


BOARD of SUPERVISORS



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## MEMORANDUM

TO: William Scott, Police Chief, Police Department  
Vicki Hennessy, Sheriff, Sheriff's Department  
Sheryl Evans Davis, Director, Human Rights Commission  
Joyce Hicks, Executive Director, Department of Police Accountability

FROM:  Alisa Somera, Legislative Deputy Director  
Rules Committee

DATE: March 6, 2018

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Cohen on February 27, 2018:

**File No. 180188**

**Ordinance amending the Administrative Code to repeal law enforcement data collection and reporting requirements associated with traffic stops, detentions, and arrests.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Rowena Carr, Police Department  
Kristine Demafeliz, Police Department  
Theodore Toet, Sheriff's Department  
Katherine Gorwood, Sheriff's Department  
Nancy Crowley, Sheriff's Department

1 [Administrative Code - Repealing Traffic Stop Data Collection and Reporting Requirements]

2  
3 **Ordinance amending the Administrative Code to repeal law enforcement data collection**  
4 **and reporting requirements associated with traffic stops, detentions, and arrests.**

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

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

13 Section 1. Findings and Purpose.

14 (a) Assembly Bill 953 (AB 953), the Racial and Identity Profiling Act (RIPA) of 2015,  
15 codified in Government Code section 12525.5, requires each local agency that employs  
16 peace officers to annually report to the Attorney General data on all stops conducted by the  
17 agency's peace officers, including the time, date, and location of the stop, and the reason for  
18 the stop. RIPA defines "stop" to include any detention by a peace officer of a person, or any  
19 peace officer interaction with a person in which the peace officer conducts a search, including  
20 a consensual search, of the person's body or property in the person's possession or control.  
21 RIPA also requires that a law enforcement agency that employs 1,000 or more peace officers  
22 issue its first annual report by April 1, 2019. Finally, RIPA requires the Attorney General to  
23 issue implementing regulations.

24 (b) On November 15, 2017, the Attorney General issued RIPA implementation  
25 regulations. (California Code of Regulations, Title 11, Chapter 19, §§ 999.224-999.229.).

1 Those regulations require that, beginning July 1, 2018, local agencies must collect stop data  
2 and report the data to the California Department of Justice (DOJ).

3 (c) Administrative Code Chapter 96A, Ordinance No. 166-15, enacted October 23,  
4 2015, requires local law enforcement to collect and report to the Mayor, the Board of  
5 Supervisors, the Police Commission, and the Human Rights Commission, data associated  
6 with traffic stops, detentions, and arrests – data that RIPA will require local law enforcement to  
7 collect and report. RIPA's stop data collection and reporting requirements substantially  
8 duplicate Chapter 96A's requirements. The purpose of this ordinance is to repeal the data  
9 collection and reporting requirements associated with traffic stops, detentions, and arrests,  
10 effective July 1, 2018, to avoid duplicative state and local collection and reporting  
11 requirements.

12 Section 2. The Administrative Code, Chapter 96A, is hereby amended by revising  
13 Sections 96A.2 and 96A.3, to read as follows:

14  
15 **SEC. 96A.2. DATA COLLECTION.**

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

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

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

23 (3) If the Officer conducted a search during the Encounter, the type of search  
24 (e.g., pat search, vehicle search, full body search);  
25

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

3 (5) The race or ethnicity, sex, and approximate age of (A) all individuals subject  
4 to the Detention, (B) the driver of a vehicle stopped during a Traffic Stop, and/or (C) the  
5 passengers of a vehicle stopped during a Traffic Stop, if the Officer has reasonable suspicion  
6 to detain such passengers. The Officer may collect information on age and sex by verbally  
7 asking the individual or by requesting to see identification. The Officer may collect information  
8 on race or ethnicity by verbally asking the individual. If the individual refuses to provide the  
9 information sought pursuant to this subsection (a)(5), the Officer will note that the individual  
10 refused the request;

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

13 (7) For Encounters conducted by Officers employed by the Police Department,  
14 the Officer shall record the police district to which the Officer is assigned, if any.

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

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

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

24 (e) If during an Encounter, the Officer is required to interrupt the Encounter to respond  
25 to an emergency and the Officer is unable to collect the information required by this Section

1 96A.2, the Officer shall be exempt from reporting the information required by this Section  
2 96A.2.

3 *(f) This Section 96A.2 shall expire by operation of law on July 1, 2018.*

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

5 On a quarterly basis (the first Tuesday in February, May, August, and November), the  
6 Police Department and the Sheriff's Department respectively shall send a written report to the  
7 Mayor, the Board of Supervisors, the Police Commission, and the Human Rights Commission,  
8 covering the previous quarter (quarters commencing January 1, April 1, July 1, and October  
9 1). *The first reports shall be due on June 30, 2016, and shall include the data required by this Section*  
10 *96A.3 for arrests and Use of Force only. Beginning in June 2017, the reports shall fully comply with*  
11 *the requirements of this Section.* The reports shall contain the following information for the  
12 reporting period:

13 (a) For Encounters:

- 14 (1) The total number;
- 15 (2) The total number broken down by race or ethnicity, age, and sex;
- 16 (3) The total number of searches performed broken down by race or ethnicity,  
17 age, and sex;
- 18 (4) The total number of each type of search performed;
- 19 (5) For each type of search performed, the total number broken down by race or  
20 ethnicity, age, and sex;
- 21 (6) The total number of each type of disposition, and the total number for each  
22 disposition broken down by race or ethnicity, age, and sex; and
- 23 (7) The data for Encounters required to be reported by this subsection (a) shall  
24 be reported separately for Detentions and Traffic Stops;
- 25

1 (b) For Use of Force:

2 (1) The total number of Uses of Force;

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

5 (3) The total number of Uses of Force broken down by race or ethnicity, age,  
6 and *gender identity*sex;

7 (c) For arrests:

8 (1) The total number; and

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

10 (d) The reports shall also include data regarding the reasons for Encounters and  
11 arrests. The departments shall develop categories to collect and report this information (e.g.,  
12 for Detentions and arrests: reasonable suspicion or probable cause based on observation,  
13 known probationer or parolee, consent, etc.; e.g., for Traffic Stops: moving violations,  
14 equipment violations, stops based on suspicion of other criminal conduct, etc.). The  
15 departments shall explain in the report each category, and shall report the number of  
16 Detentions, Traffic Stops, and arrests for each category. The departments shall also report the  
17 total number of each category broken down by race or ethnicity, age, and sex.

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

21 (f) The Police Department shall obtain from the Department of Police Accountability  
22 ("DPA") and include in its report the total number of complaints for the reporting period  
23 received by DPA that DPA characterizes as allegations of bias based on race or ethnicity,  
24 gender, or Gender Identity. The Police Department shall also obtain from DPA and include in  
25 its report the total number of DPA complaints closed during the reporting period that DPA

1 characterizes as allegations of bias based on race or ethnicity, gender, or Gender Identity,  
2 and the total number of each type of disposition for such complaints.

3 (g) The reports of the Sheriff's Department may separate data for the department's  
4 custody division and the department's field division.

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

10 (i) Notwithstanding any other provision of this Chapter 96A, including this Section 96A.3,  
11 subsections (a), (c), and (d) of this Section 96A.3 shall expire by operation of law immediately  
12 following the submission of the quarterly report due on August 7, 2018, for the quarter commencing  
13 April 1, 2018.

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15 Section 3. Effective Date. This ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor's veto of the ordinance.

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1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

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8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:

  
11 JANA CLARK  
12 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Administrative Code - Repealing Traffic Stop Data Collection and Reporting Requirements]

**Ordinance amending the Administrative Code to repeal law enforcement data collection and reporting requirements associated with traffic stops, detentions, and arrests.**

Existing Law

Current law requires local law enforcement agencies to collect and report to the Mayor, the Board of Supervisors, the Police Commission, and the Human Rights Commission, data associated with traffic stops, detentions, and arrests.

Amendments to Current Law

This ordinance repeals the law enforcement data collection and reporting requirements associated with traffic stops, detentions, and arrests.

Background Information

Effective July 1, 2018, state law will require local law enforcement to collect and report stop data collection. State law collection and reporting requirements substantially duplicate Chapter 96A's current requirements. The purpose of this ordinance is to repeal the data collection and reporting requirements associated with traffic stops, detentions, and arrests, to avoid duplicative state and local collection and reporting requirements.

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