[Administrative Code - Consultation Regarding Filing of Juvenile Delinquency Cases]

Ordinance amending the Administrative Code to require the Police Department to consult with the San Francisco District Attorney ("DA") on all juvenile delinquency cases under California Welfare and Institutions Code Section 651 and provide the DA the opportunity to commence proceedings in the juvenile delinquency court in the San Francisco Superior Court.

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

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

Section 1. The Administrative Code is hereby amended by adding Chapter 96D, consisting of Sections 96D.1, 96D.2, 96D.3, and 96D.4, to read as follows:

CHAPTER 96D: PRESENTATION OF YOUTH CASES

SEC. 96D.1. BACKGROUND AND FINDINGS.

(a) As a result of multiple scientific studies on the neurological development of children and young adults, and a shift in public opinion, the Legislature has, over recent years, approved several pieces of legislation, signed into law, that have significantly altered the juvenile justice system in California. The central focus is now rehabilitation and the best interest of the youth. For example, Senate Bill 823 (2020) stated: "It is the intent of the Legislature and the administration for counties to use evidence-based and promising practices and programs that improve the outcomes of youth and public safety, reduce the transfer of youth into the adult criminal justice system, ensure that

dispositions are in the least restrictive appropriate environment, reduce and then eliminate racial and ethnic disparities, and reduce the use of confinement in the juvenile justice system by utilizing community-based responses and interventions."

(b) Further, Senate Bill 395 (2017) stated: "Developmental and neurological science concludes that the process of cognitive brain development continues into adulthood, and that the human brain undergoes "dynamic changes throughout adolescence and well into young adulthood" (see Richard J. Bonnie, et al., Reforming Juvenile Justice: A Developmental Approach, National Research Council (2013), page 96, and Chapter 4). As recognized by the United States Supreme Court, children "'generally are less mature and responsible than adults'" (J.D.B. v. North Carolina (2011) 131 S.Ct. 2394, 2397, quoting Eddings v. Oklahoma (1982) 455 U.S. 104, 115); "they 'often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them'" (J.D.B., 131 S.Ct. at 2397, quoting Bellotti v. Baird (1979) 443 U.S. 622, 635); "they 'are more vulnerable or susceptible to… outside pressures' than adults" (J.D.B., 131 S.Ct. at 2397, quoting Roper v. Simmons (2005) 543 U.S. 551, 569); they "have limited understandings of the criminal justice system and the roles of the institutional actors within it" (Graham v. Florida (2010) 560 U.S. 48, 78); and "children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them" (J.D.B., 131 S.Ct. at 2397)."

(c) As a result of the above legislation, and pursuant to section 202 of the California Welfare and Institutions Code, juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minors in all deliberations. Minors under the jurisdiction of the juvenile court shall receive care, treatment, and guidance consistent with their best interests and the best interests of the public. Further, all punishment must be consistent with a rehabilitative objective.

(d) The people of the City and County of San Francisco every four years elect a district attorney, who has the duty to prosecute those who commit crimes and do harm to people and property in San Francisco. Through this democratic process, the district attorney is selected, based not only on candidates' respective legal credentials but also on their respective values and visions for the criminal justice system, including the juvenile justice system. This ordinance intends to validate the sovereignty of San Francisco voters in their selection of the district attorney and to ensure that, barring preemption by state or federal law, the district attorney (including deputies acting on behalf of the district attorney) is the only one who should make the decision of where and when to prosecute juveniles who have committed crimes in San Francisco.

SEC. 96D.2. THE DISTRICT ATTORNEY'S RIGHT OF FIRST REFUSAL.

The Police Department ("SFPD") shall first present to ~~consult with~~ *the San Francisco District Attorney ("DA")* or DA's designee ~~on~~ *all juvenile delinquency cases* where: (1) all the alleged criminal acts occurred within the City and County of San Francisco; (2) the San Francisco Police Department ("SFPD") is the lead or sole investigative agency; and (3) ~~in which~~ *California Welfare and Institutions Code Section 651 permits commencing proceedings in juvenile delinquency court in San Francisco Superior Court or another county*.; ~~provide~~ T*he* DA or DA's designee may ~~the opportunity to~~ *weigh the safety and protection of the public, the importance of redressing to victims, and the best interests of the minor; and* may ~~provide the DA the opportunity to~~ *decide whether to file a petition in the San Francisco Superior Court.* ~~SFPD shall not present a case covered by this Section 96D.2 to a district attorney in another county without the DA's (or DA designee's) consent unless the DA (or DA's designee) first declines to prosecute the case.~~ If the DA or DA's designee declines to file in the San Francisco Superior Court, SFPD may present the case to a district attorney in another jurisdiction consistent with California Welfare and Institutions Code section 651. Notwithstanding the foregoing, nothing in Chapter 96D

shall preclude SFPD from collaborating or providing information to other law enforcement agencies.

SEC. 96D.3. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Chapter 96D, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SEC. 96D.4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 96D, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

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

By: /s/
Jon Givner
Deputy City Attorney

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