

BOARD of SUPERVISORS



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MEMORANDUM

PUBLIC SAFETY COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor David Chiu, Chair,
Public Safety Committee

FROM: Victor Young, Committee Clerk *✓*

DATE: August 2, 2010

SUBJECT: **COMMITTEE REPORT. BOARD MEETING**
Tuesday, August 3, 2010

The following File No. should be presented as a **COMMITTEE REPORT**, at the Board meeting, Tuesday, August 3, 2010. This item was acted upon at Committee Meeting on Monday, August 2, 2010, at 10:00 a.m., by the votes indicated.

Item No. 36 File No. 100879

Ordinance amending the San Francisco Police Code by consolidating Sections 122 and 123 and amending former Section 123 and Section 1291, to increase from \$500 to \$1,000 the maximum allowable fine for the crimes of aggressive pursuit and of loitering while carrying a concealed weapon, where the violation occurs on vehicles, platforms or bus zones of the Municipal Transportation Agency, and urging "non-custodial" dispositions for juvenile violators. (Sponsors: Chu, Chiu, Mar, Maxwell, Duffy, Mirkarimi)

RECOMMEND AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor David Chiu - Aye
Supervisor Ross Mirkarimi - Aye
Supervisor Sean Elsbernd - Aye

c: Angela Calvillo, Clerk of the Board
Cheryl Adams, Deputy City Attorney
Rick Caldeira, Legislative Deputy Director
Board of Supervisors

File No. 100879

Committee Item No. 2

Board Item No. 36

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Public Safety Date: August 2, 2010

Board of Supervisors Meeting Date Aug 3, 2010

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Ethics Form 126
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
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- Award Letter
- Application
- Public Correspondence

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>

Completed by: Victor Young

Date July 29, 2010

Completed by: Victor Young

Date Aug 2, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Increasing Penalties for Certain Crimes Committed on Municipal Transportation Agency
Vehicles, Platforms or in Bus Zones]

Ordinance amending the San Francisco Police Code by consolidating Sections 122 and 123 and amending former Section 123 and Section 1291, to increase from \$500 to \$1,000 the maximum allowable fine for the crimes of aggressive pursuit and of loitering while carrying a concealed weapon, where the violation occurs on vehicles, platforms or bus zones of the Municipal Transportation Agency, and urging "non-custodial" dispositions for juvenile violators.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are *double-underlined*; Board amendment deletions are ~~*strikethrough normal*~~.

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

Section 1. The San Francisco Police Code is hereby amended by consolidating Sections 122 and 123 and amending former Section 123, to read as follows:

SEC. 122. AGGRESSIVE PURSUIT PROHIBITED.

(a) It shall be unlawful for any person to engage in aggressive pursuit of another.
(b) For purposes of this Section, "aggressive pursuit" shall mean the wilful, malicious or repeated following or harassment of another person, including, but not limited to, wilful or malicious communications by telephone, modem, facsimile or mail with the intent to cause annoyance, intimidation or fear on the part of the person being pursued.

SEC. 123. PENALTY.

(c) Any person violating this Section 122 of this Article shall be guilty of aggressive pursuit, and upon conviction thereof, shall be subject to a fine of not more than \$500, or by imprisonment in the County Jail for a term not to exceed six months, or by both such fine and imprisonment.

(d) Any person who shall violate Section 122 on a Municipal Transportation Agency transit platform or vehicle or within 25 feet of a bus zone shall be guilty of a misdemeanor, the penalty for which shall be imprisonment in the County Jail for a period not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

For purposes of this Section, "a Municipal Transportation Agency transit platform" shall include, but not be limited to: an outdoor high-level boarding platform, a street-level boarding island, paid areas of any public transit station (including stations operated by the Bay Area Transit District), and MTA pole stops. "A Municipal Transportation Agency transit vehicle" shall include, but not be limited to: a street car, a cable car, a motor coach, a trolley coach, or other in-service public transit vehicle.

(e) In the event that the Juvenile Court sustains a petition against a minor for conduct violating this Section (or the minor otherwise admits or submits to the petition), the Board of Supervisors urges the Court to favor community service and an in-home or other "non-custodial" placement in disposing of the case.

Section 2 The San Francisco Police Code is hereby amended by amending Section 1291, to read as follows:

SEC. 1291. PROHIBITING LOITERING WHILE CARRYING CONCEALED WEAPONS.

(a) As used in this Section, but in no wise limited thereto, "dangerous or deadly weapon" shall mean: any knife with a blade three inches or more in length; any spring-blade, switch-blade, or snap-blade or other similar type knife; any knife any blade of which is automatically released by a spring mechanism or other mechanical device; any ice pick, or similar sharp, stabbing tool; any straight edge razor or any razor blade fitted to a handle; any cutting, stabbing, bludgeoning weapon or device capable of inflicting grievous bodily harm.

(b) It shall be unlawful for any person, while carrying concealed upon his person any dangerous or deadly weapon, to loaf or loiter upon any public street, sidewalk, or alley, or to wander about from place to place, with no lawful business thereby to perform, or to hide, lurk, loiter upon or about the premises of another.

(c) It shall be unlawful for any person who has concealed upon his person or who has in his immediate physical possession any dangerous or deadly weapon to engage in any fight or to participate in any other rough or disorderly conduct upon any public place or way or upon the premises of another.

(d) It shall be unlawful for any person who has concealed upon his person any dangerous or deadly weapon to loiter about any place where intoxicating liquors are sold or any other place of public resort.

(e) The foregoing restrictions shall not be deemed to prohibit the carrying of ordinary tools or equipment carried in good faith for uses of honest work, trade or business or for the purpose of legitimate recreation.

(f) Any person who shall violate this Section shall be guilty of a misdemeanor, the penalty for which shall be imprisonment in the County Jail for a period not exceeding six months, or by a fine not exceeding five hundred dollars (\$500), or by both such fine and imprisonment.

(g) Any person who shall violate this Section on a Municipal Transportation Agency transit platform or vehicle or within 25 feet of a bus zone shall be guilty of a misdemeanor, the penalty for which shall be imprisonment in the County Jail for a period not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

For purposes of this Section, "a Municipal Transportation Agency transit platform" shall include, but not be limited to: an outdoor high-level boarding platform, a street-level boarding island, paid areas of any public transit station (including stations operated by the Bay Area Transit District), and MTA pole stops. "A Municipal Transportation Agency transit vehicle"

1 shall include, but not be limited to: a street car, a cable car, a motor coach, a trolley coach,
2 or other in-service public transit vehicle.

3 (h) In the event that the Juvenile Court sustains a petition against a minor for conduct
4 violating this Section (or the minor otherwise admits or submits to the petition), the Board of
5 Supervisors urges the Court to favor community service and an in-home or other "non-
6 custodial" placement in disposing of the case.

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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

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14 By: Thomas J. Owen
15 THOMAS J. OWEN
16 Deputy City Attorney
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LEGISLATIVE DIGEST
(Amendment of the Whole, dated 8/2/2010)

[Increasing penalties for certain crimes committed on MTA vehicles or platforms or in bus zones.]

Ordinance amending the San Francisco Police Code by consolidating Sections 122 and 123 and amending former Section 123 and Section 1291, to increase from \$500 to \$1,000 the maximum allowable fine for the crimes of aggressive pursuit and of loitering while carrying a concealed weapon, where the violation occurs on vehicles, platforms or bus zones of the Municipal Transportation Agency, and urging "non-custodial" dispositions for juvenile violators.

Existing Law

Section 122 of the Police Code prohibits "aggressive pursuit," defined as "the wilful, malicious or repeated following or harassment of another person, including, but not limited to, wilful or malicious communications by telephone, modem, facsimile or mail with the intent to cause annoyance, intimidation or fear on the part of the person being pursued." Section 123 provides that aggressive pursuit may be punished by a fine not to exceed \$500, or by imprisonment in the county jail for up to 6 months, or both.

Section 1291 makes it unlawful to loiter while carrying a concealed weapon. Although the Police Code does not specify the penalty for violation of Section 1291, state law provides that violation of a local ordinance is a misdemeanor, unless specifically made an infraction. The penalties for misdemeanors, under state law, are imprisonment in the county jail not to exceed six months, or a fine not to exceed one thousand dollars (\$1,000), or both.

Amendments to Current Law

The proposal is an ordinance that would amend the Police Code to increase the maximum allowable fines for the crimes of aggressive pursuit and of loitering while carrying a concealed weapon from \$500 to \$1,000, where the violation occurs on Municipal Transportation Agency vehicles or platforms, or within 25 feet of a bus zone. The proposal would also clarify that loitering while carrying a concealed weapon in other locations is also a misdemeanor and sets a maximum fine of \$500 for those violations.

The amendment of the whole, dated 8/3/2010, combines Section 122, prohibiting "aggressive pursuit," and Section 123, setting the penalties for violation, into a single section. The amendment of the whole also adds definitions for "Municipal Transportation Agency transit platform" and "Municipal Transportation agency transit vehicle." Finally, the amendment of the whole adds language urging the Juvenile Court to favor community service and an at-home or other "non-custodial" placement when the violator is a minor.