

## **TRAFFIC ENFORCEMENT & CURTAILING THE USE OF PRETEXT STOPS**

### **9.01.01 PURPOSE**

The goal of this General Order is to reduce racial bias in the enforcement of our traffic laws, and in particular, to curtail the use of pretextual stops. These stops—which use the traffic code as a pretext to conduct stops and searches absent any concrete evidence of criminal wrongdoing—are disproportionately carried out against people of color and provide no demonstrable public safety benefit. Limiting this ineffectual practice will free up valuable resources to focus on strategies proven to stop and prevent crime. To that end, our traffic enforcement efforts should be focused on what matters most: ensuring the safety of our sidewalks and roadways.

### **9.01.02 DEFINITIONS**

The following terms are defined as follows for purposes of this General Order:

- A. **Pretext Stop.** A member effects a pretext stop where a member uses reasonable suspicion or probable cause of a traffic or code violation as a pretext to initiate a stop motivated by a desire to investigate another crime that is unrelated to that violation.
- B. **Biased Stop.** A biased traffic or pedestrian stop is one where there is no matching suspect description and a person's apparent race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability, socio-economic status, dress, appearance, or neighborhood is a motivating factor in a member's decision to stop a person or vehicle.
- C. **Reasonable Suspicion.** Reasonable suspicion is a set of specific facts and circumstances that would lead a reasonable person to believe that a crime is, was, or is about to occur and the person under suspicion is reasonably connected to the crime. Reasonable suspicion to detain is also established whenever there is any violation of the law. Reasonable suspicion cannot be based solely on a hunch or instinct.
- D. **Probable Cause.** Probable cause is a set of specific facts that would lead a reasonable person to objectively believe and strongly suspect that a crime was committed by a person.

**9.01.03  
POLICY**

- A. **Pretext Stops Limited.** Except as provided in 9.01.04(C), pretext stops are banned.
  
- B. **Biased Stops Banned.** Biased stops are illegal, unconstitutional, and antithetical to the values that the Department espouses. They are banned under all circumstances.

**9.01.04  
LIMITING STOPS FOR LOW-LEVEL OFFENSES**

- A. **Banned Motor Vehicle Stops.** Except as provided in 9.01.04(C)-(D), a member shall not stop or detain the operator of a motor vehicle, or issue a citation for any of the following offenses:

*[Note: The Department, DPA, and Commissioner Carter-Oberstone discussed the pros and cons of including a list of offenses for which stops are banned. The offenses enumerated in this section constitute a non-exhaustive list of violations that the Working Group might wish to consider for possible inclusion.]*

1. Failure to display both license plates. (Cal. Veh. Code § 5200(a)).
  
2. Failure to display registration tags or driving with expired registration. (Cal. Veh. Code § 4000).
  
3. Failure to illuminate license plate. (Cal. Veh. Code § 24601).
  
4. Driving without functioning or illuminated headlights, unless no headlights are functioning or illuminated and the sun has set. (Cal. Veh. Code § 24400(a)-(b)).
  
5. Driving without functioning or illuminated taillights, unless no taillights are functioning or illuminated and the sun has set. (Cal. Veh. Code § 24600).
  
6. Driving without functioning or illuminated brake lights, unless no brake lights are functioning or illuminated and the sun has set. (Cal. Veh. Code § 24603).
  
7. Tinted windows (Cal. Veh. Code § 26708.5).

8. Objects affixed to windows or hanging from rearview mirror. (Cal. Veh. Code § 26708(a)(1)-(2)).
9. Improperly mounted license plate. (Cal. Veh. Code § 5201(a)).
10. Failure to signal while turning or changing lanes, unless the failure creates a condition that substantially increases the likelihood of injury or death. (Cal. Veh. Code §§ 22107, 22108).
11. Littering, unless an object is thrown from a vehicle in a manner that creates a condition that substantially increases the likelihood of injury or death. (Cal. Veh. Code § 23112).
12. Making a U-turn from the far left-hand lane where the driver can see clearly for 200 feet in either direction, and the maneuver is executed in a manner that does not substantially increase the likelihood of injury or death. (Cal. Veh. Code § 22100.5).
13. Sleeping in car. (S.F. Trans. Code § 97)
14. Any parking infraction, unless the car is unoccupied.

**B. Banned Pedestrian & Bicycle Stops.** Except as provided in 9.01.04(C), a member shall not stop or detain a person, or issue a citation for any of the following offenses:

1. Crossing the street outside of the crosswalk, unless it creates a condition that substantially increases the likelihood of injury or death (Cal. Veh. Code § 21955).
2. Riding a bicycle on a sidewalk. (S.F. Trans. Code Art. 7, § 7.2.12).
3. Riding a non-motorized scooter on a sidewalk. (S.F. Trans. Code Art. 7, § 7.2.13).
4. Failure to ride a bicycle as close as practicable to the right-hand curb or edge of the roadway. (Cal. Veh. Code § 21202(a)).

**C. Exceptions.** A member may stop or detain a person or an operator of a motor vehicle, or issue a citation for an offense enumerated in 9.01.04(A)-(B) if:

1. the member lawfully stopped or detained the person or operator of the motor vehicle for any felony, misdemeanor, or infraction not enumerated in section 9.01.04(A)-(B); or
2. the operator is driving a commercial vehicle; or
3. a person or motor vehicle matches the description of a suspect or suspect vehicle in a murder, attempted murder, manslaughter, armed robbery, kidnapping, forcible sex offense, a felony committed against a child, or any other felony where the risk of death or life-threatening injuries is imminent if the suspect is not immediately apprehended.

**D. Citations Without Stops.** A member may issue a citation for an offense enumerated in 9.01.04(A):

1. If the motor vehicle is unoccupied; or
2. If a member is prohibited from making a stop under 9.01.04(A), and the member can identify the owner of the vehicle, the Department may mail a citation to the owner of the vehicle, or send a warning letter identifying the violation and instructing the owner to correct the defect or otherwise remedy the violation.

### 9.01.05

#### LIMITING SEARCHES & QUESTIONING

- A. In the course of any stop made for an infraction pursuant to the California Vehicle Code or San Francisco Transportation Code, members shall only ask investigatory questions regarding unrelated criminal activity if reasonable suspicion or probable cause for a criminal offense arises during the stop. (Example: If, during a routine traffic stop, officers see a firearm in plain view in the vehicle, they may ask investigatory questions about criminal activity).
- B. In the course of any stop for an infraction made pursuant to the California Vehicle Code or San Francisco Transportation Code, members shall only ask for permission to conduct a consent search of a person or vehicle if reasonable suspicion or probable cause for a criminal offense arises during the stop.
- C. In the course of any stop for an infraction made pursuant to the California Vehicle Code or San Francisco Transportation Code, members shall only ask if a person is

on probation or parole if reasonable suspicion or probable cause for a criminal offense arises during the stop.

*[Note: The Department, DPA, and Commissioner Carter-Oberstone considered whether to place limits on parole/probation searches, but ultimately determined that it may be preferable to address this topic in a separate DGO.]*

**9.01.06**

**DATA COLLECTION, REPORTING & SUPERVISORY REVIEW**

- A. Any member who conducts a search, asks an investigatory question, or asks a question about parole or probation status under 9.01.05(A)-(C) shall document the reason for the stop in an incident report and/or chronological record of investigation.
  
- B. Members shall record vehicle and pedestrian stop data prior to the conclusion of each shift.
  
- C. On duty platoon commanders or officers in charge shall ensure supervisory review, approval, and oversight for all traffic citations and associated body worn camera footage. Such review, approval, and oversight is not required on scene, but platoon commanders or officers in charge shall ensure these tasks are completed by their supervisory personnel.

Additionally, sergeants are responsible for reviewing traffic stop data for members under their direct supervision (PIP Group) on a quarterly basis.

**9.01.07**

**IMPLEMENTATION**

[TBD]

**References**

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