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(sent by email at 4:50 pm)

**San Francisco Police Commission**

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**Re: Traffic Enforcement Order 9.01; Commission Agenda for the December 14 meeting of the Police Commission**

Dear Commissioners,

This afternoon, December 9, the Commission posted an agenda for its December 14 meeting that includes item 11: “Discussion and possible action to approve draft Department General Order 9.01, “Traffic Stops” for the Department to use in meeting and conferring with San Francisco Police Officers Association as required by law (DISCUSSION AND POSSIBLE ACTION)” (emphasis in the original).

Calendaring *this draft* at *this time* for *December 14* is disgraceful and an affront to the numerous members of the public who offered comments on this draft in the *seven days* since it was released on December 2.

Because I have filed numerous memoranda with the Commission in the past several months, all observing among other things the deterministic nature of the Commission’s self-praised “public outreach” as well as the problematic public safety implications associated with some of the enumerated traffic stop bans, and having secured my four minutes for comment at the December 7 meeting of the Commission, I will only make the following points here:

- The version of 9.01 that is calendared for “discussion and possible action” on December 14 was released Friday, December 2. This new version differed substantially from the May 6 version. *Five* days later at one of its regularly scheduled

public hearings that began at 5:30 p.m. the Commission had the item as *number 8* on the agenda. More than 3 hours after the meeting was gaveled to order, i.e. *at 8:55 p.m.*, item 8 began with an opening statement by Commission Vice Chair Carter-Oberstone.<sup>1</sup> This scheduling and timing was hardly optimum for public outreach; that is being charitable.

- As the Commission knows, individuals who personally attended the December 7 meeting, or who phoned in, variously offered praise and condemnation. More than one speaker in attendance offered specific amendments for the Commission's consideration; see the next bullet point. Notably, Chief Scott indicated that while he had yet to meet with his senior command staff about the draft, he — and perhaps the command staff — had issues that needed to be discussed, and for that reason would get back to the order's advocates with comments. What happened? And, in several colloquies among Commissioners, it was obvious that some of the actual terms of the order, to say nothing of the nuance associated with the wording of particular provisions, was not completely understood or appreciated.
- Some of the most specific and vociferous criticisms were of the potential adverse public safety implications of the order, at least insofar as a few of the provisions were concerned. For example, 9.01.04(A)7 has a blanket ban on stopping for failure to signal while turning or changing lanes even if there is an imminent risk of harm to persons or property; and 9.01.04(A)9 would prohibit stops of bicyclists who “blow through” stop signs, and it even has the perverse effect of *permitting* stops of bicyclists where there is an “immediate danger” of crashing with a *vehicle* — but *prohibiting* stops if there is an immediate danger of crashing with a more vulnerable *pedestrian*. Honestly, it is difficult to imagine a more repugnant, special interest provision — but it is about to be endorsed by a body that has some authority over a department whose legal obligation is to “...protect the rights of persons and property by enforcing the laws of the United States, the state of California, and the City and County.” Sec. 4.102(1) of the City Charter.
- During the Commission's discussion of the order following public comment, it was obvious that several Commissioners had significant concerns about the draft, with some urging more public outreach particularly because of the potential safety implications of the order. This is informative because it reveals the emptiness of the advocates' endless self-congratulations for the 19 “listening sessions” held by the Human Rights Commission on the public's “interactions” or “encounters” with the police — but *not one* listening session by the Commission *en banc*, or by one Commissioner, or by three Commissioners, or by a Commission designee — of the public's “interactions” or “encounters” with motor vehicles and law-flouting drivers

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<sup>1</sup> As an in-person attendee at the meeting, it is unclear to me if Commission President Elias was in attendance. Apparently she joined the meeting remotely at the beginning of the meeting but thereafter she had no comments on the issue at all.

whose behavior potentially endangers the public.<sup>2</sup> Encounters with the police: we listen. Encounters with motor vehicles or bicyclists or motorized scooters: we don't hear you (because we didn't design a process to do so).

- To the latter point, at least one Commissioner suggested that the traffic order warrants a meeting of the Police Commission devoted entirely to this issue. So much for that public spirited idea.

In retrospect, it is apparent that the calendaring on December 7 of the draft order released on December 2 was merely a legal formality to permit the Police Commission to satisfy the 10 day advance notice requirement of City Charter Sec. 4.104(a)1. That serious, substantive, and commonsense amendments were proposed on December 7 — some without undermining in the least the revised purpose of the order or its likely effects — seems to have registered not at all and for reasons that remain obscure.

You might as well move item 11 to the end of the December 14 agenda; obviously, it will not matter.

Sincerely,  
Paul Allen

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<sup>2</sup> The much praised (by the order's advocates) "working groups" were the subject of a revealing dialogue among Commissioners at the December 7 meeting when it became apparent that the only Commissioners who attended the working group meetings were the advocates of the order.