


**CITY AND COUNTY OF SAN FRANCISCO  
BOARD OF SUPERVISORS  
BUDGET AND LEGISLATIVE ANALYST**

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**Policy Analysis Report**

To: Members of the Board of Supervisors  
From: Budget and Legislative Analyst's Office   
Re: Board of Supervisors Role in Emergency Response  
Date: June 23, 2020

**Summary of Requested Action**

The Budget and Legislative Analyst was requested to conduct a jurisdictional comparison of the response, oversight, and coordination to an emergency in comparable jurisdictions. We were also requested to review and report on the structure of the City's Emergency Operations Center, including communication between the Emergency Operations Center and the Board of Supervisors; the approval of the City's Emergency Plan; and the role of the Board of Supervisors during a declared local emergency.

*For further information about this report, contact Severin Campbell at the Budget and Legislative Analyst's Office.*

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**Executive Summary and Policy Considerations**

- The COVID-19 local emergency in San Francisco has been in place for several months at the time of this writing and may continue for additional months in 2020. During this time, City government is not only responding to the emergency, but making policy decisions related to the City's recovery from the emergency. Unlike in many other types of emergencies, during the COVID-19 emergency the Board of Supervisors is able to meet regularly by teleconference and to govern as usual, despite the ongoing state of local emergency. However, for as long as the emergency is in place, the Mayor is empowered to direct the City's administrative response.
- Because of the prolonged nature of the COVID-19 emergency, the City is both responding to an immediate emergency and making policy decisions related to the City's recovery from the emergency, and the Board of Supervisors should be actively participating in that policymaking process. As discussed in this report, the Board has several opportunities to increase its role in the emergency recovery process in the short term, including passing ordinances, creating committees or sub-committees related to the City's COVID-19 emergency response, or creating a COVID-19 advisory council or task force by ordinance.
- In the long term, the Board of Supervisors could consider amendments to the City's Emergency Response Plan to define the Board's role in the City's recovery from any type of emergency. The members of the Board of Supervisors who are members of the Disaster Council could consider these opportunities during the next meeting of

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*Budget and Legislative Analyst*

the Disaster Council. The updated version of the Emergency Plan should also outline the communication protocols in place to keep the Board of Supervisors informed of decisions and actions of the Emergency Operations Center.

- Our office could not find a record of Board of Supervisors approval or adoption of either the most recent revisions to the City's Emergency Response Plan or of the original version of the plan. Documentation of this approval, which could be done by motion or resolution of the Board of Supervisors, should be included in the City's Emergency Response Plan as a best practice. The Board of Supervisors should request that the Disaster Council present the current version of the City's Emergency Response Plan for Board of Supervisors approval, and record of the Board approval should be included in the Emergency Response Plan document.

*Project staff: Severin Campbell, Linden Bairey, Nicolas Menard, and Karrie Tam.*

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## **The Mayor and Board of Supervisors Roles in Responding to an Emergency**

### **The Mayor's authority in declaring and responding to an emergency**

Under the California Emergency Services Act, local governing bodies may designate an individual who may declare a local emergency and issue orders and regulations related to the jurisdiction's response to the emergency. The San Francisco Administrative Code designates the mayor as this individual. The other strong mayor cities in California<sup>1</sup> have also designated the mayor, or an individual appointed by the mayor, as the individual who may declare a local emergency and issue related orders and regulations. In contrast, the counties surveyed for this report (with the exception of Alameda County) have designated a county administrative officer, who is appointed by the board of supervisors, as the individual who may declare a local emergency and issue orders and regulations related to the jurisdiction's response to the emergency.

Because San Francisco is a strong mayor city, the City's laws governing emergency response are more comparable to other strong mayor cities than they are to other counties. During the COVID-19 emergency, the executive branch of the strong mayor cities has directed most of the city's administrative emergency response and has issued orders similar those issued by the Mayor of San Francisco. As the local governing bodies, the city councils and boards of supervisors of the jurisdictions we surveyed are all empowered to use urgency or emergency ordinances if necessary to address an emergency.

For the full results of our survey, including the selection of jurisdictions and survey results related to local public health emergencies and disaster councils, see the appendix to this report.

### **The powers of the Board of Supervisors during a prolonged emergency**

The California Emergency Services Act defines a local emergency as "conditions of disaster or of extreme peril to the safety of persons and property [...] caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortages, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake." In most of these scenarios, speedy decision-making to plan for and respond to an emergency is essential, and the ability of the local governing body to meet and take action in time to respond to the emergency, especially in times of natural disaster or riots, is not guaranteed. Designating one individual who is able to declare an emergency and direct the jurisdiction's response allows the jurisdiction to respond to the emergency in time.

The COVID-19 local emergency in San Francisco has been in place for several months at the time of this writing and may continue for additional months in 2020. During this time, City government is not only responding to the emergency, but making policy decisions related to the City's recovery from the emergency. Unlike in many other types of emergencies, during

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<sup>1</sup> We surveyed the delegation of authority in a declared emergency in four comparable counties (Alameda, Santa Clara, San Mateo, and San Diego) and the four other strong mayor cities in California (Los Angeles, San Diego, Oakland, and Fresno).

the COVID-19 emergency the Board of Supervisors is able to meet regularly by teleconference and to govern as usual, despite the ongoing state of local emergency. However, for as long as the emergency is in place, the Mayor is empowered to direct the City's administrative response.

The Board has the ability to take an active role in directing the City's response to and recovery from the COVID-19 emergency by passing emergency ordinances. In several of the jurisdictions we surveyed, the boards of supervisors and city councils have taken actions, by ordinance, to accomplish policy goals similar to actions taken by the Mayor in San Francisco. For example, the Santa Clara County Board of Supervisors imposed a temporary moratorium for non-payment of rent by residential and commercial tenants directly impacted by COVID-19. In San Francisco, the Mayor has imposed a similar moratorium on evictions in her supplements to the local emergency proclamation. Similarly, the Fresno City Council passed an ordinance that added a new section to the city's Municipal Code related to the City's response to the COVID-19 emergency, in which the City Council took action on items including the prevention of utility shut-offs, the suspension of non-essential city services, and the imposition of an eviction moratorium—all actions that have, in San Francisco, been done by Mayoral order.

Each order issued by the Mayor as a supplement to the proclamation of emergency is subject to concurrence or rejection by the Board of Supervisors. To date, the Board has concurred in the Mayor's orders, by motion, at meetings of the full Board. However, as the emergency continues, and given that the Mayor's supplements to the emergency proclamation are directives for the recovery as much as a response to an immediate emergency, the Board of Supervisors should consider how to expand its role.

*Policy consideration:* The Board of Supervisors could create a temporary committee or subcommittee dedicated to the City's response to the COVID-19 emergency that would review the Mayor's orders and make recommendations to the full Board about whether the Board should concur in or reject the Mayor's actions. This committee or sub-committee could also work on strengthening the Board's active role in the City's emergency response by recommending ordinances that could accomplish the Board's policy goals, and by working with the Mayor's Office on policy priorities and considerations in the administrative emergency response.

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## The Emergency Operations Center and Mayor's Policy Group

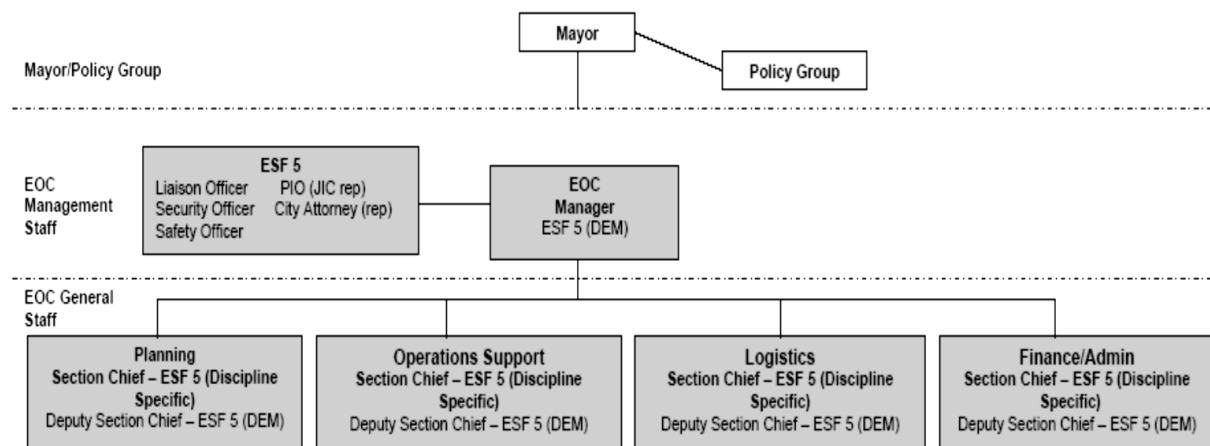
### San Francisco's Emergency Response Plan and Emergency Operations Center

San Francisco's Emergency Response Plan, last updated in May 2017, describes the role and structure of the San Francisco Emergency Operations Center (EOC). San Francisco's EOC is organized according to the standard Incident Command System (ICS) organizational structure, which is one of the three common EOC organizational structures outlined in the

Third Edition of the National Incident Management System,<sup>2</sup> released October 2017, as established by the Federal Emergency Management Agency (FEMA). As specified by FEMA in the National Incident Management System, EOCs are locations where staff from multiple agencies come together to address imminent threats and hazards and to provide coordinated support to incident command, on-scene personnel, and/or other EOCs.

The ICS organizational structure outlined by FEMA and in use in San Francisco’s Emergency Response Plan contains five functional areas of response: Management, Planning, Operations, Logistics, and Finance and Administration. According to FEMA, the EOC Management Staff group typically includes an EOC Director, who guides and oversees staff and activities, a Public Information Officer (PIO), a Legal Advisor, and a Safety Officer. As shown in Exhibit 1 below, San Francisco’s EOC coordination structure mirrors the ICS structure established by FEMA in the National Incident Management System.

**Exhibit 1: San Francisco’s EOC Coordination Structure**



Source: San Francisco Emergency Response Plan, rev. 5/2017

All EOCs receive oversight from elected and/or appointed officials such as governors, tribal leaders, mayors, and city managers. In the National Incident Management System, FEMA states: “These individuals may be present in the EOC, but more often provide guidance from elsewhere, either as part of a formal policy group or individually. They typically make decisions regarding priorities and on issues such as emergency declarations, large-scale evacuations, access to extraordinary emergency funding, waivers to ordinances and regulations, and adjudication of scarce resources.”

**FEMA’s Multiagency Coordination Groups and the Mayor’s Policy Group**

*Multiagency Coordination Groups*

FEMA identifies Multiagency Coordination (MAC) Groups, sometimes called policy groups, as part of the off-site incident management structure of the National Incident Management

<sup>2</sup> The National Incident Management System was developed by the federal Department of Homeland Security pursuant to Homeland Security Presidential Directive/HSPD-5 to ensure that all levels of government have the capability to work efficiently and effectively together, using a national approach to domestic incident management.

System. MAC Groups are established and organized to make cooperative multiagency decisions and act as policy-level bodies during incidents, supporting resource prioritization and allocation, and enabling decision making among elected and appointed officials and those responsible for managing the incident. FEMA specifically states that elected and appointed officials are key players in incident management:

“Governors, tribal leaders, mayors, city managers, and county commissioners, for example, typically comprise the policy level of incident management and provide guidance regarding priorities and strategies for dealing with incident response and recovery. Incident personnel working in EOCs and on scene share the responsibility for keeping elected and appointed officials informed regarding the situation, resource needs, and other pertinent information. Effective communication between these incident personnel and policy-level officials fosters trust and helps ensure that all leaders have the information they need to make informed decisions. MAC Groups provide a way to organize policy-level officials to enhance unity of effort at this senior level.” (*FEMA National Incident Management System, Third Edition, Oct. 2017*)

Although the FEMA and the National Incident Management System stress the importance of the inclusion of elected officials and coordination between the EOC and elected officials, San Francisco’s Emergency Response Plan does not include the Board of Supervisors in any Multiagency Coordination Group or Policy Group.

#### *The Mayor’s Policy Group*

Under the San Francisco Emergency Response Plan, the Mayor is the elected official who oversees the EOC and who is ultimately responsible for the efforts of the citywide Emergency Management Program. The Emergency Response Plan provides for a Policy Group comprised of City officials to advise the Mayor on policy issues affecting the City and give policy direction to the EOC when requested. The roles and responsibilities of the Policy Group are to:

- Convene as needed to address policy issues (e.g., curfew, authorization of evacuation orders)
- Prepare and execute mayoral directives, orders, resolutions, and/or ordinances as necessary
- Support decisions and actions of the EOC and ensure adherence to policies and objectives
- Respond to requests from the Joint Information Center
- Interface with community leaders
- Act as a liaison to Federal and State elected officials
- Act as a liaison to local jurisdictions

As provided in the City’s Emergency Response Plan, the Mayor assembles the appropriate City department resources to form the Policy Group according to the requirements of the emergency.

The Emergency Response Plan does not specifically define the Policy Group as a Multiagency Coordination Group, which according to FEMA is responsible for making cooperative multiagency decisions, including setting policy and prioritizing resource allocation. While FEMA considers the Multiagency Coordination Group responsible for decision making among elected and appointed officials and those responsible for managing the incident, as noted above the Emergency Response Plan does not mention any representatives from the Board of Supervisors for inclusion in the City’s Policy Group.

**Opportunities to increase the Board’s role in policymaking during an emergency**

For as long as the declaration of local emergency is in place, the Mayor is empowered to direct the City’s administrative response to the emergency. However, in the COVID-19 pandemic the City is both responding to an immediate emergency and making policy decisions related to the City’s recovery from the emergency. The City’s Emergency Response Plan is designed for immediate response to an emergency, and neither the Plan nor the Policy Group established by the Mayor in accordance with the Plan addresses the respective roles of the Mayor and Board of Supervisors during an extended emergency and recovery. The Board of Supervisors should be actively participating in policymaking during the recovery, including establishing a formal process for participation.

*Policy consideration:* The Board of Supervisors could consider adopting an ordinance establishing a COVID-19 Emergency Recovery Task Force or Advisory Council. Membership of such a task force or advisory council could consist of members or representatives of the Board of Supervisors, representatives of the Mayor’s office and relevant City departments, and representatives from community-based organizations and the public. The proposed ordinance should define the respective roles of the Policy Group, which is in the City’s Emergency Response Plan to advise the Mayor and EOC on responses to the emergency, and the proposed task force or advisory council in developing policy positions and making recommendations to the Board of Supervisors, the Mayor, and the Department of Emergency Management related to City policy governing the recovery from the emergency.

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**Board of Supervisors Approval of the City’s Emergency Response Plan**

The California Emergency Services Act states that local governments may create, by ordinance, disaster councils, which shall develop plans for meeting any condition constituting a local or state of emergency (Cal. Govt. Code § 8610). San Francisco’s Disaster Council is established in Administrative Code § 7.3 with the following membership:

- The Mayor, as the chair
- The Vice-Chair, who shall be appointed by the Mayor
- Officers in charge of emergency services, as provided in the City's emergency plan
  - According to membership lists of the Disaster Council, these officers typically include the City Administrator, the Executive Director of the Department of Emergency Management, the Director of the Department of Public Health, the Director of the Department of Public Works, the Medical Examiner, the Chiefs of the Police and Fire Departments, and the General Manager of the San Francisco Public Utilities Commission, among others.
- Representatives of civic, business, labor, veterans, professional, or other organizations with an official emergency responsibility, as may be appointed by the Mayor
  - According to membership lists of the Disaster Council, organizations represented have included the American Red Cross, the Bay Area Regional Transportation Authority, the Hospital Council of Northern and Central California, the San Francisco Chamber of Commerce, the San Francisco Foundation, the San Francisco Labor Council, and the San Francisco Unified School District, among others.
- Three members of the Board of Supervisors, appointed by the President of the Board
- The Controller
- The Director of Emergency Services, as Executive Secretary

The powers and duties of the Disaster Council in San Francisco are to: (a) develop a plan for meeting an emergency, and to prepare and recommend to the Board of Supervisors ordinances, resolutions, rules, and regulations that are necessary to implement the emergency plan; (b) develop and recommend for consideration and adoption by the Board of Supervisors mutual aid plans and agreements; and (c) meet at least quarterly basis and at the call of the chair (Administrative Code § 7.4).

The City's most current Emergency Response Plan is Version IV, last revised in May 2017. The Plan includes a Revision History page noting the dates of each revision, but does not indicate the initial date of publication. The Plan also does not include any record of approval or adoption of the Plan by the Board of Supervisors.

As noted above, the powers and duties of the Disaster Council in San Francisco include developing a plan for meeting an emergency and preparing and recommending to the Board of Supervisors ordinances, resolutions, rules, and regulations that are necessary to implement the emergency plan. Similarly, FEMA's Comprehensive Preparedness Guide Version 2.0 ("Developing and Maintaining Emergency Operations Plans," Nov. 2010) states that the emergency response plan should be presented to the appropriate elected officials to obtain official promulgation of the plan, and that the promulgation process should be based in a specific statute, law, or ordinance. In a checklist developed by the California



Governor's Office of Emergency Services to assist local government agencies in reviewing and assessing their emergency plans ("Emergency Plan Review Crosswalk 2020: Local Government Agencies"), the inclusion of a promulgation document and/or signature page is the first element on the list to ensure that the fundamental elements of the state's Standardized Emergency Management System and the federal National Incident Management System are included in the plan.

Our office could not find a record of Board of Supervisors approval or adoption of either the most recent revisions to the City's Emergency Response Plan or of the original version of the plan. Documentation of this approval, which could be done by motion or resolution of the Board of Supervisors, should be included in the City's Emergency Response Plan. The County of Santa Clara's Emergency Operations Plan, for example, includes (a) a Promulgation page signed by the County Executive, the Director of the Office of Emergency Services, and County Counsel indicating the date that the Plan became effective by Board of Supervisors approval (page iii), and (b) a copy of the official Board resolution approving the emergency operations plan (page iv and v).

*Policy consideration:* The City's Emergency Response Plan is the document that establishes the structure and reporting requirements of the City's emergency response. It is the responsibility of the Disaster Council to prepare revisions to the Emergency Response Plan, and membership of the Disaster Council includes three members of the Board of Supervisors, appointed by the President of the Board. The members of the Board of Supervisors who are members of the Disaster Council should consider opportunities to increase the Board's role in an emergency response, as defined in the Emergency Response Plan, during the next meeting of the Disaster Council, and revise the City's Emergency Response Plan accordingly in preparation for the next emergency.

*Policy consideration:* The Board of Supervisors should request that the Disaster Council present the current version and future substantive revisions or new plans to the City's Emergency Response Plan for Board of Supervisors approval; record of that approval should be included in the Emergency Response Plan document as documentation of its official promulgation.

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## Department of Emergency Management Role in Coordinating/ Communicating Emergency Response

The Department of Emergency Management is established in Section 2A.200 of the San Francisco Administrative Code as part of the Executive Branch. The Administrative Code states that the Mayor shall appoint the Director of the Department who serves as department head and appointing officer for the Department. The Director serves at the pleasure of the Mayor and reports directly to the Mayor. All other positions in the Department are subject to approval by the Board of Supervisors in the annual budget and salary ordinance. The reporting structure and appropriation authority are consistent with most other City departments.<sup>3</sup>

### *Communication with the Board of Supervisors*

The role of the Department of Emergency Management in emergency response, including managing the Emergency Operations Center, is defined in the Emergency Response Plan. The Emergency Operations Center is responsible for communicating the emergency response, and Department of Emergency Management staff play a key role in communications, including serving in primary roles in the EOC Joint Information Center. While the Emergency Response Plan specifies communication and coordination between the Emergency Operations Center and the Mayor's Office, Policy Group, and community stakeholders, the Plan does not specify communicating and coordinating with the Board of Supervisors. Because the Emergency Operations Center under the Emergency Response Plan is responsible for coordinating and communicating Policy Group priorities and for coordinating resource allocation priorities, the communication of policies and resource allocation to the Board of Supervisors, who are the elected oversight body and responsible for funding appropriation, is essential.

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<sup>3</sup> Exceptions are the San Francisco Municipal Agency, for which the Charter defines the governance and budget authority, and the San Francisco County Transportation Authority, for which the Board of Supervisors sits as the governing body. For City departments that have commissions, the commission appoints the department directors. City department commission members are generally appointed by the Mayor, or by the Mayor and the Board with the Mayor having the majority appointments. With a few exceptions, the Board approves appointments to the commissions.

*Policy consideration:* The Board of Supervisors, in adopting an ordinance establishing a COVID-19 Emergency Recovery Task Force or Advisory Council, should define the responsibilities of the Emergency Operations Center in communicating to the Board of Supervisors during the extended emergency and recovery. Key components of communications should include how Policy Group policies are implemented and how resources are allocated.

*Policy consideration:* The Board of Supervisors should request that the Disaster Council in a future revision of the City's Emergency Response Plan specify the responsibilities of the Emergency Operations Center in communicating with the Board of Supervisors in a timely manner.

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## Appendix: Jurisdictional Survey Results

As part of this request, your office requested that the Budget and Legislative Analyst conduct a jurisdictional comparison of the response, oversight, and coordination to an emergency in comparable jurisdictions.

### Executive Summary and Main Conclusions

- San Francisco's position as a city and county is unique in California. For this survey of jurisdictions, we selected the other four strong mayor cities in California and four peer charter counties.
- Under the California Emergency Services Act, local governing bodies may designate an individual who may declare a local emergency and issue orders and regulations related to the jurisdiction's response to the emergency. The San Francisco Administrative Code designates the mayor as this individual. We found that the other strong mayor cities have also designated the mayor, or an individual appointed by the mayor, as the individual who may declare a local emergency and issue related orders and regulations.
- In contrast, the surveyed counties (with the exception of Alameda County) have designated a county administrative officer, who is appointed by the board of supervisors, as the individual who may declare a local emergency and issue orders and regulations related to the jurisdiction's response to the emergency.
- As the local governing bodies, the city councils and boards of supervisors of the jurisdictions we surveyed are all empowered to use urgency or emergency ordinances if necessary to address an emergency. In addition, in the other counties we surveyed, the board of supervisors typically appoints the individual who is empowered to issue administrative declarations and orders in an emergency. The board may have some

ability to direct the actions of this individual and, in so doing, direct the county's emergency response. In contrast, in strong mayor cities we found that the individuals directing the city's administrative response to the emergency are either city mayors or administrators appointed by the city mayors. Because San Francisco is a strong mayor city, the City's laws governing emergency response are more comparable to other strong mayor cities than they are to other counties. In the strong mayor cities, the executive branch has directed most of the city's administrative emergency response and has issued orders similar those issued by the Mayor of San Francisco.

- The California Emergency Services Act states that local governments may create disaster councils, and San Francisco establishes a disaster council in the Administrative Code. Many of the other cities and counties we surveyed also establish disaster councils in their governing laws. In general, the powers and duties of the disaster councils in other jurisdictions are similar to the powers and duties of San Francisco's Disaster Council: to develop emergency and mutual aid plans and to meet several times per year. Of the jurisdictions we surveyed, we did not identify any disaster councils that have an active role in responding to a declared emergency.
- California Health and Safety Code states that when there is local health hazard, including an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, the county's local health officer may declare a local health emergency. The local health officer may also take measures deemed necessary to prevent the spread of disease and may issue orders to other governmental entities within the officer's jurisdiction to take any action deemed necessary to control the spread of disease. Aside from the initial declaration of a local health emergency, the orders of the local health officer are not subject to approval by the Board of Supervisors. In our survey of jurisdictions, we did not identify any additional local law governing the local health officer's power to issue public health orders or requiring approval or ratification from the local governing body.
- During an emergency, decision-making and the power to direct a jurisdiction's emergency response is typically limited to a small number of individuals. Based on our survey, we did not identify any jurisdictions that have different decision-makers for different policy areas during an emergency, other than the power of the local health officer to make public-health related decisions and to issue health-related orders.
- Other than their membership on local disaster council, we did not identify any strong involvement of community members (non-government officials) in any jurisdiction's response to the COVID-19 emergency.

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## Jurisdictions Surveyed

### Comparable jurisdictions and survey methodology

San Francisco is unique in California because it is both a charter county and a city with a strong mayor system. For this survey we selected the other four strong mayor cities in California (the cities of Los Angeles, San Diego, Oakland, and Fresno) and four peer charter counties (the counties of Santa Clara, Alameda, San Diego, and San Mateo).

Charter counties: In California, there are 44 general law counties, which are governed by state laws, and 14 charter counties, which are governed by local charters. With the exception of San Francisco, which is both a county and a city, county boards of supervisors serve as both the legislative and executive authority of the county. The county boards of supervisors usually appoint the county's chief executive or chief administrative officer who is responsible for day-to-day county administration, including preparation and implementation of the county budget. The county boards of supervisors are responsible for setting policy and approving the annual budget.

Strong mayor cities: Only five California cities have strong mayor (also called a mayor-council) systems in which the mayor serves as the chief executive of the city: San Francisco, Los Angeles, San Diego, Oakland, and Fresno. In weak mayor (or council-manager) governments, the mayor serves as an equal with city council members and executive functions of the city are performed by a city manager, who is usually appointed by the city council. In strong mayor cities, however, the mayor has significantly more authority and serves as the chief executive of the city. Strong mayors are responsible for more of the city's managerial, oversight, and administrative duties.

We reviewed these jurisdictions' governing laws, including charters, administrative codes, ordinance codes, and other applicable references. We also reviewed the emergency declarations and orders that have been issued during the COVID-19 emergency, the agendas of the jurisdictions' city councils or boards of supervisors meetings, and emergency or urgency ordinances issued by the jurisdictions' governing bodies.

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## Survey Results

### Declaration of local emergencies and issuance of rules and regulations

The California Emergency Services Act (Cal. Govt. Code § 8550 - 8669.7) states that "A local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body" (Cal. Govt. Code § 8630). San Francisco Administrative Code §§ 7.1 and 7.6 designates the Mayor as the individual who may declare the local emergency. We found that of the jurisdictions surveyed, other strong mayor cities have also vested this power in the mayor or in an individual appointed by the mayor, while other charter counties have vested this power in an administrative position appointed by the board of supervisors like a county executive, county

manager, or county administrative officer. The exception is Alameda County, where the sheriff, an elected official, is empowered to proclaim a local emergency if the board of supervisors is not in session. In all jurisdictions, the local governing body (either the board of supervisors or the city council) must approve the declaration of emergency within seven days, as required in the California Emergency Services Act (Cal. Govt. Code § 8630(b)).

The California Emergency Services Act also allows the governing body or designated officials to promulgate orders and regulations necessary for the protection of life and property during a local emergency (Cal. Govt. Code § 8634). In San Francisco, this power is vested in the Mayor under Administrative Code § 7.6. In addition, San Francisco Charter § 3.100(14) states that the Mayor may direct the personnel and resources of any department, command the aid of other persons, and do whatever else the Mayor may deem necessary to meet the emergency, but that the Mayor shall act only with the concurrence of the Board of Supervisors and shall seek the Board's concurrence "as soon as is reasonably possible" in both the declaration of an emergency and in the action taken to meet the emergency.

We again found that of the jurisdictions surveyed, other strong mayor cities have also vested in the mayor, or an individual appointed by the mayor, the power to issue orders and regulations related to the emergency, while other charter counties have vested this power in an administrative position appointed by the board of supervisors like a county executive, county manager, or county administrative officer. Most other jurisdictions require that the city council or board of supervisors approve or ratify the orders and regulations issued in response to the emergency; however, the City of Los Angeles requires only that the orders be filed with the City Clerk (Los Angeles Charter and Administrative Code § 8.29).

Exhibit 2 below summarizes the powers related to the declaration of emergency and the issuance of orders and regulations related to the emergency.

## Exhibit 2: Declaration of emergencies and related orders and regulations

San Francisco	Other strong mayor cities	Other charter counties
<i>The individual empowered to declare or proclaim an emergency:<sup>a,b</sup></i>		
The Mayor	<ul style="list-style-type: none"> <li>• The Mayor</li> <li>• Administrator appointed by the Mayor</li> </ul>	<ul style="list-style-type: none"> <li>• Administrator appointed by the Board</li> <li>• Elected official (Sheriff)</li> </ul>
<i>The emergency must be approved or ratified by:</i>		
Board of Supervisors, within 7 days	City Council, within 7 days	Board of Supervisors, within 7 days
<i>The individual empowered to promulgate orders and regulations related to an emergency:<sup>a</sup></i>		
The Mayor	<ul style="list-style-type: none"> <li>• The Mayor</li> <li>• Administrator appointed by the Mayor</li> </ul>	<ul style="list-style-type: none"> <li>• Administrator appointed by the Board</li> <li>• Elected official (Sheriff)</li> </ul>
<i>The orders and regulations must be approved or ratified by:</i>		
Board of Supervisors	<ul style="list-style-type: none"> <li>• City Council</li> <li>• No approval specifically required, but must be filed with City Clerk</li> </ul>	<ul style="list-style-type: none"> <li>• Board of Supervisors</li> <li>• No approval specifically required</li> </ul>

Source: BLA review of laws in the following jurisdictions: the City and County of San Francisco; the cities of Fresno, Los Angeles, Oakland, and San Diego; and the counties of Alameda, San Diego, San Mateo, and Santa Clara.

a: In some jurisdictions, this individual has these powers due to their position as director or chair of a disaster council, emergency operations center, or emergency services.

b: In some jurisdictions, this individual may declare an emergency only when the local governing body (board of supervisors or city council) is not in session.

### The role of local disaster councils

#### San Francisco

The California Emergency Services Act states that local governments may create, by ordinance, disaster councils, which shall develop plans for meeting any condition constituting a local or state of emergency (Cal. Govt. Code § 8610). San Francisco's Disaster Council is established in Administrative Code § 7.3 with the following membership:

- The Mayor, as the chair
- The Vice-Chair, who shall be appointed by the Mayor
- Officers in charge of emergency services, as provided in the City's emergency plan
  - According to membership lists of the Disaster Council, these officers typically include the City Administrator, the Executive Director of the Department of Emergency Management, the Director of the Department of Public Health, the Director of the Department of Public Works, the Medical Examiner, the

Chiefs of the Police and Fire Departments, and the General Manager of the San Francisco Public Utilities Commission, among others.

- Representatives of civic, business, labor, veterans, professional, or other organizations with an official emergency responsibility, as may be appointed by the Mayor
  - According to membership lists of the Disaster Council, organizations represented have included the American Red Cross, the Bay Area Regional Transportation Authority, the Hospital Council of Northern and Central California, the San Francisco Chamber of Commerce, the San Francisco Foundation, the San Francisco Labor Council, and the San Francisco Unified School District, among others.
- Three members of the Board of Supervisors, appointed by the President of the Board
- The Controller
- The Director of Emergency Services, as Executive Secretary

The powers and duties of the Disaster Council in San Francisco are to: (a) develop a plan for meeting an emergency, and to prepare and recommend to the Board of Supervisors ordinances, resolutions, rules, and regulations that are necessary to implement the emergency plan; (b) develop and recommend for consideration and adoption by the Board of Supervisors mutual aid plans and agreements; and (c) meet at least quarterly basis and at the call of the chair (Administrative Code § 7.4).

Following any declared emergency, Administrative Code § 7.4-1 requires the Office of Emergency Services to submit a written report to the Disaster Council and Board of Supervisors describing and evaluating the City's response.

#### Other jurisdictions

Many of the other cities and counties we surveyed also establish disaster councils in their governing laws. In general, the powers and duties of the disaster councils in other jurisdictions are similar to the powers and duties of San Francisco's Disaster Council: to develop emergency and mutual aid plans and to meet at minimum several times per year. Of the jurisdictions we surveyed, we did not identify any disaster councils that have an active role in responding to a declared emergency, and some jurisdictions explicitly prohibit the disaster council from assuming operational powers during a declared emergency. For example, the Santa Clara County Ordinance Code states that the role of the county's Disaster Council (which is the advisory Santa Clara County Emergency Operational Area Council) does not include operational powers during emergencies or disasters; drafting or adoption of emergency plans, policies, and procedures; enforcement functions of emergency plans, policies, and procedures; or allocation of funds or authorization of expenditures (Santa Clara County Ordinance Code § A8-19).

The disaster council membership typically includes, but does not always include, at least one member of the jurisdiction's governing body. However, there is wide variation among the



cities and counties we surveyed: the City of San Diego's disaster council does not include any members of the city council (San Diego Municipal Code § 51.0103), while the Fresno city council as a whole serves as the city's disaster council (Fresno Code of Ordinances § 2-504).

### **Declaration of a local public health emergency**

California Health and Safety Code § 101080 states that when there is local health hazard, including an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, the county's local health officer may declare a local health emergency. The local health emergency remains only in effect for seven days unless ratified by the board of supervisors or city council, as applicable. The local health officer may also take measures deemed necessary to prevent the spread of a contagious, infectious, or communicable disease (Health & Safety Code § 120175), and may issue orders to other governmental entities within the officer's jurisdiction to take any action deemed necessary to control the spread of disease (Health & Safety Code § 120175.5).

The local health officer is a county position and is appointed by the county's board of supervisors (Health & Safety Code § 101000). While the California Health and Safety Code requires ratification of the declaration of a public health emergency by the local governing body, as noted above, the health officer's authority to take measures to prevent the spread of infectious disease is separate from any declaration of local emergency or declaration of local health emergency, and the local health officer's actions do not require ratification or approval from the local governing body. The California Code of Regulations states that the local health officer shall, after suitable investigation, take such additional steps as deemed necessary to prevent the spread of communicable disease in order to protect the public health (Cal. Code Regs. tit. 17, § 2540).

In our survey of jurisdictions, we did not identify any additional local law governing the local health officer's power to issue public health orders or requiring approval or ratification from the local governing body. We found that the local health officers of the comparable county jurisdictions have exercised their power to declare local health emergencies and issue public health orders similar to the San Francisco local health officer.

### **The role of county boards of supervisors and city councils**

As the local governing bodies, the city councils and boards of supervisors of the jurisdictions we surveyed are all empowered to use urgency or emergency ordinances if necessary to address an emergency. In addition, in the other counties we surveyed, we found that the board of supervisors typically appoints the individual who is empowered to issue administrative declarations and orders in an emergency. The board may have some ability to direct the actions of this individual and, in so doing, direct the county's emergency response. In contrast, in strong mayor cities we found that the individuals directing the city's administrative response to the emergency are either city mayors or administrators appointed by the city mayors. Because San Francisco is a strong mayor city with a powerful

executive branch, the City's laws and regulations governing emergency response, as laid out in the Charter and Administrative Code, are more comparable to other strong mayor cities than they are to other counties. In the strong mayor cities, the executive branch has directed the bulk of the city's administrative emergency response and has issued orders similar to what has been issued by the Mayor of San Francisco.

### **Decisions in different policy areas and the involvement of community members**

During an emergency, decision-making and the power to direct a jurisdiction's emergency response is typically limited to a small number of individuals: elected executives in strong mayor cities, or appointed county managers or administrators in counties. Based on our survey, we did not identify any jurisdictions that have different decision-makers for different policy areas during an emergency, other than the power of the local health officer to make public-health related decisions and to issue health-related orders. However, local decision-makers will likely consult with different policy experts when crafting orders and regulations.

Other than their membership on local disaster council, we did not identify any strong involvement of community members (non-government officials) in any jurisdiction's response to the COVID-19 emergency.