

February 7, 2024

The Honorable Cindy Elias  
President, Police Commission Office  
San Francisco Police Headquarters  
1245 3rd Street  
San Francisco, CA 94158



*Submitted via electronic mail*

**Re: San Francisco Police Department General Order 9.07 – Vote To End Meet And Confer And Unanimously Adopt the DGO**

Dear President Elias, Vice President Carter-Oberstone, and Police Commissioners,

The Coalition to End Biased Stops is composed of more than 100 community-based groups that serve some of the most vulnerable members of our city, who have for too long been victimized by pretext stops. As we have repeatedly written, pretext stops fuel an already biased criminal legal system, waste scarce public resources, lead to violence against community members, create opportunities for misconduct, and are, fundamentally, ineffective at preventing crime or keeping communities safe.

For more than two years, the Coalition has proudly participated in one of the most comprehensive DGO community outreach processes. In 2022 alone, the Commission held 4 public meetings and 7 Human Rights Commission-led community listening sessions across the city, in addition to two meetings *just for officers*. This DGO has also been discussed at Commission meetings more than a dozen times, with public comment. Furthermore, the Human Rights Commission led an online survey process and reported on the survey results to the Commission. The Commission also publicly posted each DGO draft from May 6, 2022 until March 15, 2023, when the Commission unanimously approved to send the DGO to the meet and confer process. Before doing so, the Commission incorporated Chief Scott’s feedback, who actively participated in the entire process and supported the final version.

Your collaborative, community-focused process contrasts starkly with the tactics adopted by the POA, who continue to exploit the secretive meet and confer process to delay implementation of the DGO. The time to act—and act decisively—is now. We now write to reaffirm our commitment to reducing racial bias and urge you to do the same by ending the meet and confer process and unanimously, swiftly enacting DGO 9.07.

**Pretext Stops Have Always Been Overtly Discriminatory**

As each of you know, the calls to end pretext stops did not begin with DGO 9.07 but have proliferated since the United States Supreme Court declared them legal in *Whren*.<sup>1</sup> A mountain of evidence and academic research from the past quarter century supports ending this practice. While *Whren* allows pretext stops, it does not require them. The 2024 RIPA report decries the practice appropriately: “*Whren* is in many ways the *Plessy [v. Ferguson]*<sup>2</sup> of its era. It endorsed racial discrimination, and thereby

<sup>1</sup> *Whren v. United States* (1996) 517 U.S. 806.

<sup>2</sup> (1896) 163 U.S. 537.

encouraged its spread...[P]retextual stops and searches [are] ‘America’s most egregious police practice.’<sup>3</sup> Like *Plessy* and its progeny legalizing segregation and the Jim Crow era, the *Whren* era must end.

### **Racial Disparities in SFPD’s Traffic Stop Data Remain Unacceptably High**

The call to end pretext stops is no mere academic argument. The data continue to support ending pretext stops. Across California, officers stopping Black drivers took no further action (ticket, search, arrest, etc.) about 12% of the time.<sup>4</sup> In other words, officers needlessly pulled over 1 out of 8 Black drivers likely just to fish for evidence of another crime, illustrating that the often-used phrase “driving while Black” is not a feeling but a measurable occurrence. Locally, the data illustrate similar problematic policing based on the latest available data: SFPD officers stopped Black individuals at 6x the rate of white individuals,<sup>5</sup> searched Black individuals at more than 10x the rate of white individuals,<sup>6</sup> and used force on Black individuals at more than 21x the rate of white individuals.<sup>7</sup> These disparities remain unacceptable and have sadly remained consistent as long as SFPD has been collecting data.<sup>8</sup>

### **Other Jurisdictions Illustrate That Curbing Pretext Stops Reduces Racial Disparities**

Consider the impact limiting pretext stops has had in Los Angeles based on *limiting what officers can do following a stop*: equipment violation stops shrank by more than half after implementation of its pretext policy while officers discovered contraband more frequently.<sup>9</sup> Advocates and the Police Protective League notably have both recommended expanding the policy because, as the League said, certain types of calls for service “may not necessitate an armed response.”<sup>10</sup> After Virginia implemented its policy *limiting the types of stops officers can conduct*, the number of Black drivers who were stopped and searched was *less than half the rate reported previously*.<sup>11</sup> In Fayetteville, North Carolina, one study found that ending pretext stops “may have positive public health consequences both for motor vehicle injury and racial disparity outcomes while having little impact on non-traffic crime.”<sup>12</sup> In Connecticut, changes to traffic stop policies reduced the number of police departments disproportionately stopping

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<sup>3</sup> 2024 RIPA Annual Report (January 1, 2024) at 52, <https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf> 2024 RIPA Report.

<sup>4</sup> *Id.* at 41.

<sup>5</sup> Quarterly Activity and Data Report: Quarter 2, 2023 at 17, San Francisco Police Department, [https://www.sanfranciscopolice.org/sites/default/files/2023-09/SFPDQADReport\\_2023Q2\\_20230920.pdf](https://www.sanfranciscopolice.org/sites/default/files/2023-09/SFPDQADReport_2023Q2_20230920.pdf).

<sup>6</sup> *Id.* at 28.

<sup>7</sup> *Id.* at 33.

<sup>8</sup> Barba, Michael, Noah Baustin. “Are San Francisco Police Officers Misreporting the Races of People They Stop?” *SF Standard* (Sept. 13, 2023), <https://sfstandard.com/2023/09/13/san-francisco-police-officer-misrepresented-race-bias-investigation/>.

<sup>9</sup> 2024 RIPA Executive Summary (Jan. 1, 2024) at 6, <https://oag.ca.gov/system/files/media/ripa-exec-summary-2024.pdf>; 2024 RIPA Annual Report at 56 and 57.

<sup>10</sup> 2024 RIPA Annual Report at 61.

<sup>11</sup> Paviour, Ben. “Black Drivers in Virginia Still More Likely to Be Stopped as Searches Drop,” *NPR* (Aug. 3, 2023), <https://www.vpm.org/news/2023-08-03/black-hispanic-drivers-traffic-stops-policing-virginia-dcjs>; see also 2023 Report on Analysis of Traffic Stop Data, Department of Criminal Justice Services, <https://rga.lis.virginia.gov/Published/2023/RD340/PDF>.

<sup>12</sup> Fliss, Mike, et. al. “Re-prioritizing traffic stops to reduce motor vehicle crash outcomes and racial disparities,” *Journal of Injury Epidemiology* 7 2020 3, <https://injepijournal.biomedcentral.com/articles/10.1186/s40621-019-0227-6>.

Black drivers by two-thirds.<sup>13</sup> And in Ramsey County, Minnesota, one report<sup>14</sup> and working paper<sup>15</sup> found that eliminating pretext stops reduced racial disparities with no negative impact on traffic safety or crime.

These jurisdictions have shown the way that police departments can reduce racial disparities by eliminating pretext stops.

### **DGO 9.07 Elegantly Combines Impactful Policies From Other Jurisdictions**

Whereas LA and Virginia's reforms have seen modest reductions in racial disparities, San Francisco's policy is poised to bring about an even greater reduction in racial disparity in traffic stops. Los Angeles requires officers to document their "public safety" reason for the stop and prevents officers from baselessly prolonging the stop while Virginia restricts officers' ability to initiate certain stops for equipment violations or minor infractions that tend to be over utilized on people of color. DGO 9.07 combines these approaches to address both conscious and unconscious bias, targeting those stops with the highest racial disparity and the tactics that turn routine stops into baseless, prolonged investigations for Black drivers.

### **Enacting DGO 9.07 Will Send A Clear Message That The POA Cannot Stall Common Sense Reform**

Nearly a year ago, each of you voted to send the policy to meet and confer. That makes sense: many of you have for years loudly, publicly criticized SFPD for its unacceptably high racial disparities in stops. No one has produced any new facts, evidence, or research that have undermined your support of the policy. The Coalition thus urges the Commission to pass DGO 9.07 unanimously to send a message to the public, fear mongers, and political interest groups<sup>16</sup> that SFPD can continue to function and reduce racial disparities at the same time.

### **The Struggle To End Racial Disparities In Policing Must Continue**

Passing DGO 9.07 will not, alone, end the endemic racial disparities in SFPD's stops, searches, and uses of force. The Commission must also remain ready to pursue additional policy reforms to reduce racial disparities and the harm SFPD causes to the community. Now begins the hard work to monitor implementation and expand the list of banned stops should the data warrant that. Those impacted by pretext stops, their communities, and the Coalition are watching.

Thank you for your consideration. For questions about our position, please contact Brian Cox at [brian.cox@sfgov.org](mailto:brian.cox@sfgov.org).

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<sup>13</sup> "Why Limit Pretextual Stops?", Policing Project, NYU School of Law, <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/645b9ea85e3f9a7712b2b810/1683725992612/Why+Limit+Pretextual+Stops.pdf>.

<sup>14</sup> Pulvino, Rory, et. al. "Traffic Stop Policy in Ramsey County, MN," Justice Innovation Lab, <https://knowledgehub.justiceinnovationlab.org/reports/traffic-stop-policy-ramsey-county>.

<sup>15</sup> Naddeo, J.J., Rory Pulvino. "The Effects of Reducing Pretextual Stops: Evidence from Saint Paul Minnesota," (working paper) [https://github.com/jnaddeo/job-market-materials/blob/main/working\\_papers/RCAO\\_Pretexual\\_Stops\\_101023.pdf](https://github.com/jnaddeo/job-market-materials/blob/main/working_papers/RCAO_Pretexual_Stops_101023.pdf).

<sup>16</sup> Li, Han. "Police Union Wades Back Into San Francisco Politics After Years of Sitting on the Sidelines," SF Standard (Jan. 8 2024), <https://sfstandard.com/2024/01/08/police-union-poa-marjan/> (with SFPOA President Tracy McCray saying that the POA is "stepping back in[to politics because]...[it's the right time, if you look at the state of the city]").

Sincerely,

Accountability Associates  
ACLU of Northern California  
Advancing Justice - Asian Law Caucus  
AIDS Legal Referral Panel  
Alexander Tenants Association, Inc.  
All of Us or None  
Arab Resource and Organizing Center  
Asian American Bar Association of the Greater Bay Area  
Booker T. Washington Community Service Center  
California Coalition for Women Prisoners  
Calle 24 Latino Cultural District  
Causa Justa :: Just Cause  
Center on Juvenile and Criminal Justice  
Chinatown Community Development Center  
Chinese for Affirmative Action  
Chinese Progressive Association  
Clarence Dyer & Cohen  
Coalition on Homelessness, San Francisco  
Coleman Advocates for Children and Youth  
Community Forward SF  
Community Resource Initiative  
Community United Against Violence (CUAV)  
Compass Family Services  
Council on American-Islamic Relations, San Francisco Bay Area Office  
Courage California  
Critical Resistance Oakland  
Curry Senior Center  
Day Moon  
Democratic Socialists of America, San Francisco  
Delivering Innovation in Supportive Housing (DISH)  
Do No Harm Coalition  
DOPE Project  
DPH Must Divest  
East Bay Community Law Center  
Ella Baker Center for Human Rights  
End Poverty Tows Coalition  
Episcopal Community Services  
Equal Justice USA  
Even/Odd  
Eviction Defense Collaborative  
Faith in Action Bay Area  
Faithful Fools  
Farming Hope  
GLIDE  
Haight Ashbury Neighborhood Council  
Hamilton Families

Harm Reduction Therapy Center  
Harvey Milk LGBTQ Democratic Club  
Healing 4 Our Families & Our Nation  
HealthRIGHT 360  
Homeless Prenatal Program  
HomeRise  
Hospitality House  
Housing Rights Committee of SF  
Immigrant Legal Resource Center  
Instituto Familiar de la Raza  
Islamophobia Studies Center  
Justice for Chinedu  
Justice Policy Institute  
La Raza Community Resource Center  
Larkin Street Youth Services  
Latino Task Force  
LavaMaeX  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area  
League of Women Voters of San Francisco  
Legal Aid at Work  
Legal Services for Children  
Legal Services for Prisoners with Children  
Lutheran Social Services of Northern California  
Marie Harrison Community Foundation, Inc  
Mobilization for Adolescent Growth in Our Communities  
National Harm Reduction Coalition  
No New SF Jail Coalition  
PODER  
PolicyAction  
Raphael House  
Ruth Williams Memorial Theater BVOH  
Safer Together  
San Francisco AIDS Foundation  
San Francisco Bicycle Coalition  
San Francisco Community Health Center  
San Francisco Hepatitis C Task Force  
San Francisco Interrupting Racial Profiling  
San Francisco Lowrider Council  
San Francisco Muslim Community Center  
San Francisco Public Defender  
San Francisco Pretrial Diversion Project  
San Francisco Rising  
San Francisco Taxpayers for Public Safety  
San Francisco Tenants Union  
San Francisco Transit Riders  
Secure Justice  
Silicon Valley De-Bug  
Skywatchers

Southeast Asian Development Center  
SPUR  
Sunset Youth Services  
Support Life Foundation  
Swords to Plowshares  
Tenderloin Neighborhood Development Corporation  
Tenderloin/SoMa/West SoMa Community Planners  
Tenderloin Traffic Safety Task Force  
The Gubbio Project  
The Kitchen  
The Women's Building  
Transgender, Gender-Variant, & Intersex Justice Project  
Urban Services Y - Community Action Agency  
Walk San Francisco  
Western Center on Law & Poverty  
Western Regional Advocacy Project  
Yemeni Alliance  
Yemeni American Association  
Young Women's Freedom Center  
Youth Law Center  
Youth With A Mission San Francisco

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