

BOARD of SUPERVISORS



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MEMORANDUM

TO: Chief Greg Suhr, Police Department
Sheriff Ross Mirkarimi, Sheriff's Department
Jeff Adachi, Public Defender's Office
Joyce Hicks, Executive Director, Office of Citizen Complaints

FROM: Derek Evans, Assistant Clerk

DATE: June 23, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors Public Safety & Neighborhood Services Committee has received the following legislation, introduced by Supervisor Malia Cohen, which is being referred to your department.

File No. 150643

Ordinance amending the Administrative Code to require the Police Department and the Sheriff's Department to gather and regularly report data regarding detentions and traffic stops.

If you wish to submit any comments or reports, please forward those to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Christine Fountain, Police Department
Inspector John Monroe, Police Department
Katherine Gorwood, Sheriff's Department

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 traffic**
5 **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*
8 *font.* **Deletions to Codes** are in *strikethrough italics Times New*
9 *Roman font.* **Board amendment additions** are in double-underlined
10 Arial font. **Board amendment deletions** are in strikethrough Arial font.
11 **Asterisks (* ')** indicate the omission of unchanged Code subsections
12 or parts of tables.

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

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

16 CHAPTER 96A: LAW ENFORCEMENT REPORTING REQUIREMENTS

17 SEC. 96A.1. Definitions.

18 SEC. 96A.2. Data Collection.

19 SEC. 96A.3. Quarterly Reporting.

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

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

22 SEC. 96A. 6. Severability.

23 SEC. 96A.1. DEFINITIONS.

24 For purposes of this Chapter 96A:

25 "Detention" means an interaction between an Officer and an individual conducted under
the authority of Terry v. Ohio, 392 U.S. 1 (1968).

1 "Encounter" means investigative contacts (including field investigations, wants and warrants
2 checks, probation and parole checks and identification verifications), Detentions and Traffic
3 Stops.

4 "Location" means the address where the Encounter occurred, or the closest address or
5 intersection thereto.

6 "Officer" means a peace officer as defined by Section 830 of the Penal Code, employed by the
7 Police Department or Sheriff's Department.

8 "Traffic Stop" means an interaction between an Officer and an individual driving a vehicle, in
9 which the Officer orders the individual to stop the vehicle.

10 "Use of Force" means an Officer's use of force on an individual that is required to be reported by
11 the respective departmental policies of the Police Department and the Sheriff's Department.

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

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

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

16 (2) The statutory or code provision(s) that the Officer believes the individual subject to the
17 Encounter violated;

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

20 (4) The outcome of the Encounter (e.g., warning, citation, arrest, release with no
21 further action);

22 (5) The age, race, sex, and gender identity of (A) all individuals subject to the Detention or
23 (B) all individuals in a vehicle stopped during a Traffic Stop. The Officer may collect information on age
24 and sex by verbally asking the individual or by requesting to see identification. The Officer may collect
25 information on race based on observation or by verbally asking the individual. The Officer shall verbally
request that each individual disclose gender identity. If the individual refuses to provide

1 any or all of the information sought pursuant to this subsection (a)(5), the Officer will note that the
2 individual 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 fc) 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, the
10 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 by
13 Officers pursuant to this Section 96A.2 for a minimum of two years after the fiscal year in which the
14 Officer reported it.

15
16 **SEC. 96A.3. QUARTERLY REPORTING.**

17 On a quarterly basis (the first Tuesday in February, May, August, and November), the Police
18 Department and the Sheriff's Department respectively shall send a written report to the Mayor and the
19 Board of Supervisors, covering the previous quarter (quarters commencing January 1, April 1, July 1,
20 and October 1). The Police Department shall also send the report to the Police Commission. The first
21 reports shall be due on May 3, 2016. The reports shall contain the following information for the
22 reporting period:

23 (a) Investigative Contacts

24 (1) The total number;

25 (2) The total number broken down by race and sex;

- 1 (3) The total number of searches performed broken down by race and sex;
- 2 (4) The total number of each type of search performed;
- 3 (5) For each type of search performed, the total number broken down by race and sex;
- 4 (6) The total number of each type of outcome, and the total number for each outcome
- 5 broken down by race and sex; and
- 6 (7) The total number of Detentions where the reported sex differs from the reported
- 7 gender identity;

)(b) For Detentions:

- (3) The total number;
- (4) The total number broken down by race and sex;

- 1 (3) The total number of searches performed broken down by race and sex;
2 (4) The total number of each type of search performed;
3 (5) For each type of search performed, the total number broken down by race and
sex;
4 (6) The total number of each type of outcome, and the total number for each outcome
5 broken down by race and sex; and
6 (7) The total number of Detentions where the reported sex differs from the reported
7 gender identity;
8 (c) For Traffic Stops:
9 (1) The total number;
10 (2) The total number broken down by race and sex;
11 (3) The total number of searches performed broken down by race and sex,
12 (4) The total number of each type of search performed;
13 (5) For each type of search performed, the total number broken down by race and
sex;
14 (6) The total number of each type of outcome, and the total number for each outcome
15 broken down by race and sex; and
16 (7) The total number of Traffic Stops where the reported sex differs from the
reported
17 gender identity;
18 (d) For Use of Force:
19 (1) The total number of Uses of Force; and
20 (2) The total number broken down by racial group and sex.
21 (e) For purposes of reporting the types of suspected violations that led to the Investigative
Contacts, Detentions and
22 Traffic Stops, the department shall develop categories of violations (e.g., for Investigative Contacts
and Detentions: violent
23 crimes, gang related crimes, property crimes, drug crimes, etc.; e.g., for Traffic Stops: moving
violations, equipment
24 violations, stops based on suspicion of other criminal conduct, etc.), explaining in the report which

25 violations fall into each category, and shall report the number of Detentions and Traffic Stops for each category. The department shall also report the total number of each category of violation broken down by race and sex.

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

4 If) The department may include in the report any other information the department concludes
5 will assist in understanding the information required by subsections (a)-(e) of this Section 96A. 3.
6 Where subsections (a)-(e) require that total numbers be broken down by race or sex, the department
7 shall also calculate and report the applicable percentages for each group.

8
9 SEC 96A.4. UNDERTAKING FOR THE GENERAL WELFARE.

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

14
15 SEC. 96A. 5. NO CONFLICT WITH FEDERAL OR STATE LAW.

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

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

1 **SEC. 96A.6. SEVERABILITY.**

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

9
10 Section 2. Effective Date and Operative Date. This ordinance shall become effective
11 30 days after enactment. But the provisions of this ordinance shall become operative January
12 1, 2016. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor's veto of the ordinance.

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 BRADLEY A. RUSSI
 Deputy City Attorney

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