

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.

4
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 Detention or Traffic Stop.

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

14 “Location” means the address where the Encounter occurred, or the closest address or
15 intersection thereto.

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

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

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

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

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

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

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

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

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

11 (5) The ~~perceived age, race or ethnicity, sex, and gender identity~~ approximate age
12 of (A) all individuals subject to the Detention, ~~or (B) all individuals in the driver of a vehicle stopped~~
13 during a Traffic Stop, and/or (C) the passengers of a vehicle stopped during a Traffic Stop, if
14 the Officer has a lawful reason to identify such passengers. The identification of these
15 characteristics shall be based on the observation and perception of the Officer, and the
16 information shall not be requested from the individual stoppedThe Officer may collect
17 information on age and sex by verbally asking the individual or by requesting to see
18 identification. The Officer may collect information on race based on observation or by verbally
19 asking the individual. The Officer shall verbally request that each individual disclose gender
20 identity. If the individual refuses to provide any or all of the information sought pursuant to this
21 subsection (a)(5), the Officer will note that the individual refused the request;

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

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

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

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

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

10
11 **SEC. 96A.3. QUARTERLY ANALYSIS AND REPORTING.**

12 On a quarterly basis (the first Tuesday in February, May, August, and November), the Police
13 Department and the Sheriff's Department respectively shall send a written report to the Mayor, and the
14 Board of Supervisors, the Police Commission, and the Human Rights Commission, covering the
15 previous quarter (quarters commencing January 1, April 1, July 1, and October 1). The Police
16 Department shall also send the report to the Police Commission. The first reports shall be due
17 on May 3, 2016, and shall include the data required by this Section 96A.3 for arrests and Use
18 of Force only. Beginning in May 2017, the reports shall fully comply with the requirements of
19 this Section. The reports shall contain the following information for the reporting period:

20 (a) For Detentions:

21 (1) The total number;

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

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

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

7 (b) For Traffic Stops:

8 (1) The total number;

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

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

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

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

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

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

18 (c) For Use of Force:

19 (1) The total number of Uses of Force; and

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

22 ~~(2)(3) The total number of Uses of Force broken down by racial group race or~~
23 ~~ethnicity and sex;~~

24 (d) For arrests:

25 (1) The total number; and

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

2 ~~(d)~~(e) For purposes of reporting the types of suspected violations that led to the
3 Detentions, and Traffic Stops, and arrests, the department shall develop categories of violations (e.g.,
4 for Detentions and arrests: violent crimes, property crimes, drug crimes, etc.; e.g., for Traffic Stops:
5 moving violations, equipment violations, stops based on suspicion of other criminal conduct, etc.),
6 explaining in the report which violations fall into each category, and shall report the number of
7 Detentions, and Traffic Stops, and arrests for each category. The department shall also report the
8 total number of each category of violation broken down by race or ethnicity and sex.

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

12 (g) The Police Department shall obtain from the Office of Citizen Complaints (“OCC”)
13 and include in its report the total number of complaints for the reporting period received by
14 OCC that OCC characterizes as allegations of bias based on race or ethnicity, gender, or
15 Gender Identity. The Police Department shall also obtain from OCC and include in its report
16 the total number of OCC complaints closed during the reporting period that OCC
17 characterizes as allegations of bias based on race or ethnicity, gender, or Gender Identity,
18 and the total number of each type of disposition for such complaints.

19 (h) The reports of the Sheriff’s Department may separate data for the department’s
20 custody division and the department’s field division.

21 ~~(f)~~(i) The department may include in the report any other information the department concludes
22 will assist in understanding the information required by subsections (a)-(eh) of this Section 96A.3.
23 Where subsections (a)-(ef) require that total numbers be broken down by race or ethnicity or sex, the
24 department shall also calculate and report the applicable percentages for each group.

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

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

6
7 **SEC. 96A.5. NO CONFLICT WITH FEDERAL OR STATE LAW.**

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

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

13
14 **SEC. 96A.6. SEVERABILITY.**

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

22
23 Section 23. Effective Date and Operative Date. This ordinance shall become effective
24 30 days after enactment. But the provisions of this ordinance shall become operative January
25 1, 2016, except as to Section 96A.2, which shall become operative on January 1, 2017.

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

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

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8 By: _____
9 BRADLEY A. RUSSI
10 Deputy City Attorney

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