

## 9.01 Draft Comments

*The numbers given are based on my comment numbering, not necessarily the subsection.*

### 9.01.01

1. This language here in general is inflammatory and incorrect. The goal of the order should be to reduce racial *disparities* in the enforcement of traffic laws. Stating the Officers are all biased is not based in fact and brings the motivations into question. Correlation does not equal causation.
2. “Stops and searches absent any concrete evidence of criminal wrongdoing” is illegal and incorrect. Pretext stops, per *Whren v. US*, are predicated upon the person stopped having committed a traffic violation – criminal wrongdoing, however minor.
3. Stating stops provide no demonstrable public safety benefit is factually incorrect. The author could make the allegation or state the belief that the inconvenience to motorists outweighs the public safety benefit or similar, but there is definitely a public safety benefit in taking illegal guns, stolen cars, and wanted persons from the street.

### 9.01.02

1. This is a general commentary, but the court redefines “reasonable suspicion” and “probable cause” at times and any future interpretation would put the general order in conflict with the law. This is a policy, not a white paper.

### 9.01.04 A

1. The idea that the police can not stop cars for not having license plates is not understandable. This is encouraging people to remove their license plates for fare violations, blocking parking or bus lanes, not to mention committing non-traffic crimes.
2. Driving without functioning headlights or taillights at night is dangerous as well as a likely indicator of an impaired driver.
3. The idea of allowing unfettered littering as long as they throw items from a vehicle is unsavory.
4. Instead of “any parking infraction”, perhaps require only parking infractions to be issued to the vehicle and not the driver. Otherwise people can do things like park in a bus stop all day.
5. Tinted windows are actually dangerous in that other people cannot see the driver and if they were noticed, particularly for pedestrians and bicyclists, who like to make eye contact with drivers.

### 9.01.04 B

1. Instead of banning stops, why not remove the Transportation Code for items 2 and 3? If it’s a rule and it’s not enforced, it’s not a rule. It could only be a listed collision factor which, if not enforced, is of dubious value.
2. 21202 VC also covers people riding on the wrong side of the street into oncoming traffic. Additionally, a CDW search shows only one citation from 2021-2022 for that violation alone.
3. While the state may be removing 21955 VC, in many parts of the city which are high-injury corridors, encouraging people to walk out into traffic effectively “at their own risk” will lead to

increased fatalities. Additionally, there would be no reason to not just stand in the middle of the street and block traffic – the police would not be able to move you. If that seems far-fetched, it happens often downtown.

#### 9.01.04 C

1. If the member has lawfully stopped or detained a person for another crime, it doesn't make sense to say they can be also stopped for one of the above offenses. They're already stopped.
2. If a "person or motor vehicle matches the description of a suspect or suspect vehicle in a murder, attempted murder, manslaughter, armed robbery, kidnapping, forcible sex offense, a felony committed against a child, or any other felony", it is **not** a pretext stop. It is a detention based on reasonable suspicion for that crime. This is entirely different than a pretext stop.

#### 9.01.04 D

1. Members will almost never be able to identify the driver of a vehicle. Usually they don't have any idea what they look like prior to the stop. Regardless, if the department is directing members to spend a not insignificant amount of time and energy along with the increased risk of misidentifying people they're citing for correctable violations, there needs to be a mechanism to do so. Currently there is not.

#### 9.01.05 B

1. If probable cause arises, there is no need for consent, thanks to the motor vehicle exception in *Carroll v US*.

#### 9.01.05 C

1. In regards to parole and probation, a typical records check via MDT or dispatch will return parole / probation returns. Most officers will verify that verbally with the detainee in case there is an error, which does happen on occasion. What should officers do when dispatch returns that a subject is on parole or probation? If all "10-35" searches are prohibited, that will answer that, but absent that guidance, are the searches allowed?

#### 9.01.05 B

1. This should probably read "Members shall record vehicle and pedestrian stop data *in the Stop Data Collection System* prior..."

#### 9.01.06 C

1. Are citations only subject to OIC review, but not all stops? This seems contrary to the spirit of the proposed DGO, which is to stop PD from making investigatory stops. This also seems like an unnecessary amount of time and review for a simple traffic stop.
2. How will traffic stop data for individual members be stored, and how can it be separated by two-officer units?

According to SFPD Traffic Citation Data from the SFPD website,

<https://www.sanfranciscopolice.org/sites/default/files/2018-11/01-2014%20vs%2001-2015%20by%20Stations%20-%201.pdf>

<https://www.sanfranciscopolice.org/sites/default/files/2022-03/SFPDTrafficViolationReportJan2022-20220304.pdf>

in Jan 2014 there were 11,537 citations issued. In January 2022 there were 411 citations issued (341 traffic, 70 non-traffic). That's a decrease of 96.4% citywide. It's worth noting in that month, January 2022, Bayview Station wrote 14 total citations, Mission Station 9 citations, and Tenderloin Station only 2 (neither for traffic offenses). This leads me to believe the Officers at these stations are not engaged in high numbers of stops.

This leads me to believe the proposed DGO is misguided, unnecessary, and/or performative grandstanding. If the Commission wants to ban certain types of traffic stops, they can just do it. Instead of all these various statements about pretext stops, if the Commission believes they should be banned, then they can just require that Officers do not attempt to investigate any crimes while on traffic stops and put it that way.