

1 [Administrative Code - Mandating Data Collection and Reporting of Detentions and Traffic  
2 Stops]

3 **Ordinance amending the Administrative Code to require the Police Department and the**  
4 **Sheriff’s Department to gather and regularly report data regarding detentions and**  
5 **traffic stops.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
9 **Board amendment additions** are in double-underlined Arial font.  
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
11 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
12 subsections or parts of tables.

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

14 Section 1. Findings.

15 1. The policies of the San Francisco Police Department and the San Francisco  
16 Sheriff’s Department prohibit the use, to any extent or degree, of race, color, ethnicity,  
17 national origin, gender, age, sexual orientation, or gender identity in determining whether to  
18 initiate any law enforcement action in the absence of a specific suspect description.

19 2. The Board affirms the importance of eliminating bias from law enforcement  
20 practices.

21 Section 42. The Administrative Code is hereby amended by adding Chapter 96A,  
22 consisting of Sections 96A.1, 96A.2, 96A.3, 96A.4, 96A.5, and 96A.6, to read as follows:

23 **CHAPTER 96A: LAW ENFORCEMENT REPORTING REQUIREMENTS**

24 **SEC. 96A.1. Definitions.**

25 **SEC. 96A.2. Data Collection.**

**SEC. 96A.3. Quarterly Analysis and Reporting.**

1                    SEC. 96A.4. Undertaking for the General Welfare.

2                    SEC. 96A.5. No Conflict With Federal or State Law.

3                    SEC. 96A.6. Severability.

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5                    SEC. 96A.1. DEFINITIONS.

6                    *For purposes of this Chapter 96A:*

7                    “Detention” means an interaction between an Officer and an individual in which the Officer  
8 detains the individual based on reasonable suspicion that the individual has engaged in  
9 criminal activity conducted under the authority of Terry v. Ohio, 392 U.S. 1 (1968).

10                    “Encounter” means a Detention or Traffic Stop where the Officer initiates activity based  
11 solely on the Officer’s own observations or the observations and direction of another Officer,  
12 rather than on information provided by dispatch or reported by a member of the public.

13                    “Gender Identity” means an individual’s actual or perceived gender identity, or gender-  
14 related characteristics intrinsically related to an individual’s gender or gender-identity,  
15 regardless of the individual’s assigned sex at birth.

16                    “Location” means the address where the Encounter occurred, or the closest address or  
17 intersection thereto.

18                    “Officer” means a peace officer as defined by Section 830 of the Penal Code, employed by the  
19 Police Department or Sheriff’s Department.

20                    “Traffic Stop” means an interaction between an Officer and an individual driving a vehicle, in  
21 which the Officer orders the individual to stop the vehicle.

22                    “Use of Force” means (a) for purposes of the Police Department, an Officer’s use of force  
23 on an individual that is required to be reported by the respective departmental policies of the  
24 Police Department and the Sheriff’s Department department policy, and (b) for purposes of

1 the Sheriff's Department, an Officer's use of force on an individual that results in a known  
2 injury.

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4 **SEC. 96A.2. DATA COLLECTION.**

5 (a) When an Officer conducts an Encounter, the Officer shall collect and record the following  
6 information:

7 (1) The date, time, and Location of the Encounter;

8 (2) The reason for the Encounter (e.g., the statutory or code provision(s) that the  
9 Officer believes the individual subject to the Encounter violated, the individual's behavior that  
10 justified the Officer's decision to engage in the Encounter, or any other legal basis the Officer  
11 relied on to justify the Encounter, etc.);

12 (3) If the Officer conducted a search during the Encounter, the type of search (e.g., pat  
13 search, vehicle search, full body search);

14 (4) The outcome disposition of the Encounter (e.g., warning, citation, arrest, release  
15 with no further action or admonishment);

16 (5) The perceived age, race or ethnicity, sex, and gender identity approximate age  
17 of (A) all individuals subject to the Detention, or (B) all individuals in the driver of a vehicle stopped  
18 during a Traffic Stop, and/or (C) the passengers of a vehicle stopped during a Traffic Stop, if  
19 the Officer has a lawful reason to identify reasonable suspicion to detain such passengers.

20 ~~The identification of these characteristics shall be based on the observation and perception of~~  
21 ~~the Officer, and the information shall not be requested from the individual stopped~~ The Officer  
22 may collect information on age and sex by verbally asking the individual or by requesting to  
23 see identification. The Officer may collect information on race or ethnicity based on  
24 observation or by verbally asking the individual. ~~The Officer shall verbally request that each~~  
25 ~~individual disclose gender identity.~~ If the individual refuses to provide any or all of the

1 information sought pursuant to this subsection (a)(5), the Officer will note that the individual  
2 refused the request;

3 (6) The name and star number of each Officer who participated in the Encounter;

4 (7) For Encounters conducted by officers employed by the Police Department, the  
5 officer shall record the police district to which the officer is assigned, if any.

6 (b) If two or more Officers conduct an Encounter, the information required by subsection (a)  
7 need be recorded by only one of the Officers.

8 (c) The Officer shall promptly report the information recorded pursuant to subsection (a) to the  
9 Officer's employing agency in the manner specified by the agency. To the extent not already in place,  
10 the Police Department and the Sheriff's Department shall create systems for collecting and storing the  
11 information reported by Officers pursuant to this Section 96A.2.

12 (d) The Police Department and the Sheriff's Department shall retain the information reported  
13 by Officers pursuant to this Section 96A.2 for a minimum of ~~two~~ five years after the fiscal year in  
14 which the Officer reported it.

15 (e) If during an Encounter, the Officer is required to interrupt the Encounter to respond  
16 to an emergency and the Officer is unable to collect the information required by this Section  
17 96A.2, the Officer shall be exempt from reporting the information required by this Section  
18 96A.2.

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20 **SEC. 96A.3. QUARTERLY ANALYSIS AND REPORTING.**

21 On a quarterly basis (the first Tuesday in February, May, August, and November), the Police  
22 Department and the Sheriff's Department respectively shall send a written report to the Mayor, ~~and the~~  
23 Board of Supervisors, the Police Commission, and the Human Rights Commission, covering the  
24 previous quarter (quarters commencing January 1, April 1, July 1, and October 1). ~~The Police~~  
25 Department shall also send the report to the Police Commission. The first reports shall be due

1 on May 3 June 30, 2016, and shall include the data required by this Section 96A.3 for arrests  
2 and Use of Force only. Beginning in May June 2017, the reports shall fully comply with the  
3 requirements of this Section. The reports shall contain the following information for the reporting  
4 period:

5 (a) For Encounters Detentions:

6 (1) The total number;

7 (2) The total number broken down by race or ethnicity, age, and sex;

8 (3) The total number of searches performed broken down by race or ethnicity, age,  
9 and sex;

10 (4) The total number of each type of search performed;

11 (5) For each type of search performed, the total number broken down by race or  
12 ethnicity, age, and sex; and

13 (6) The total number of each type of outcome disposition, and the total number for  
14 each outcome disposition broken down by race or ethnicity, age, and sex; -and

15 (7) The data for Encounters required to be reported by this subsection (a) shall  
16 be reported separately for Detentions and Traffic Stops;

17 ~~(7) The total number of Detentions where the reported sex differs from the~~  
18 ~~reported gender identity;~~

19 ~~(b) For Traffic Stops:~~

20 ~~(1) The total number;~~

21 ~~(2) The total number broken down by race or ethnicity and sex;~~

22 ~~(3) The total number of searches performed broken down by race or ethnicity~~  
23 ~~and sex;~~

24 ~~(4) The total number of each type of search performed;~~

1 ~~\_\_\_\_\_ (5) For each type of search performed, the total number broken down by race or~~  
2 ~~ethnicity and sex; and~~

3 ~~\_\_\_\_\_ (6) The total number of each type of outcome, and the total number for each~~  
4 ~~outcome broken down by race or ethnicity and sex; and~~

5 ~~(7) The total number of Traffic Stops where the reported sex differs from the~~  
6 ~~reported gender identity;~~

7 ~~(e)(b) For Use of Force:~~

8 ~~(1) The total number of Uses of Force; and~~

9 ~~(2) The total number of Uses of Force that resulted in death to the person on~~  
10 ~~whom an Officer used force; and~~

11 ~~(2)(3) The total number of Uses of Force broken down by racial group, race or~~  
12 ~~ethnicity, age, and sex;~~

13 ~~(d)(c) For arrests:~~

14 ~~(1) The total number; and~~

15 ~~(2) The total number broken down by race or ethnicity, age, and sex;~~

16 ~~(d)(e)(d) The reports shall also include data regarding the reasons for Encounters and~~  
17 ~~arrests. For purposes of reporting the types of suspected violations that led to the~~  
18 ~~Detentions, and Traffic Stops, and arrests, the departments shall develop categories of violations~~  
19 ~~to collect and report this information (e.g., for Detentions and arrests: reasonable suspicion or~~  
20 ~~probable cause based on observation, known probationer or parolee, consent, violent crimes,~~  
21 ~~property crimes, drug crimes, etc.; e.g., for Traffic Stops: moving violations, equipment violations,~~  
22 ~~stops based on suspicion of other criminal conduct, etc.); The departments shall explaining in the~~  
23 ~~report which violations fall into each category, and shall report the number of Detentions, and Traffic~~  
24 ~~Stops, and arrests for each category. The departments shall also report the total number of each~~  
25 ~~category of violation broken down by race or ethnicity, age, and sex.~~

1           ~~(e)(f)(e)~~ For purposes of Use of Force reporting, the report shall include data for each time a  
2 Use of Force occurred during the reporting period, and shall not be limited to Use of Force during a  
3 Traffic Stop or Detention.

4           ~~(g)(f)~~ The Police Department shall obtain from the Office of Citizen Complaints  
5 ("OCC") and include in its report the total number of complaints for the reporting period  
6 received by OCC that OCC characterizes as allegations of bias based on race or ethnicity,  
7 gender, or Gender Identity. The Police Department shall also obtain from OCC and include in  
8 its report the total number of OCC complaints closed during the reporting period that OCC  
9 characterizes as allegations of bias based on race or ethnicity, gender, or Gender Identity,  
10 and the total number of each type of disposition for such complaints.

11           ~~(h)(g)~~ The reports of the Sheriff's Department may separate data for the department's  
12 custody division and the department's field division.

13           ~~(f)(i)(h)~~ The department may include in the report any other information the department  
14 concludes will assist in understanding the information required by subsections (a)-~~(ehg)~~ of this Section  
15 96A.3. Where subsections (a)-~~(efd)~~ require that total numbers be broken down by race or ethnicity,  
16 age, or sex, the department shall also calculate and report the applicable percentages for each group.

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18 **SEC 96A.4. UNDERTAKING FOR THE GENERAL WELFARE.**

19           In enacting and implementing this Chapter 96A, the City is assuming an undertaking only to  
20 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
21 obligation for breach of which it is liable in money damages to any person who claims that such breach  
22 proximately caused injury.

1 **SEC. 96A.5. NO CONFLICT WITH FEDERAL OR STATE LAW.**

2 (a) Nothing in this Chapter 96A shall be interpreted or applied so as to create any requirement,  
3 power, or duty in conflict with any federal or state law.

4 (b) No provision of this Chapter 96A is intended to abrogate or interfere with the constitutional  
5 and statutory power and duties of the Sheriff as interpreted under Government Code section 25303, or  
6 other applicable State law or judicial decision.

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8 **SEC. 96A.6. SEVERABILITY.**

9 If any section, subsection, sentence, clause, phrase, or word of this Chapter 96A, or any  
10 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
11 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
12 portions or applications of the Article. The Board of Supervisors hereby declares that it would have  
13 passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not  
14 declared invalid or unconstitutional without regard to whether any other portion of this Chapter or  
15 application thereof would be subsequently declared invalid or unconstitutional.

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17 Section 23. Effective Date and Operative Date. This ordinance shall become effective  
18 30 days after enactment. But the provisions of this ordinance shall become operative January  
19 1, 2016, except as to Section 96A.2, which shall become operative on January 1, 2017.

20 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance

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1 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of  
2 Supervisors overrides the Mayor's veto of the ordinance.

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4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 BRADLEY A. RUSSI  
8 Deputy City Attorney

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