

March 25, 2022

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



Submitted via electronic mail

Re: End Racially Biased Traffic Stops in San Francisco — SUPPORT

Dear Acting-President Elias,

The Coalition to End Biased Stops is a broad-based group of community organizations and advocates who are committed to ending racially biased, low-level traffic stops by police in San Francisco. Police use these non-safety violations as a “pretext” to detain and search people, wreaking untold economic, physical, psychological, and intergenerational harm, especially against Black San Franciscans.¹ Pretextual (pretext) stops commonly lead to further inquiries unrelated to any traffic matter that disproportionately impacts communities of color,² often lead to violence,³ and have already been banned in other local jurisdictions.⁴ The San Francisco Police Department (SFPD) should no longer conduct pretext stops because they disproportionately impact Black San Franciscans and largely do not improve public safety.⁵

San Francisco mirrors the state and nation in over-policing communities of color via pretext stops. The data has remained stubbornly consistent for years despite SFPD’s reform efforts and amid an ever-growing list of scandals. These below three graphs capture the need to move beyond slow-moving reform efforts and arrest the disturbing trends:⁶

¹ Kirkpatrick, David D., Steve Eder, Kim Barker, and Julie Tate. “Why Many Police Traffic Stops Turn Deadly,” *New York Times* (Oct. 21, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>

² Human Rights Watch, *Revoked: How Probation and Parole Feed Mass Incarceration in the United States* (Jul. 31, 2020), <https://www.hrw.org/report/2020/07/31/revoked/how-probation-and-parole-feed-mass-incarceration-united-states>; Chanin et al., *Traffic Enforcement Through the Lens of Race: A Sequential Analysis of Post-Stop Outcomes in San Diego, California* (2018) 29 *Crim. J. Policy Rev.* 564-565; see generally, Fridell, *Producing Bias-Free Policing: A Science-Based Approach* (2017) at 16-22.

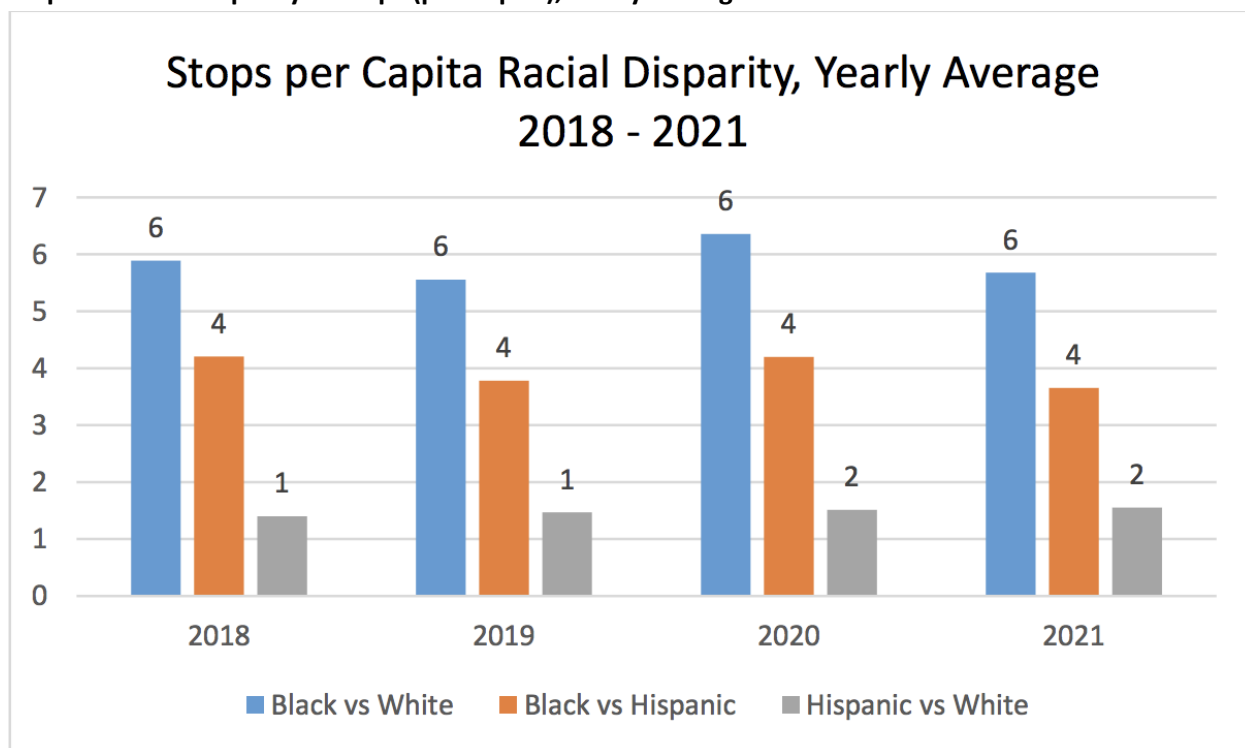
³ Kirkpatrick, David D., Steve Eder, Kim Barker, and Julie Tate. “Why Many Police Traffic Stops Turn Deadly,” *New York Times* (Oct. 21, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>

⁴ “Oakland Police Changing Search Policy for People on Probation, Parole” *CBS Bay Area* (Jul. 10, 2019), <https://sanfrancisco.cbslocal.com/2019/07/10/oakland-police-department-restrictive-search-policy-probation-parole/>; Arreguin, Jesse, Kate Harrison. “Report and Recommendations From Mayor’s Fair and Impartial Policing Working Group.” Special Meeting: Item 01, (Feb. 23, 2021), <https://www.berkeleyside.org/wp-content/uploads/2021/02/2021-02-23-Special-Item-01-Report-and-Recommendations.pdf>

⁵ Sierra, Stephanie, Lindsey Feingold, and Yun Choi. “Black drivers are 4.4 times more likely to be stopped by SFPD than white drivers, data shows,” *ABC 7 News* (Sept. 14, 2020), <https://abc7news.com/san-francisco-police-sfpd-racial-profiling-traffic-stops/6422281>; Silva, Christiana. “Law Professor on Misdemeanor Offenses and Racism in the Criminal Legal System,” *National Public Radio* (Jun. 12, 2020), <https://news.wbfo.org/post/law-professor-how-misdemeanors-sweep-blacks-criminal-system>

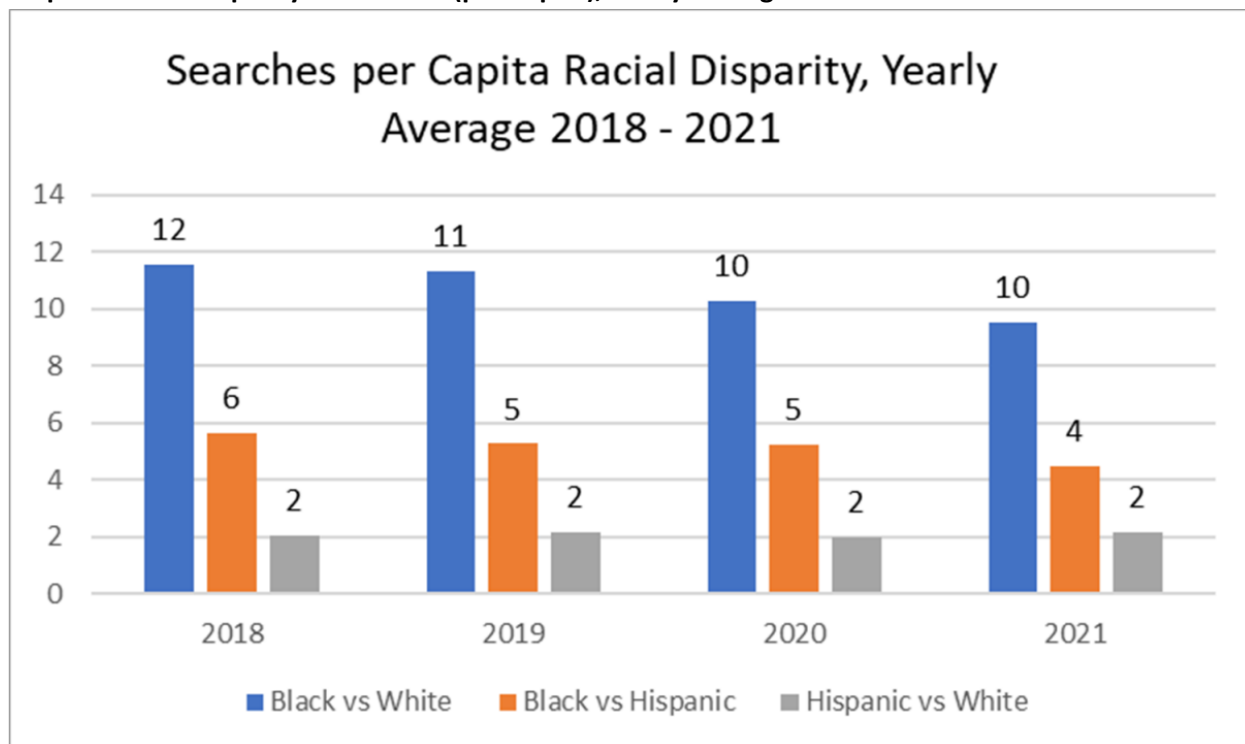
⁶ San Francisco Police Department, Quarterly Activity & Data Report, 4th Quarter, p. 46-47, <https://www.sanfranciscopolice.org/sites/default/files/2022-03/SFPDQADR4thQuarterReport20220307.pdf>

Graph 1: Racial Disparity in Stops (per Capita), Yearly Average 2018 - 2021



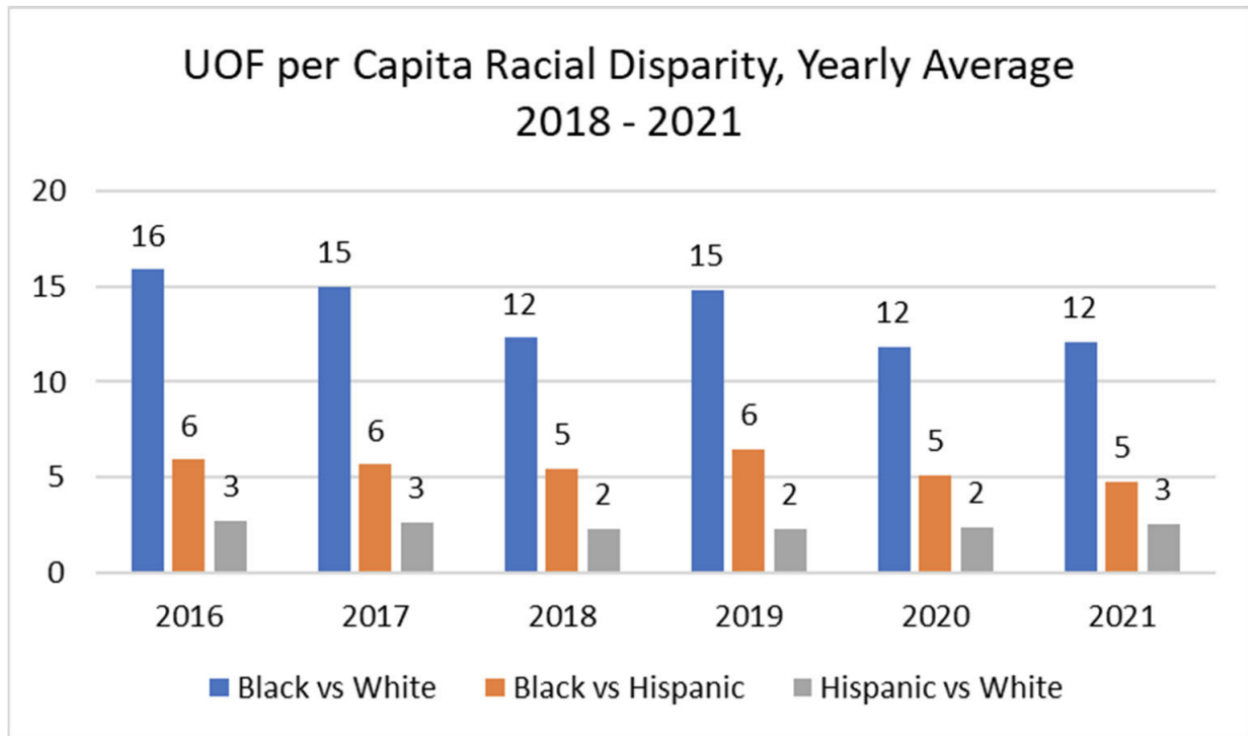
Black people have been approximately six times more likely to be stopped by SFPD than white people.

Graph 2: Racial Disparity in Searches (per Capita), Yearly Average 2018 - 2021



Black people have been searched at least 10 times more frequently by SFPD than white people.

Graph 3: Racial Disparity in Use Of Force (per Capita), Yearly Average 2018 - 2021



SFPD officers were at least 12 times more likely to use force on Black people than on white people.

On May 12, 2021, the San Francisco Police Commission unanimously approved a new policy that redefined under what circumstances SFPD officers can detain and search a person; however, this did not address officers' broad discretion to perform a number of pretext stops.⁷ An opportunity exists to reconsider the harm low-level traffic stops inflict on already over-policed communities of color and prohibit low-level traffic stops.

Pretext stops are not making our streets safer for people who walk, bike, or drive; yet, for too long, officers have used pretext stops as a mechanism to investigate those officers deem suspicious based on subjective fears or biases. The reality of unconscious or implicit bias means that officers making pretext stops may not even know they are doing it. This over-enforcing does little to improve public safety and is a waste of SFPD's time and community resources.⁸

⁷ San Francisco Police Department, *General Order 5.03* (May 12, 2021), <https://www.sanfranciscopolice.org/sites/default/files/2021-05/SFPDDGO5.03.20210524.pdf>

⁸ *An Act to Curtail Pretextual Traffic Stops*. Policing Project, NYU School of Law. <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/61732cf5cc2e420ac0b0a628/1634938102011/Prext+Model+Law+DRAFT+07.20.21.pdf>

Other localities, such as Berkeley (CA),⁹ Los Angeles (CA),¹⁰ Minneapolis (MN),¹¹ Philadelphia (PA),¹² Cambridge (MA),¹³ Montgomery County (MD),¹⁴ Virginia,¹⁵ Washington, D.C.,¹⁶ Nashville (TN),¹⁷ and Connecticut,¹⁸ have all taken initial or significant steps toward entirely removing low-level traffic stops from the purview of local police departments, which is aligned with our above recommendations. These efforts have been gaining momentum across the country, and it is time for San Francisco to join the movement.

Our recommendations are as follows:

1. Stops based *solely* on violations in Subsection 6 should be categorically banned in San Francisco as presumptively pretextual, absent an exception as defined in Subsection 2;
2. Officers may conduct a stop when the underlying conduct creates an “Immediate Safety Concern.” Immediate Safety Concern is a situation that poses an *immediate* and *actual* risk of bodily injury or death to a specific person or group of people, not a speculative or potential risk.
3. An Immediate Safety Concern exception must be documented, when applicable, in the related police report or other similar publicly accessible written records;
4. Any traffic or pedestrian stop becomes pretextual — and therefore prohibited — when an officer fails to articulate the reason for the traffic stop promptly or sufficiently or asks questions unrelated to the underlying violation, such as any variation of the following:
 - a. “Are you on probation or parole?”
 - b. “Do you have an active search condition?”
 - c. “Do you have an active warrant?”
 - d. “Are you from San Francisco?”
 - e. “What are you doing in this neighborhood?”
 - f. “Whose car is this?”
5. All searches, including consent searches, resulting from a pretext stop are prohibited;

⁹ Arreguín, Jesse, Kate Harrison. “Report and Recommendations From Mayor’s Fair and Impartial Policing Working Group.” Special Meeting: Item 01, (Feb. 23, 2021),

<https://www.berkeleyside.org/wp-content/uploads/2021/02/2021-02-23-Special-Item-01-Report-and-Recommendations.pdf>

¹⁰ Rector, Kevin. “New limits on ‘pretextual stops’ by LAPD officers approved, riling police union.” *Los Angeles Times*, (Mar. 1, 2022),

<https://www.latimes.com/california/story/2022-03-01/new-limits-on-pretextual-stops-by-lapd-to-take-effect-this-summer-after-training>

¹¹ “Minneapolis police to curb stops for minor traffic violators.” *Associated Press*, (Aug. 13, 2021),

<https://www.wsls.com/news/2021/08/13/minneapolis-police-to-curb-stops-for-minor-traffic-violators/>

¹² Williams, Jordan. “Philadelphia mayor signs bill banning police from stopping cars during low-level traffic violations.” *The Hill* (Oct. 30, 2021),

<https://thehill.com/homenews/state-watch/579262-philadelphia-mayor-signs-bill-banning-police-from-stopping-cars-during>

¹³ Moroney, John. “Cambridge Considers Civilian Traffic Enforcement Amid Calls for Police Reform.” *NBC 10 Boston*, (Jul. 29, 2020), <https://www.nbcboston.com/news/local/cambridge-officials-consider-civilian-traffic-enforcement/2167946/>

¹⁴ Mehum, Natasha. “Montgomery Mulls Removing Police from Traffic Enforcement.” *Maryland Association of Counties*, (Aug. 10, 2020), <https://conduitstreet.mdcounties.org/2020/08/10/montgomery-mulls-removing-police-from-traffic-enforcement/>

¹⁵ Jewell, Jessica. “New law bans police from pulling over Virginia drivers solely for certain car safety violations.” *WSLS*, (Mar. 1, 2021),

<https://www.wsls.com/news/local/2021/03/01/new-law-bans-police-from-pulling-over-virginia-drivers-solely-for-certain-car-safety-violations/>

¹⁶ Pascale, Jordan. “Should D.C. Police Stop Enforcing Traffic Laws? One Proposal Would Give The Job To DDOT.” *DCist*, (Apr. 26, 2021), <https://dcist.com/story/21/04/26/should-dc-police-stop-enforcing-traffic-laws/>

¹⁷ Max, Samantha. “Nashville Police Report Major Drop In Traffic Stops Following Accusations Of Racial Bias.” *WPLN News*, (Mar. 25, 2021), <https://wpln.org/post/nashville-police-report-major-drop-in-traffic-stops-following-accusations-of-racial-bias/>

¹⁸ Condon, Tom. “After a poor start, CT’s anti-racial profiling effort is making progress.” *The CT Mirror*, (Jan. 30, 2022), <https://ctmirror.org/2022/01/30/after-a-poor-start-cts-anti-racial-profiling-effort-is-making-progress/>

6. Pretext stops include, but are not limited to the following violations:
- a. License plate violations;¹⁹
 - b. Registration expirations or failures to display registration;²⁰
 - c. Rim or frame obscuring lettering or decal on license plate;²¹
 - d. Driving without a functioning headlight, or failure to turn headlights on, unless the sun has set and both headlights are out;²²
 - e. Malfunctioning taillight(s) and brake light(s);²³
 - f. Tinted windows;²⁴
 - g. Objects hanging from rearview mirrors;²⁵
 - h. A sound violation, including a loud muffler or loud music;²⁶
 - i. Changing lanes without signaling;²⁷
 - j. Turning without signaling;²⁸
 - k. Making an illegal U-turn from a far-left lane;²⁹
 - l. Failure to dim headlights;³⁰
 - m. Littering;³¹
 - n. Any parking infraction, unless the car is unoccupied;
 - o. Sleeping in a car;³²
 - p. Crossing or walking in the street at any point other than a designated crosswalk;³³
 - q. Crossing the street without a “walk” or similar sign;³⁴
 - r. Walking in a bike lane where there is a pedestrian path;³⁵
 - s. Riding a bicycle on a sidewalk;³⁶
 - t. Riding a bike with faulty brakes, high handlebars, missing reflecting lights or pedal reflectors;³⁷
 - u. Failing to ride a bike as close as practicable to the right-hand curb or edge of the roadway;³⁸
 - v. Riding a bicycle with more than one person at a time;³⁹
 - w. Obstructing pedestrian traffic by not parking a bike upright;⁴⁰ and,
 - x. Riding a bike without a helmet.⁴¹

¹⁹ Veh. Code § 5200.

²⁰ Veh. Code § 4000 et seq.

²¹ Veh. Code § 5201.

²² Veh. Code §§ 24250, 24252, 24400, 24409, 24002(a), 24002(b).

²³ Veh. Code § 24600 et seq.

²⁴ Veh. Code § 26708.5.

²⁵ Veh. Code § 26708(a).

²⁶ Veh. Code §§ 27007, 151, 27153.

²⁷ Veh. Code §§ 22107-22108.

²⁸ Veh. Code § 22108.

²⁹ Veh. Code §§ 21451, 22100.5, 22102.

³⁰ Veh. Code §§ 24401, 24409.

³¹ Veh. Code § 23112.

³² San Francisco Pol. Code § 97.

³³ Veh. Code § 21955; San Francisco Trans. Code § 7.2.10.

³⁴ Veh. Code §§ 21456 – 21456.1.

³⁵ Veh. Code § 21966.

³⁶ San Francisco Trans. Code §§ 7.1.12 & 1007.

³⁷ Veh. Code § 21201.

³⁸ Veh. Code §§ 21202 & 21208.

³⁹ Veh. Code § 21204.

⁴⁰ Veh. Code § 21210.

⁴¹ Veh. Code § 21212.

7. Violations of this policy will subject the offending officer to the discipline matrix and begin with retraining; and,
8. Because SFPD already collects traffic violation data as part of its state Racial and Identity Profiling Act (RIPA) obligations,⁴² SFPD should report that data to the Commission quarterly — specifically, SFPD should report the following stop data:
 - a. Date, Duration, and Location of Stop;
 - b. Perceived Race or Ethnicity of Person Stopped;
 - c. Reason for Stop;
 - i. Traffic violation;
 1. Moving violation;
 2. Non-moving violation;
 - ii. Reasonable Suspicion;
 - iii. Known to be on parole/probation/PRCS/mandatory supervision;
 - iv. Knowledge of outstanding arrest warrant/wanted person;
 - v. Truancy investigations; and,
 - vi. Consensual encounters.
 - d. Actions Taken by Officer During Stop;
 - e. Result of Stop; and,
 - f. Type of Assignment.

Thank you for your consideration. We look forward to working with you in finding and implementing timely solutions. For questions about our position, please contact Wesley Saver at wsaver@glide.org.

Sincerely,

Abolition Today Podcast
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

⁴² Cal. Code of Reg. §999.224, <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf>.

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
Delivering Innovation in Supportive Housing (DISH)
Democratic Socialists of America, San Francisco
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
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 Inside
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

Cc: San Francisco Police Commission via sfpd.commission@sfgov.org