



Northern
California

January 10, 2023

Via Email

The Honorable Cindy Elias
President, Police Commission Office
San Francisco Police Headquarters
1245 3rd Street
San Francisco, CA 94158
sfpd.commission@sfgov.org

Re: DGO 9.07 — End Pretext Stops — SUPPORT

Dear President Elias and Commissioners,

The ACLU of Northern California and its over 11,000 members in San Francisco write in strong support of Department General Order (DGO) 9.07, and respectfully requests your AYE vote on the proposed policy. Currently under submission, DGO 9.07 would update the San Francisco Police Department's (SFPD) traffic enforcement policy to limit the use of pretext stops, prohibit consent searches during traffic stops, and improve traffic stop data collection and reporting requirements.

The ACLU of Northern California is an enduring guardian of justice, fairness, equality, and freedom working to protect and advance civil liberties for all Californians. The genesis of the ACLU of Northern California was the 1934 San Francisco General Strike, where lawyers and organizers were called upon to protect the rights of Bay Area Maritime workers against vicious attacks by police, and two trade unionists were shot and killed. Since our founding, we have worked continuously to hold the institution of policing and Police Departments across the state, including SFPD, accountable to the communities they serve and to the rights of people enumerated in the Constitution.

Traffic stops are the most common source of all police-citizen interactions, and the extent and nature of racial disparities in San Francisco's traffic stops are substantial, egregious, and unjustified. Rigorous evaluation, including recent SPUR analysis that was presented to the Police Commission on December 14, 2022, proves there are sustained and troubling disparities in how SFPD interacts with the people they stop depending on their race. Furthermore, the searches that often result from these stops have extremely low yield rates for "contraband" and are essentially a waste of resources. People face starkly different experiences when interacting with SFPD based on the color of their skin, and it is up to the Police Commission to take immediate steps and enact policy changes to remedy racially-based policing.



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Pretext stops are a poor investigative tool and instead generate anger and alienation among Black and Brown communities. The harms suffered are particularly acute among already over-policed communities of color, and we cannot look at the evidence and continue to discount the harms in communities of color about different standards for police encounters, nor can we ignore the collateral and sometimes deadly consequences. Pretext stops are applied unevenly across racial lines, Black and Brown San Franciscans are clearly targeted for more aggressive treatment, and these differences are not justified by differences in criminality, and communities of color have paid a tremendous social cost.

Despite training and attempts to shift the culture of SFPD, the data undeniably demonstrates that San Francisco does not understand how to balance public safety needs with respect and equity for all its residents — the stops that would end under this policy account for as many as 10,000 unnecessary traffic stops in San Francisco per year. For victims of racially biased policing, it can be humiliating, life altering, and dangerous — these kinds of stops can lead to use of force and police misconduct, impose a severe burden on those least able to bear it, and undermine and erode the relationship between the public and the police. The need for reform is reinforced by the June 2022 University of California San Francisco report that found that San Francisco ranks the worst in the state for police-caused hospitalization rates for Black residents.

In their 2022 annual report, the Committee on Revision of the Penal Code, a California-wide committee of legal experts, states, “pretext stops are ripe for racial profiling,” have “disturbing racial disparities,” and recommends, “prohibit[ing] police officers from stopping people for technical, non-safety-related traffic offenses.” This form of structural racism can be addressed via policy change without decreasing public safety. Pretext stops, and the resulting detentions, questioning, arrests, court appearances, and incarceration merit concern, and DGO 9.07 represents a meaningful solution to the disparate outcomes. Regardless of the underlying causes or circumstances of these patterns in policing — be it explicit or implicit bias — ending pretext stops is feasible and has been proven to be effective at reducing attendant harms and with no adverse consequences.

From the beginning, this proposal has always been about the health and well-being of our entire San Francisco community. This DGO is specifically focused on eliminating those stops that present no public safety risk and brings SFPD’s traffic enforcement policy into alignment with widely established best practices. Reducing pretext stops does not increase public danger and demonstrates San Francisco’s ability to make the data-informed decision to join the other jurisdictions across the country that have already implemented similar effective policies.

Failure to pass and implement this DGO in a timely manner would send an incredibly damaging message that San Francisco does not view communities of color as full members of society, that they are not to expect equal treatment, and that the most visible government agents they are likely to encounter — the police — view them as dangerous threats. We cannot afford to



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continue down a path that allows Black and Brown lives to be dominated by counterproductive and unjustifiable widespread domains of criminality. As such, we respectfully request that you give credence to those members of our community who are disparately harmed by racially biased policing and act accordingly. On behalf of the ACLU of Northern California, we ask the Police Commission unanimously pass DGO 9.07 and end pretext stops in San Francisco. For questions about our position, please contact me at yhaile@aclunc.org.

Sincerely,

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Cc: San Francisco Board of Supervisors, Board.of.Supervisors@sfgov.org