[Board of Supervisors to respond on behalf of City departments to orders for the production of City records made under designated state and federal laws.]

Ordinance amending the San Francisco Administrative Code, by adding Section 2.20, to authorize the Board of Supervisors to identify as “watch laws” those state or federal laws calling for the disclosure of information or records held by the City, where disclosure could violate the rights of individuals under the State or Federal Constitutions, and to authorize the Board to respond on behalf of City departments to orders for the production of City information or records made under such watch laws.

Note: Additions are single-underlined italics Times New Roman; deletions are single-underlined italics Times New Roman. Board amendment additions are double underlined. Board amendment deletions are single-underlined.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 2.20, to read as follows:

**ART. IV: BOARD RESPONSE TO WATCH LAW REQUESTS**

**SEC. 2.20. DESIGNATION OF WATCH LAWS; BOARD OF SUPERVISORS TO RESPOND ON BEHALF OF CITY DEPARTMENTS.**

(a) **Designation of Watch Laws; Watch Law Orders.** Under Charter Section 16.124, the Board of Supervisors may, by resolution, designate as a “watch law” any state or federal law or regulation that calls for, authorizes, or requires the production by any City officer, employee, agency, department or office of information, records, or other tangible things held by the City, where disclosure could violate the rights of any individuals under the State or Federal Constitutions. An order or...
request for the production of information, records or other tangible things held by the City made
pursuant to a watch law designated under this subsection shall be referred to as a “watch law order.”

(b) Board of Supervisors to Respond on Behalf of City Departments. The Board of
Supervisors shall respond on behalf of the City and County of San Francisco to all watch law orders
served on the City and County. No officer, employee, agency, department, or office of the City and
County shall respond to a watch law order without the prior approval by resolution of the Board of
Supervisors.

c) Duties of City Officers, Employees, and Departments. Any officer, employee, agency,
department, or office of the City and County receiving a watch law order shall within 24 hours transmit
the order to the Clerk of the Board of Supervisors, along with a specific description of the type, nature,
and extent of any information, records or other tangible things held by the officer, employee, agency,
department, or office which are responsive to the order. The information, records or other tangible
things themselves shall not be sent to the Board of Supervisors unless and until specifically requested
by the Board.

(d) Consideration by the Board of Supervisors. The Board of Supervisors shall consult with
the City Attorney in determining whether the production sought by a watch law order would violate the
constitutional rights of any individuals and in deciding on an appropriate response to the order. The
records, proceedings, and decisions of the Board of Supervisors in connection with a watch law order
shall be kept confidential where required by state or federal law. To the extent federal or state law
would prohibit public disclosure of information that the Board of Supervisors needs to discuss in order
to discharge its powers under this Section, the Board may meet in closed session for the limited
purpose of discussing that information. Unless prohibited by federal or state law, the Board shall take
all actions to approve or deny a watch law order in public.

(e) Procedure. Upon receipt of a watch law order, the Clerk of the Board of Supervisors shall
immediately deliver a copy of the order to the chair of the Rules Committee. The Clerk shall at the

Supervisor McGoldrick
BOARD OF SUPERVISORS
same time also deliver a copy of the order to the deputy city attorney designated by the City Attorney for these purposes.

The Clerk shall prepare an item consisting of a resolution complying with the order and a resolution rejecting, in whole or in part, the order. The item shall be deemed introduced by the President of the Board as of the date the order is received by the Clerk.

The Clerk shall place the item on the agenda for the next Rules Committee meeting. If the order contains a deadline for compliance that would occur prior to the next regularly-scheduled Rules Committee meeting, the chair of the Rules Committee shall schedule a special meeting of the committee sufficient to meet the deadline. If the Rules Committee cannot meet in time to meet the deadline for response, the President of the Board may refer the item to another committee.

(f) Annual Report. The Clerk of the Board of Supervisors shall prepare an annual report on all watch law orders received by the Board during the prior fiscal year. The report shall identify: the information, records, or other tangible things sought in each such order; the law under which the order was made; the officer, employee, agency, department, or office of the City and County to whom the order was initially directed; and, the action taken by the Board of Supervisors in response to the order. The report shall be kept confidential to the extent required by state or federal law.

(g) Responsibilities of the Clerk of the Board. Any reference to the Clerk of the Board of Supervisors in this ordinance shall include the Clerk’s designee. Notwithstanding the provisions of this section, the individual officers, departments, and agencies of the City shall continue to be responsible for maintaining their own records in compliance with all applicable public records and records retention laws. The Clerk of the Board’s responsibilities shall be limited to carrying out the procedures specified in this section, based upon the information and responses provided by individual officers, departments, and agencies.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:

THOMAS J. OWEN
Deputy City Attorney
Ordinance amending the San Francisco Administrative Code, by adding Section 2.20, to authorize the Board of Supervisors to identify as "watch laws" those state or federal laws calling for the disclosure of information or records held by the City, where disclosure could violate the rights of individuals under the State or Federal Constitutions, and to authorize the Board to respond on behalf of City departments to orders for the production of City information or records made under such watch laws.

March 15, 2005  Board of Supervisors — PASSED ON FIRST READING
   Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

March 22, 2005  Board of Supervisors — FINALLY PASSED
   Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on March 22, 2005 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom