



CITY AND COUNTY OF SAN FRANCISCO
Department of Police Accountability
ONE SOUTH VAN NESS AVE., 8th FLOOR
SAN FRANCISCO, CA 94103



PAUL DAVID HENDERSON
EXECUTIVE DIRECTOR

April 29, 2022

Acting President Cindy Elias
Commissioners
San Francisco Police Commission

First Quarter 2022 Policy Work

Highlights of the DPA's key first Quarter 2022 Policy Recommendations are described below.

I. DPA Recommended that SFPD Limit Pretext Stops to Reduce Race Disparities.

In the first quarter of 2022, DPA made recommendations to SFPD and Commissioner Max Carter-Oberstone to curtail SFPD's use of pretext stops. In a pretext stop, a police officer stops a motorist or a pedestrian for a minor traffic or equipment violation and then uses the stop as a pretext to investigate unrelated crimes. Pretext stops are often based on speculation and hunches rather than on actual intelligence that the person stopped is involved in criminal activity. Nationwide, research has shown that pretext stops are conducted in a racially biased manner. San Francisco is not immune to this problem. To reduce race disparities and decrease the overall number of stops unrelated to public safety in communities of color, DPA made the below recommendations.

- A. SFPD should prioritize stops that impact public safety.** SFPD should prioritize stops that directly relate to public safety such as speeding, red light violation, drunk driving, reckless driving, hit-and-run incidents.
- B. The Police Commission should ban pretext stops, except for a narrow exception for violent felonies that imminently threaten human life.** DPA recommended that the Police Commission prohibit pretext stops, except when SFPD has specific intelligence that a person or vehicle is involved in a violent felony set forth Penal Code § 667.5(c), such as kidnapping, murder, and child molestation. This would eliminate an officer's ability to conduct pretext stops based on hunches, intuition, and stereotyping. Officers (including plainclothes officers) should also be required to activate their body-worn cameras and document their justification for an intelligence-based pretext stop in an incident report which would be reviewed by a supervisor before end of watch.
- C. The Police Commission should limit enforcement of infractions commonly used as a pretext.** Unless the violent felony exception applies, DPA recommended that SFPD officers be prohibited from stopping individuals if their only violation(s) are for one or more of the following:



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- Jaywalking (Veh. Code, § 21955)
- Failure to display registration tags or driving with expired registration (Veh. Code, § 4000)
- Driving with a cracked windshield unless there is no visibility (Veh. Code, § 26710)
- Riding bicycle on sidewalk (SF Trans. Code, Article 7, § 7.12.12)
- Object on rearview mirror (Veh. Code, § 26708)
- Failure to use turn signal (Veh. Code, § 22108)
- Having one broken taillight (Veh. Code, § 24600)
- Tinted windows (Veh. Code, § 26708.5)
- Broken license plate light (Veh. Code, § 2460)
- Missing front license plate (Veh. Code, § 5200)

As an alternative to banning a list of infractions, DPA recommends prohibiting or limiting probation and parole searches if the person was stopped only for a violation of one or more of the infractions listed above.

D. Limits on questions and searches unrelated to the traffic or pedestrian stop.

DPA recommends that during routine traffic or pedestrian stops only punishable as an infraction, officers should be prohibited from the following:

1. Asking about unrelated criminal activity unless separate grounds to detain or arrest for a criminal offense arises during the stop.
2. Asking for consent to search a person’s vehicle or person.
3. Asking whether a person is on probation or parole unless grounds to detain or arrest for a criminal offense arises during the stop.

The DPA, SFPD, and Commissioner Carter-Oberstone are negotiating a draft pretext stop policy to present to the community in coming weeks for further input and discussions.

II. SFPD Adopted the Crisis Intervention Working Group’s Quarterly Incident Review Protocol to Provide Routine Evaluation of SFPD’s Response to Individuals in Crisis

Department General Order 5.21 requires the Crisis Intervention Team (CIT) Coordinator, in consultation with the CIT working group, to provide reports and recommendations to the Chief of Police, the Command Staff, and the Police Commission on a quarterly basis. The CIT Incident Review Protocol fulfills this function by creating a CIT Incident Review Committee that will, on a quarterly basis, will review CIT incidents and report their recommendations to the Chief and Police Commission.



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In the first quarter, SFPD adopted the Crisis Intervention Team Incident Review Protocol that DPA drafted in collaboration with the CIT working group. (See SFPD Unit Order 22-01.) The Incident Review Committee will evaluate tactics used during covered incidents with a focus on lessons learned. The policy provides an opportunity to highlight excellent police interventions and to make recommendations that strengthen SFPD’s policies, training, interagency coordination, and data collection when responding to persons in crisis.

III. DPA Revived Recommendations Made in 2020 that SFPD Create a Policy for the Preservation and Handling of Sexual Assault DNA Evidence

In response to the SFPD’s Crime Laboratory’s use of DNA from a sexual assault kit to tie the victim to a later property crime, a practice which DPA strongly opposes, DPA revived recommendations previously made to SFPD on April 20, 2020, on this issue. Specifically, DPA recommended that Department General Order 6.02 on Physical Evidence be amended to do the following:

1. Delineate procedures for the collecting and preserving sexual assault evidence.
2. Delineate procedures for the collection, preservation, storage, training and transporting DNA evidence.

Implementing DPA’s recommendations, including a ban on using victim DNA in unrelated investigations, will prevent this problematic practice from reoccurring.

Sincerely,

Paul Henderson
Executive Director