shall receive prompt and full cooperation and  
20 assistance from all departments, officers, and employees of the City and County, which shall,  
21 unless prohibited by state or federal law, promptly produce all records and information  
22 requested by DPA, including but not limited to (1) records relevant to Police Department  
23 policies or practices, (2) personnel and disciplinary records of Police Department employees,  
24 (3) criminal investigative and prosecution files, and (4) all records to which the Police  
25 Commission has access, regardless of whether those records pertain to a particular complaint.

1 The DPA shall maintain the confidentiality of any records and information it receives to the  
2 extent required by state or federal law governing such records or information. The Director may  
3 also request and the Chief of Police shall require the testimony or attendance of any member of  
4 the Police Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is  
5 intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney  
6 under state law, including their constitutional and statutory powers and duties under  
7 Government Code Section 25303, as amended from time to time or any successor provisions  
8 thereto, or other applicable state law or judicial decision.

9 (k) Every two years, DPA shall conduct a performance audit or review of police officer  
10 use of force and how the Police Department has handled claims of officer misconduct. DPA  
11 shall also have the authority to conduct performance audits or reviews of whether Police  
12 Department personnel and management have complied with federal and state law, City  
13 ordinances and policies, and Police Department policies. The Director shall have the discretion  
14 to determine the frequency, topics, and scope of such performance audits or reviews. To the  
15 extent permitted by law, DPA shall also allow public access to information on the progress and  
16 disposition of claims of misconduct or use of force, and the results of the performance audits and  
17 reviews conducted by DPA.

18 (l) The DPA budget shall be separate from the budget of the Police Department.  
19 Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year  
20 budget directly to the Mayor.

21  
22 **SEC. A8.343. FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE**  
23 **DEPARTMENTS.**

24 Members of the uniformed ranks of the fire or the police department guilty of any  
25 offense or violation of the rules and regulations of their respective departments, shall be liable to

1 be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by  
2 suspension for not to exceed three months, or by dismissal, after trial and hearing by the  
3 commissioners of their respective departments; provided, however, that the chief of each  
4 respective department for disciplinary purposes may suspend such member for a period not to  
5 exceed 10 days for violation of the rules and regulations of his department. Any such member so  
6 suspended shall have the right to appeal such suspension to the fire commission or to the police  
7 commission, as the case may be, and have a trial and hearing on such suspension. Written notice  
8 of appeal must be filed within 10 days after such suspension and the hearing of said appeal must  
9 be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or  
10 alter the finding of the chief, it shall order that the member affected be paid salary for the time of  
11 the suspension received or altered. In the event the chief should exercise such power of  
12 suspension, the member involved shall not be subject to any further disciplinary action for the  
13 same offense; provided, that where the Department of Police Accountability Office of Citizen  
14 Complaints has sustained a complaint and recommended discipline in excess of a 10-day  
15 suspension, the Chief of Police may not exercise his or her power of suspension under this  
16 section without first meeting and conferring with the Director director of the Department of  
17 Police Accountability Office of Citizen Complaints and affording the Director director an  
18 opportunity to verify and file charges with the Police Commission pursuant to Section 4.136  
19 4.127. If the Director director of the Department of Police Accountability Office of Citizen  
20 Complaints verifies and files charges, the Police Commission shall conduct a trial and hearing  
21 thereon, and the Chief of Police may not suspend the member pending the outcome of the Police  
22 Commission proceedings on the charges except as provided in Section A8.344.

23 Subject to the foregoing, members of the uniformed ranks of either department shall not  
24 be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for  
25 cause, nor until after a fair and impartial trial before the commissioners of their respective

1 departments, upon a verified complaint filed with such commission setting forth specifically the  
2 acts complained of, and after such reasonable notice to them as to time and place of hearings as  
3 such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear  
4 personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the  
5 attendance of all witnesses necessary for his defense.

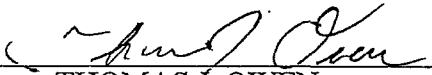
6  
7 Section 2. Notwithstanding Section 1 of this measure, if the Charter amendment creating  
8 the Office of the Public Advocate is adopted by the voters at the November 8, 2016 election,  
9 then subsection (b) of Charter Section 4.136, as added by this measure, shall instead read as  
10 follows:

11 (b) Until the first Public Advocate assumes office following the first election described in  
12 Section 13.101(b)(6), the Mayor shall appoint a nominee of the Police Commission as the  
13 Director of DPA, subject to confirmation by the Board of Supervisors, to fill any vacancy in the  
14 office of Director. After the first Public Advocate assumes office, whenever the office of Director  
15 of DPA becomes vacant, the Public Advocate shall appoint a nominee of the Police Commission  
16 as Director, subject to confirmation by the Board of Supervisors. The Director shall serve at the  
17 pleasure of the Police Commission. If the Board of Supervisors fails to act on the appointment  
18 within 30 days, the appointment shall be deemed approved. In the event the office is vacant,  
19 until the appointing authority described in this subsection (b) makes an appointment and that  
20 appointment is confirmed by the Board, the Police Commission shall appoint an interim Director  
21 who shall serve at the pleasure of the Police Commission. The appointment of the Director shall  
22 be exempt from the civil service requirements of this Charter. The Director shall never have  
23 been a uniformed member or employee of the Police Department. The Director shall be the  
24 appointing officer under the civil service provisions of this Charter for the appointment,  
25 removal, or discipline of employees of DPA.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Section 3. Nothing in this measure is intended or shall be construed to affect the tenure of the person holding the office of Director of the Office of Citizen Complaints on November 8, 2016. That person shall continue in office as Director of the Department of Police Accountability unless and until he or she resigns or is removed by the Police Commission as provided in Section 4.136.

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

By:   
THOMAS J. OWEN  
Deputy City Attorney

n:\egana\as2016\1600758\01124250.doc

**LEGISLATIVE DIGEST**

*(Third Draft, 7/26/2016)*

[Charter Amendment - Department of Police Accountability]

**Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Department of Police Accountability( DPA); give DPA direct authority over its proposed budget; and require DPA to conduct a performance audit every two years of how the Police Department has handled claims of officer misconduct and use of force.**

Existing Law

The City has an Office of Citizen Complaints (“OCC”), which is a separate department under the Police Commission. The OCC investigates complaints of misconduct and neglect of duty by police officers, and may, in certain circumstances, file disciplinary charges against the officers.

Under the City Charter, individual departments propose budgets, which are then submitted to the Mayor, who prepares a City-wide budget for consideration and approval by the Board of Supervisors. If a department is overseen by a commission, the commission must review and approve the department’s proposed budget. The OCC’s budget is part of the budget for the Police Department as a whole and is reviewed and approved by the Police Commission.

Amendments to Current Law

The proposal is a Charter amendment that would change the name of the Office of Citizen Complaints to the “Department of Police Accountability” or “DPA”. The proposal would also move the provisions governing the DPA from within current Charter Section 4.127 (“Police Department”) to a new, free-standing Charter Section 4.136 (“Department of Police Accountability”). The DPA would still be overseen by the Police Commission; and the Director would still be nominated by the Commission and appointed by the Mayor.

In addition, the proposal would clarify the DPA’s access to relevant City records, and require the DPA to conduct a performance audit every two years analyzing police use of force and how the Police Department has handled claims of officer misconduct. To the extent permitted by law, the DPA would allow public access to information on the progress and disposition of claims of misconduct or use of force, and the results of the performance audits and reviews conducted by DPA.

The proposal would provide that the DPA budget would be prepared and submitted separately from the Police Department budget, and that the DPA budget would not need Police Commission review or approval. Instead, the DPA Director would submit the proposed budget directly to the Mayor for inclusion in the Mayor's proposed budget for the City.

The proposal would also provide that if the proposed Charter amendment creating the Office of the Public Advocate passes, the Public Advocate would appoint the Director of DPA, still subject to nomination by the Police Commission and confirmation by the Board of Supervisors. And the proposal would confirm that the current Director of OCC would continue to serve as Director of DPA, unless and until he or she resigns or is removed by the Police Commission.

n:\leganalas2016\1600758\01124093.docx



**LEGISLATIVE DIGEST**

*(Third Draft, 7/26/2016)*

[Charter Amendment - Department of Police Accountability]

**Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Department of Police Accountability( DPA); give DPA direct authority over its proposed budget; and require DPA to conduct a performance audit every two years of how the Police Department has handled claims of officer misconduct and use of force.**

Existing Law

The City has an Office of Citizen Complaints (“OCC”), which is a separate department under the Police Commission. The OCC investigates complaints of misconduct and neglect of duty by police officers, and may, in certain circumstances, file disciplinary charges against the officers.

Under the City Charter, individual departments propose budgets, which are then submitted to the Mayor, who prepares a City-wide budget for consideration and approval by the Board of Supervisors. If a department is overseen by a commission, the commission must review and approve the department’s proposed budget. The OCC’s budget is part of the budget for the Police Department as a whole and is reviewed and approved by the Police Commission.

Amendments to Current Law

The proposal is a Charter amendment that would change the name of the Office of Citizen Complaints to the “Department of Police Accountability” or “DPA”. The proposal would also move the provisions governing the DPA from within current Charter Section 4.127 (“Police Department”) to a new, free-standing Charter Section 4.136 (“Department of Police Accountability”). The DPA would still be overseen by the Police Commission, and the Director would still be nominated by the Commission and appointed by the Mayor.

In addition, the proposal would clarify the DPA’s access to relevant City records, and require the DPA to conduct a performance audit every two years analyzing police use of force and how the Police Department has handled claims of officer misconduct. To the extent permitted by law, the DPA would allow public access to information on the progress and disposition of claims of misconduct or use of force, and the results of the performance audits and reviews conducted by DPA.

The proposal would provide that the DPA budget would be prepared and submitted separately from the Police Department budget, and that the DPA budget would not need Police Commission review or approval. Instead, the DPA Director would submit the proposed budget directly to the Mayor for inclusion in the Mayor's proposed budget for the City.

The proposal would also provide that if the proposed Charter amendment creating the Office of the Public Advocate passes, the Public Advocate would appoint the Director of DPA, still subject to nomination by the Police Commission and confirmation by the Board of Supervisors. And the proposal would confirm that the current Director of OCC would continue to serve as Director of DPA, unless and until he or she resigns or is removed by the Police Commission.

n:\legana\as2016\1600758\01124093.docx

1 [Charter Amendment - ~~Independent Police Oversight Department and Budget Set Aside of~~ Police  
2 Accountability]

3 **Describing and setting forth a proposal to the voters, at an election to be held on**  
4 **November 8, 2016, to amend the Charter of the City and County of San Francisco, at an**  
5 **election to be held on November 8, 2016, to: re-name the Office of Citizen Complaints**  
6 **(OCC) as the Independent Police Oversight Department (IPOD); eliminate the**  
7 **requirement that the Police Commission approve IPOD's proposed budget and instead of**  
8 **Police Accountability( DPA); give IPOD DPA direct authority over its proposed budget;**  
9 **authorize IPOD and require DPA to conduct periodic reviews a performance audit every**  
10 **two years of how the Police Commission, Police Department, and IPOD have has handled**  
11 **claims of officer misconduct; and require an annual appropriation to IPOD at least equal**  
12 **to the OCC budget for fiscal year 2015-2016, adjusted for changes in total City**  
13 **discretionary revenues and use of force.**

14  
15 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City  
16 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of  
17 the City and County by revising Section 4.127 and adding Section ~~16.133~~ 4.136, to read as  
18 follows:

19 NOTE: **Unchanged Charter text and uncodified text** are in plain font.  
20 **Additions** are *single-underline italics Times New Roman font*.  
21 **Deletions** are *strike-through italics Times New Roman font*.  
22 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Charter  
23 subsections.

24 **SEC. 4.127. POLICE DEPARTMENT.**  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

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

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

DISTRICT POLICE STATIONS. The Police Department shall maintain and operate

1 district police stations. The Police Commission, subject to the approval by the Board of  
2 Supervisors, may establish additional district stations, abandon or relocate any district station, or  
3 consolidate any two or more district stations.

4 ~~INDEPENDENT POLICE OVERSIGHT DEPARTMENT. OFFICE OF CITIZEN~~  
5 ~~COMPLAINTS. The Mayor shall appoint a nominee of the Police Commission as the Director~~  
6 ~~director of the Independent Police Oversight Department (IPOD) Office of Citizen Complaints,~~  
7 ~~subject to confirmation by the Board of Supervisors. The Director director shall serve at the~~  
8 ~~pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days,~~  
9 ~~the appointment shall be deemed approved. In the event the office is vacant, until the Mayor~~  
10 ~~mayor makes an appointment and that appointment is confirmed by the Board, the Police~~  
11 ~~Commission shall appoint an interim Director director who shall serve at the pleasure of the~~  
12 ~~Police Commission. The appointment of the Director shall be exempt from the civil service~~  
13 ~~requirements of this Charter. The Director director shall never have been a uniformed member~~  
14 ~~or employee of the Police Department department. The Director director of the Office of Citizen~~  
15 ~~Complaints shall be the appointing officer under the civil service provisions of this Charter for~~  
16 ~~the appointment, removal, or discipline of employees of IPOD the Office of Citizen Complaints.~~

17 ~~The Police Commission shall have the power and duty to organize, reorganize, and~~  
18 ~~manage IPOD the Office of Citizen Complaints. Subject to the civil service provisions of this~~  
19 ~~Charter, IPOD the Office of Citizen Complaints shall include investigators and hearing officers.~~  
20 ~~As of July 1, 1996, the The staff of IPOD the Office of Citizen Complaints shall consist of no~~  
21 ~~fewer than one line investigator for every 150 sworn members. Whenever the ratio of~~  
22 ~~investigators to police officers specified by this section is not met for more than 30 consecutive~~  
23 ~~days, the Director director shall have the power to hire, and the City Controller must pay,~~  
24 ~~temporary investigators to meet such staffing requirements. No full time or part time employee~~  
25 ~~of IPOD the Office of Citizen Complaints shall have previously served as a uniformed member of~~

1 ~~the Police Department department. Subject to rules rule of the Police Commission, the Director~~  
2 ~~director of IPOD the Office of Citizen Complaints may appoint part time hearing officers who~~  
3 ~~shall be exempt from the civil service requirements of this Charter. Compensation of the hearing~~  
4 ~~officers shall be at rates recommended by the Commission and established by the Board of~~  
5 ~~Supervisors or by contract approved by the Board of Supervisors.~~

6 ~~Complaints of police misconduct or allegations that a member of the Police Department~~  
7 ~~has not properly performed a duty shall be promptly, fairly, and impartially investigated by~~  
8 ~~IPOD staff of the Office of Citizen Complaints. IPOD The Office of Citizen Complaints shall~~  
9 ~~investigate all complaints of police misconduct, or that a member of the Police Department has~~  
10 ~~not properly performed a duty, except those complaints which on their face clearly indicate that~~  
11 ~~the acts complained of were proper and those complaints lodged by other members of the Police~~  
12 ~~Department. IPOD The Office of Citizen Complaints shall use its best efforts to conclude~~  
13 ~~investigations of such complaints and, if sustained, transmit the sustained complaint to the~~  
14 ~~Police Department within nine (9) months of receipt thereof by IPOD the Office of Citizen~~  
15 ~~Complaints. If IPOD the Office of Citizen Complaints is unable to conclude its investigation~~  
16 ~~within such nine month period, the Director director of the Office of Citizen Complaints, within~~  
17 ~~such nine month period, shall inform the Chief of Police of the reasons therefor and transmit~~  
18 ~~information and evidence from the investigation as shall facilitate the Chief's timely~~  
19 ~~consideration of the matter. IPOD The Office of Citizen Complaints shall recommend~~  
20 ~~disciplinary action to the Chief of Police on those complaints that are sustained. The Director~~  
21 ~~director of the Office of Citizen Complaints, after meeting and conferring with the Chief of~~  
22 ~~Police or his or her designee, may verify and file charges with the Police Commission against~~  
23 ~~members of the Police Department arising out of sustained complaints; provided, that the~~  
24 ~~Director director may not verify and file such charges for a period of 60 days following the~~  
25 ~~transmittal of the sustained complaint to the Police Department unless the Director director~~

1 issues a written determination that the limitations period within which the member or members  
2 may be disciplined under Government Code Section 3304, as amended from time to time or any  
3 successor provisions thereto, may expire within such 60-day period and either (a) (i) the Chief of  
4 Police fails or refuses to file charges with the Police Commission arising out of the sustained  
5 complaint, (b) (ii) the Chief of Police or his or her designee fails or refuses to meet and confer  
6 with the Director director on the matter, or (c) (iii) other exigent circumstances necessitate that  
7 the Director director verify and file charges to preserve the ability of the Police Commission to  
8 impose punishment pursuant to Section 18.343. The Director director of the Office of Citizen  
9 Complaints shall schedule hearings before hearing officers when such is requested by the  
10 complainant or a member of the Police Department department and, in accordance with rules of  
11 the Commission, such a hearing will facilitate the fact finding process. The Board of  
12 Supervisors may provide by ordinance that IPOD the Office of Citizen Complaints shall in the  
13 same manner investigate and make recommendations to the Chief of Police regarding  
14 complaints of misconduct by patrol special police officers and their uniformed employees.

15 Nothing herein shall prohibit the Chief of Police or a commanding officer from  
16 investigating the conduct of a member of the Police Department department under his or her  
17 command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when  
18 such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers  
19 vested in the Chief of Police and the Police Commission by other provisions of this Charter.

20 IPOD The Office of Citizen Complaints shall prepare in accordance with rules of the  
21 Commission monthly summaries of the complaints received and shall prepare recommendations  
22 quarterly concerning policies or practices of the Police Department department which could be  
23 changed or amended to avoid unnecessary tension with the public or a definable segment of the  
24 public while insuring effective police services. IPOD The Office of Citizen Complaints shall  
25 prepare a report for the President of the Board of Supervisors each quarter. This report shall

1 ~~include, but not be limited to, the number and type of complaints filed, the outcome of the~~  
2 ~~complaints, and a review of the disciplinary action taken. The President of the Board of~~  
3 ~~Supervisors shall refer this report to the appropriate committee of the Board of Supervisors~~  
4 ~~charged with public safety responsibilities. Said committee may issue recommendations as~~  
5 ~~needed.~~

6 ~~In addition to its monthly and quarterly reports under this Section 4.127, IPOD may, at~~  
7 ~~such times as it deems appropriate, conduct general reviews of how the Police Commission, the~~  
8 ~~Police Department, and IPOD have handled claims of officer misconduct and report on the~~  
9 ~~results of those reviews.~~

10 ~~In carrying out its objectives, including the preparation of recommendations concerning~~  
11 ~~departmental policies or practices refereneed above, IPOD the Office of Citizen Complaints~~  
12 ~~shall receive prompt and full cooperation and assistance from all departments, officers, and~~  
13 ~~employees of the City and County which shall promptly produce all records requested by IPOD,~~  
14 ~~including records relevant to departmental policies or practices regardless of whether those~~  
15 ~~records pertain to a particular complaint, the Office of Citizen Complaints except for records the~~  
16 ~~disclosure of which to IPOD the Office of Citizen Complaints is prohibited by law. The Director~~  
17 ~~director may also request and the Chief of Police shall require the testimony or attendance of~~  
18 ~~any member of the Police Department to carry out the responsibilities of IPOD the Office of~~  
19 ~~Citizen Complaints.~~

20 ~~The IPOD budget shall be separate from the budget of the Police Department.~~  
21 ~~Notwithstanding the provisions of Section 4.102, the IPOD budget shall not require Police~~  
22 ~~Commission review or approval and the Director of IPOD shall submit its proposed annual or~~  
23 ~~two year budget directly to the Mayor.~~



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

4 POLICE STAFFING. The police force of the City and County shall at all times consist  
5 of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department  
6 shall be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure  
7 may be adjusted pursuant to Section 16.123.

8 All officers and employees of the City and County are directed to take all acts necessary  
9 to implement the provisions of this section. The Board of Supervisors is empowered to adopt  
10 ordinances necessary to effectuate the purpose of this section including but not limited to  
11 ordinances regulating the scheduling of police training *classes* *eases*.

12 Further, the Commission shall initiate an annual review to civilianize as many positions  
13 as possible to maximize police presence in the communities and submit that report to the Board  
14 of Supervisors annually for review and approval.

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

19 PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special  
20 police officers and for cause may suspend or dismiss patrol special police officers after a hearing  
21 on charges duly filed with the Commission and after a fair and impartial trial. Patrol special  
22 police officers shall be regulated by the Police Commission, which may establish requirements  
23 for and procedures to govern the position, including the power of the Chief of Police to suspend  
24 a patrol special police officer pending a hearing on charges. Each patrol special police officer  
25

1 shall be at the time of appointment not less than 21 years of age and must possess such physical  
2 qualifications as may be required by the Commission.

3 Patrol special police officers may be designated by the Commission as the owners of a  
4 certain beat or territory which may be established or rescinded by the Commission. Patrol special  
5 police officers designated as the owners of a certain beat or territory or the legal heirs or  
6 representatives of the owners may dispose of their interest in the beat or territory to a person of  
7 good moral character, approved by the Police Commission and eligible for appointment as a  
8 patrol special police officer.

9 Commission designation of beats or territories shall not affect the ability of private  
10 security companies to provide on-site security services on the inside or at the entrance of any  
11 property located in the City and County.

12  
13 SEC. 16.133. INDEPENDENT 4.136. DEPARTMENT OF POLICE OVERSIGHT  
14 FUNDACOUNTABILITY.

15 (a) Beginning with fiscal year 2017-2018, the City each year shall appropriate to the  
16 Independent Police Oversight Department (IPOD) established in Section 4.127 an amount at  
17 least equal to the amount appropriated to the former Office of Citizen Complaints for fiscal  
18 year 2015-2016 (the baseline amount), to be adjusted as provided in subsection (b). These  
19 monies shall be used exclusively to fund the operations of IPOD.

20 (b) Beginning with fiscal year 2018-2019, the City shall each year adjust the baseline  
21 amount by the percentage increase or decrease in aggregate City discretionary revenues, as  
22 determined by the Controller, based on calculations consistent from year to year. In determining  
23 aggregate City discretionary revenues, the Controller shall only include revenues received by  
24 the City that are unrestricted and may be used at the option of the Mayor and the Board of  
25 Supervisors for any lawful City purpose.

1           (e) The City may suspend growth in the baseline amount pursuant to subsection (b) when  
2 the City's projected budget deficit for the upcoming fiscal year at the time of the Joint Report or  
3 Update to the Five Year Financial Plan as prepared jointly by the Controller, the Mayor's  
4 Budget Director, and the Board of Supervisors' Budget Analyst exceeds \$200 million, adjusted  
5 annually by changes in aggregate City discretionary revenues, as determined by the Controller.

6           (a) There shall be under the Police Commission a Department of Police Accountability  
7 ("DPA").

8           (b) The Mayor shall appoint a nominee of the Police Commission as the Director of  
9 DPA, subject to confirmation by the Board of Supervisors. The Director shall serve at the  
10 pleasure of the Police Commission. If the Board of Supervisors fails to act on the appointment  
11 within 30 days, the appointment shall be deemed approved. In the event the office is vacant,  
12 until the Mayor makes an appointment and that appointment is confirmed by the Board, the  
13 Police Commission shall appoint an interim Director who shall serve at the pleasure of the  
14 Police Commission. The appointment of the Director shall be exempt from the civil service  
15 requirements of this Charter. The Director shall never have been a uniformed member or  
16 employee of the Police Department. The Director shall be the appointing officer under the civil  
17 service provisions of this Charter for the appointment, removal, or discipline of employees of  
18 DPA.

19           (c) The Police Commission shall have the power and duty to organize, reorganize, and  
20 manage DPA. Subject to the civil service provisions of this Charter, DPA shall include  
21 investigators and hearing officers. The staff of DPA shall consist of no fewer than one line  
22 investigator for every 150 sworn members. Whenever the ratio of investigators to police officers  
23 specified by this section is not met for more than 30 consecutive days, the Director shall have the  
24 power to hire, and the City Controller must pay, temporary investigators to meet such staffing  
25 requirements. No full-time or part-time employee of DPA shall have previously served as a

1 uniformed member of the Police Department. Subject to rules of the Police Commission, the  
2 Director may appoint part-time hearing officers who shall be exempt from the civil service  
3 requirements of this Charter. Compensation of the hearing officers shall be at rates  
4 recommended by the Commission and established by the Board of Supervisors or by contract  
5 approved by the Board of Supervisors.

6 (d) DPA shall promptly, fairly, and impartially investigate all complaints regarding  
7 police use of force, misconduct or allegations that a member of the Police Department has not  
8 properly performed a duty, except those complaints which on their face clearly indicate that the  
9 acts complained of were proper and those complaints lodged by other members of the Police  
10 Department. DPA shall use its best efforts to conclude investigations of such complaints and, if  
11 sustained, transmit the sustained complaint to the Police Department within nine months of  
12 receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month  
13 period, the Director, within such nine-month period, shall inform the Chief of Police of the  
14 reasons therefor and transmit information and evidence from the investigation as shall facilitate  
15 the Chief's timely consideration of the matter.

16 (e) DPA shall recommend disciplinary action to the Chief of Police on those complaints  
17 that are sustained. The Director, after meeting and conferring with the Chief of Police or his or  
18 her designee, may verify and file charges with the Police Commission against members of the  
19 Police Department arising out of sustained complaints; provided, that the Director may not  
20 verify and file such charges for a period of 60 days following the transmittal of the sustained  
21 complaint to the Police Department unless the Director issues a written determination that the  
22 limitations period within which the member or members may be disciplined under Government  
23 Code Section 3304, as amended from time to time or any successor provisions thereto, may  
24 expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with  
25 the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or

1 her designee fails or refuses to meet and confer with the Director on the matter, or (3) other  
2 exigent circumstances necessitate that the Director verify and file charges to preserve the ability  
3 of the Police Commission to impose punishment pursuant to Section A8.343.

4 (f) The Director shall schedule hearings before hearing officers when such is requested  
5 by the complainant or a member of the Police Department and, in accordance with rules of the  
6 Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors  
7 may provide by ordinance that DPA shall in the same manner investigate and make  
8 recommendations to the Chief of Police regarding complaints of misconduct by patrol special  
9 police officers and their uniformed employees.

10 (g) Nothing herein shall prohibit the Chief of Police or a commanding officer from  
11 investigating the conduct of a member of the Police Department under his or her command, or  
12 taking disciplinary or corrective action, otherwise permitted by this Charter, when such is  
13 warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in  
14 the Chief of Police and the Police Commission by other provisions of this Charter.

15 (h) DPA shall prepare in accordance with rules of the Commission monthly summaries  
16 of the complaints received and shall prepare recommendations quarterly concerning policies or  
17 practices of the Police Department which could be changed or amended to avoid unnecessary  
18 tension with the public or a definable segment of the public while insuring effective police  
19 services.

20 (i) DPA shall prepare a report for the President of the Board of Supervisors each  
21 quarter. This report shall include, but not be limited to, the number and type of complaints filed,  
22 the outcome of the complaints, and a review of the disciplinary action taken. The President of  
23 the Board of Supervisors shall refer this report to the appropriate committee of the Board of  
24 Supervisors charged with public safety responsibilities. Said committee may issue  
25 recommendations as needed.

1           (j) In carrying out its objectives, including the preparation of recommendations  
2 concerning departmental policies or practices referenced above, the investigations referenced  
3 above, and the audits noted below, DPA shall receive prompt and full cooperation and  
4 assistance from all departments, officers, and employees of the City and County, which shall,  
5 unless prohibited by state or federal law, promptly produce all records and information  
6 requested by DPA, including but not limited to (1) records relevant to Police Department  
7 policies or practices, (2) personnel and disciplinary records of Police Department employees,  
8 (3) criminal investigative and prosecution files, and (4) all records to which the Police  
9 Commission has access, regardless of whether those records pertain to a particular complaint.  
10 The DPA shall maintain the confidentiality of any records and information it receives to the  
11 extent required by state or federal law governing such records or information. The Director may  
12 also request and the Chief of Police shall require the testimony or attendance of any member of  
13 the Police Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is  
14 intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney  
15 under state law, including their constitutional and statutory powers and duties under  
16 Government Code Section 25303, as amended from time to time or any successor provisions  
17 thereto, or other applicable state law or judicial decision.

18           (k) Every two years, DPA shall conduct a performance audit or review of police officer  
19 use of force and how the Police Department has handled claims of officer misconduct. DPA  
20 shall also have the authority to conduct performance audits or reviews of whether Police  
21 Department personnel and management have complied with federal and state law, City  
22 ordinances and policies, and Police Department policies. The Director shall have the discretion  
23 to determine the frequency, topics, and scope of such performance audits or reviews. To the  
24 extent permitted by law, DPA shall also allow public access to information on the progress and  
25

1 disposition of claims of misconduct or use of force, and the results of the performance audits and  
2 reviews conducted by DPA.

3 (l) The DPA budget shall be separate from the budget of the Police Department.

4 Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year  
5 budget directly to the Mayor.

6  
7 Section 2. In the event that this Charter amendment and another Charter amendment  
8 regarding the Office of Citizen Complaints in any respect shall appear on the same Citywide  
9 election ballot, the provisions of such other measures shall be deemed to be in conflict with this  
10 Charter amendment. In the event that this Charter amendment shall receive a greater number of  
11 affirmative votes, the provisions of this Charter amendment shall prevail in their entirety and  
12 each and every provision relating to the Office of Citizen Complaints in the other measure or  
13 measures shall be null and void in their entirety, but the provisions in the other measure or  
14 measures that do not relate to the Office of Citizen Complaints shall become effective. In the  
15 event that the other measure or measures shall receive a greater number of votes, the provisions  
16 of this Charter amendment shall take effect to the extent permitted by law.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20  
21 By: \_\_\_\_\_

22 THOMAS J. OWEN  
23 Deputy City Attorney

24 n:\leganas\2016\1600758\01108382.docx\01117654.doc


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: Nicole Elliott, Mayor's Office  
Jon Givner, Office of the City Attorney  
John Arntz, Director, Department of Elections  
Toney Chaplin, Police Department  
Joyce Hicks, Office of Citizen Complaints

FROM:  Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 3, 2016

SUBJECT: CHARTER AMENDMENT INTRODUCED  
November 8, 2016, Election

---

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Cohen on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

**File No. 160586 Charter Amendment - Independent Police Oversight  
Department and Budget Set-Aside**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

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

If you have any questions or concerns, please call me at (415) 554-7702 or email: [derek.evans@sfbgov.org](mailto:derek.evans@sfbgov.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: Christine Fountain, Police Department  
Rachael Kilshaw, Police Department





CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER

Ben Rosenfield  
Controller

Todd Rydstrom  
Deputy Controller

July 5, 2016

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

RE: File 160586 – Charter amendment renaming the Office of Citizen Complaints as the Department of Police Accountability (second draft)

Dear Ms. Calvillo,

Should the proposed charter amendment be approved by the voters, in my opinion, it would have a minimal impact on the cost of government.

The proposed amendment would rename the Office of Citizen Complaints (OCC) to the Department of Police Accountability (DPA). Though the amendment does not change the existing authority granted to the OCC, it states that DPA shall conduct a performance audit or review every two years on police officer use of force and how the Police Department has handled claims of officer misconduct. The proposed amendment also separates the DPA budget from the budget of the Police Department and states that DPA will submit its budget directly to the Mayor.

Sincerely,

*Ben Rosenfield*  
for Ben Rosenfield  
Controller

This analysis reflects our current understanding of the proposal. We will update this analysis as additional information becomes available. Should this item be placed on the November 8, 2016 ballot, we will prepare a fiscal impact statement for the Voter Information Pamphlet.




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: Ben Rosenfield, City Controller

FROM:  Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 3, 2016

SUBJECT: LEGISLATION INTRODUCED - CHARTER AMENDMENT

---

The Board of Supervisors Rules Committee has received the following legislation, introduced by Supervisor Cohen on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.3.

**File No. 160586 Charter Amendment - Independent Police Oversight  
Department and Budget Set-Aside**

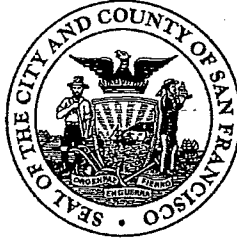
Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

Please review and submit your written statement pursuant to the Charter to be included with the legislative file.

If you have any questions or concerns please call me at (415) 554-7702 or email [derek.evans@sfgov.org](mailto:derek.evans@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: Todd Rydstrom, Office of the City Controller  
Maura Lane, Office of the City Controller  
Natasha Mihal, Office of the City Controller

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

June 3, 2016

**File No. 160586**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On May 24, 2016, Supervisor Cohen introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election:

**File No. 160586 Charter Amendment - Independent Police Oversight Department and Budget Set-Aside**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Derek Evans".

By: Derek Evans, Assistant Clerk  
Rules Committee

Attachment

c: John Rahaim, Director, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Environmental Planner  
Jeanie Poling, Environmental Planner

**Evans, Derek**

---

**From:** Evans, Derek  
**Sent:** Friday, June 03, 2016 6:28 PM  
**To:** Rosenfield, Ben (CON)  
**Cc:** Rydstrom, Todd (CON); Lane, Maura (CON); Mihal, Natasha (CON)  
**Subject:** BOS Referral: File No. 160586 - Charter Amendment - Independent Police Oversight Department and Budget Set-Aside  
**Attachments:** 160586 - Referral - CTRL.pdf

Hello,

The Board of Supervisors Rules Committee has received the following legislation, introduced by Supervisor Cohen on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.3.

**File No. 160586 Charter Amendment - Independent Police Oversight Department and Budget Set-Aside**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

Please review and submit your written statement pursuant to the Charter to be included with the legislative file.

Regards,

Derek K. Evans  
Assistant Clerk, Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102  
Phone: (415) 554-7702 | Fax: (415) 554-5163  
[Derek.Evans@sfgov.org](mailto:Derek.Evans@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

**Evans, Derek**

---

**From:** Evans, Derek  
**Sent:** Friday, June 03, 2016 6:28 PM  
**To:** Arntz, John (REG); Givner, Jon (CAT); Elliott, Nicole (MYR); Chaplin, Toney (POL); Hicks, Joyce (OCC)  
**Cc:** Fountain, Christine (POL); Kilshaw, Rachael (POL)  
**Subject:** BOS Referral: File No. 160586 - Charter Amendment - Independent Police Oversight Department and Budget Set-Aside  
**Attachments:** 160586 - Referral - Mandated.pdf

Hello,

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Cohen on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

**File No. 160586 Charter Amendment - Independent Police Oversight Department and Budget Set-Aside**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

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

If you have any questions or concerns please call me at (415) 554-7702 or email [derek.evans@sfgov.org](mailto:derek.evans@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.

Regards,

**Derek K. Evans**  
Assistant Clerk, Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102  
Phone: (415) 554-7702 | Fax: (415) 554-5163  
[Derek.Evans@sfgov.org](mailto:Derek.Evans@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

**Evans, Derek**

---

**From:** Evans, Derek  
**Sent:** Friday, June 03, 2016 6:28 PM  
**To:** Jones, Sarah (CPC)  
**Cc:** Rahaim, John (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Poling, Jeanie (CPC)  
**Subject:** BOS Referral: File No. 160586 - Charter Amendment - Independent Police Oversight Department and Budget Set-Aside (Environmental Review)  
**Attachments:** 160586 - Referral - CEQA.pdf

Hello,

On May 24, 2016, Supervisor Cohen introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election:

**File No. 160586                      Charter Amendment - Independent Police Oversight Department and Budget Set-Aside**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: re-name the Office of Citizen Complaints (OCC) as the Independent Police Oversight Department (IPOD); eliminate the requirement that the Police Commission approve IPOD's proposed budget and instead give IPOD direct authority over its proposed budget; authorize IPOD to conduct periodic reviews of how the Police Commission, Police Department, and IPOD have handled claims of officer misconduct; and require an annual appropriation to IPOD at least equal to the OCC budget for FY2015-2016, adjusted for changes in total City discretionary revenues, at an election to be held on November 8, 2016.

This legislation is being transmitted to you for environmental review.

**Derek K. Evans**  
Assistant Clerk, Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102  
Phone: (415) 554-7702 | Fax: (415) 554-5163  
[Derek.Evans@sfgov.org](mailto:Derek.Evans@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the 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"  "Inquires"
- 5. City Attorney request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. 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

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

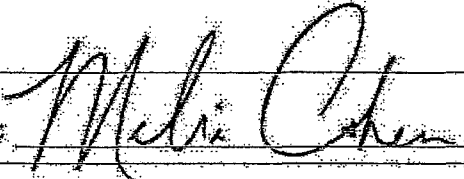
Sponsor(s):

Cohen

Subject:

The text is listed below or attached:

Department of Independent Police Oversight Charter Amendment

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: