

IMPLEMENTATION, ENFORCEMENT AND IMPACT: SAN FRANCISCO'S SIT/LIE ORDINANCE ONE YEAR LATER

A report by

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EXECUTIVE SUMMARY

Purpose

On November 2, 2010, after months of vigorous debate, San Francisco voters approved the highly controversial Sit/Lie Ordinance. The law amended the San Francisco Police Code Section 168 to prohibit sitting or lying on public sidewalks in San Francisco between 7 a.m. and 11 p.m., and the San Francisco Police Department (SFPD) began enforcing the law in March 2011. Although the law sparked much discussion prior to its passage and has been in effect for one year, little information is available regarding its enforcement and results. The purpose of this report is to document how the law has been implemented and assess its impact in the Haight, the epicenter of both the initial controversy and current enforcement. The information in this report is based on interviews and data obtained from residents, merchants, policymakers and the SFPD from October 2011 to January 2012.

Key Findings

- **From March to December 2011, there were at least 306 reported citations issued for violations of Sit/Lie citywide*.** During this period, police officers at Park Station, which has jurisdiction over the Haight, reported issuing 70 written warnings, 152 citations and booking ten individuals for violating Sit/Lie.
- **Sit/Lie has been implemented with wide variation across the City.** Between March and December 2011, Park Station issued 152 citations while five stations rarely, if ever, issued citations. The table below shows the breakout of reported citations by station:

Station	Citations issued (March – December 2011)*
Central	33
Southern	43
Bayview	0
Mission	59
Northern	15
Park	152
Richmond	3
Ingleside	1
Taraval	0
Tenderloin	0

Based on interviews at Park, Southern, and Tenderloin Station, we found that this variance may represent differences in interpretation of the SFPD directive, enforcement priority and officer discretion at each station.

- **Based on Park Station's internal logbook, 90 percent of the citations issued were to repeat violators of the law, and more than half were issued to just four individuals.** Repeatedly fining and arresting this handful of

*These totals were generated by SFPD's central internal tracking system which may not fully capture all citations issued. Data for Park Station was gathered from the station's internal logbook which is more accurate. For more information on citation tracking, see Section D - Before and After Quality of Life Violations & Tracking Citations.

individuals, who are often chronically homeless and have significant health conditions, has not resulted in significant behavioral changes.

- **In a survey of over 50 merchants in the Haight, 58 percent said that the number of individuals sitting in front of their business has stayed the same or increased since the law passed.** 40 percent reported a decrease. 60 percent did not think the law had been effective at abating aggressive panhandling, soliciting or loitering in proximity to their business.
- **Beat cops at Park Station and across the City report that the law provides a tool to ask people to move along without having to issue a citation.** In the majority of cases, individuals often stand or leave, and a citation is never issued. Officers and merchants also noted that individuals sometimes simply walk to a nearby sidewalk and sit there.
- **SFPD's central system for tracking Sit/Lie violations is not accurate.** A comparison of Park Station's internal logbook data with information generated by SFPD's central system found that Park Station had issued 152 citations and the central system only accounted for 115.
- **Those violating Sit/Lie are not consistently offered tangible referrals to services – in most cases they are handed a half-sheet of paper which lists city services that can be accessed by calling 311 or 211.** In addition, there is no system that tracks the number of individuals who have been referred and/or successfully connected to services as a result of Sit/Lie.
- **As of December 2011, there have been zero misdemeanor convictions for Sit/Lie, although numerous individuals have received multiple citations.** The City's Traffic Court is severely backlogged and is not an effective forum for handling violations by severely vulnerable populations. Alternative justice systems such as the Community Justice Center should be considered.

Recommendations

1. **Convene a taskforce consisting of government agencies, residents and community organizations to rethink how to ensure that sidewalks are safe and accessible to all San Franciscans, and that immediate, tangible services are offered at all times.** Implementation of the Sit/Lie Ordinance has resulted in outcomes that indicate it has fallen short of its intended purpose. The same people are being repeatedly cited, a majority of Haight Street merchants do not believe the ordinance is effective, and most offenders are not being connected to services. Convening a taskforce of both those implementing the law and those affected by it could allow for the development of innovative solutions and ongoing improvements based on 1) the most accurate data as provided by the SFPD and other agencies, and 2) the collective community knowledge of residents, merchants, and service practitioners who encounter Sit/Lie on a daily basis. This group could address issues such as: how to improve tracking and connection of people to services; how to support the needs of repeat offenders; and how to break the cycle of citing people who do not have the means to pay fines, putting them in jail, and releasing them back to the streets where they re-offend. Portland, Oregon has piloted a similar body with its Sharing Public Sidewalks Advisory Committee, a monthly public forum where City officials, community organizations and residents meet to express concerns about the implementation of Portland's Sidewalk Management Plan, share ideas to address challenges and develop actionable solutions. If a similar task force were to be

adopted in San Francisco, it could lead to alternative, community-based solutions to ensure that sidewalks are safe and accessible to all San Franciscans.

- 2. Work to ensure that immediate, tangible services are offered to people sitting or lying on the sidewalks and implement a system to track connections to services.** In most cases, the services being offered to individuals sitting or lying on the street are illusory or inconsequential. The Sit/Lie Ordinance requires a neighborhood outreach plan to connect people to social services. This plan has been replaced by an informal working relationship between SFPD and the Homeless Outreach Team. However, in a majority of Sit/Lie scenarios involving a verbal or written warning, the HOT team is not contacted and no tangible offer of services is made. HSA, DPH and community based organizations, perhaps through the taskforce above, should assist SFPD in developing a solid, accountable framework for immediate service referrals.
- 3. SFPD should improve its processes for tracking violations in order to ensure that the most reliable data is used to evaluate large-scale trends and connections to services.** The SFPD's internal tracking system has been prone to inaccuracy, which creates a ripple effect of inaccuracy when this data is reported and consumed by the SFPD, other City agencies, and the public. SFPD needs to review its processes for inputting and transferring data into its centralized data system to ensure that all violations are accurately accounted for and can be tracked on an individual, station-level and citywide basis.
- 4. Given the current cycle of repeat offenses, every offender should have the option to go to community court or the Community Justice Center (CJC). If an individual receives more than one citation, they should automatically be referred to the Community Justice Center.** Repeatedly citing individuals who cannot pay fines does not break the cycle of repeat offenses. Alternatives to jail time should be offered in order to directly connect people with services. Currently, Tenderloin Station sends the most number of quality of life violators to the Community Justice Center. However, any station or SFPD officer within the City can send a violator to the CJC. In practice, few do. To abate the cycle of repeat citations, we support
1) increased referrals to the CJC to adjudicate low-level offenses
2) the establishment of community courts citywide modeled after the Community Justice Center.

PREFACE

This public policy evaluation grew out of a desire for unbiased, non-partisan, and credible information on the Sit/Lie ordinance's genesis and the results of its application. As a controversial and much debated policy, the Sit/Lie ordinance has been portrayed as many things by the media, advocates, residents and policymakers. Proponents of the ordinance argued that city police officers had inadequate tools to address sitting or lying on sidewalks, which deterred potential customers from entering local businesses and left pedestrians unsafe. Meanwhile, opponents argued that the ordinance was a thinly veiled effort to criminalize homelessness, a violation of civil rights, and targeted a problem that did not exist.

Since the Sit/Lie ordinance has been in effect for one year, we sought to determine the actual impact of implementation. The purpose of this report is to document the results of our research, which primarily focused on how the law has been implemented and the impact it has had in the area around Park Station. The information contained in this report is based on both qualitative interviews and quantitative data obtained from merchants, policymakers, community stakeholders, and the SFPD from October 2011 to January 2012.

Given our capacity and resources, we chose to focus our analysis on implementation at one station, Park, which allowed us to assess the impact of the law in a narrower, but deeper way. As a result, this report does not account for all known outcomes citywide. It should be viewed as a working document and we hope that it will serve as a basis for future more comprehensive and in-depth analyses. Nevertheless, given that enforcement of the law has been strongest at Park Station, we believe that our findings shed important light on the current implementation of Sit/Lie, the effect it has had on the community, and the potential impacts of future enforcement.

I. BACKGROUND

The Ordinance

The Sit/Lie Ordinance, also known as the Civil Sidewalks Ordinance, was approved by San Francisco voters on November 2, 2010. The law amended the San Francisco Police Code, Section 168 to prohibit sitting or lying on public sidewalks in San Francisco between 7 a.m. and 11 p.m. This controversial ordinance sparked many legal, ethical, and emotional debates amongst merchant communities, city residents, and homeless advocates. Proponents argued that city police officers had inadequate tools to address sitting or lying on sidewalks, which deterred potential customers from entering local businesses and left pedestrians unsafe. Opponents argued that the ordinance was a thinly veiled effort to criminalize homelessness, a violation of civil rights, and targeted a problem that did not exist.

The San Francisco Police Department is the chief agency responsible for both implementation and enforcement of Sit/Lie. The law took effect in December 2010, but enforcement of the law did not begin until March 2011. According to the ordinance's provisions, a person cannot be cited for violating Sit/Lie unless they have first been warned by a police officer. Subsequent penalties for a violation after being warned include fines and/or community service, and/or time in jail:

- 1. Warning** - An individual cannot be cited for violating Sit/Lie unless they have first been warned by a police officer that they are violating the law.
- 2. First offense (once individual has been warned and behavior continues)** – individual is issued a citation and is charged with an infraction. Upon conviction, the penalty is a \$50-\$100 fine and/or community service.
- 3. Subsequent offenses within 24 hours of being previously cited** – individual is charged with a misdemeanor. Upon conviction, the penalty is a fine of \$300 - \$500, and/or community service and/or by imprisonment in the County Jail for up to 10 days.
- 4. Subsequent offenses within 120 days of being convicted of violating Sit/Lie** – individual is charged with a misdemeanor. Upon conviction, the penalty is a fine of \$400 - \$500, and/or community service and/or by imprisonment in the County Jail for up to 30 days.

Violations of the Sit/Lie law are considered to be “quality of life” offenses, a classification which includes prohibitions against acts like panhandling, drinking in public, loitering, etc.² Adjudication of “Quality of Life”

²San Francisco's quality of life laws include: Drinking in Public (Municipal Police Code Section 21), Public Intoxication (Penal Code 647 (f)), Camping in House Car or Car (Municipal Police Code 97 (a) and (b)), Lodging in a Public or Private Place without Permission of Owner (Penal Code 647 (j)), Urinating in Public (Municipal Police Code 153), Obstructions of Streets and Sidewalks (Municipal Police Code 22(a), 23(a), and Penal Code 647), Aggressive Solicitation (Municipal Police Code Section 120-2(d) 1-4), Trespassing (Municipal Police Code Section 25-26), Maintaining a Public Nuisance (Police Code 372), Disturbing the Peace (Penal Code 415), Interfering with a Business (Penal Code 602.1), Loitering with Intent to Buy or Sell Drugs (Penal Code 643.2)

violations primarily falls under the jurisdiction of the City's Traffic Court, which is the City's court for the least serious offenses.

The ordinance includes numerous exceptions for situations including, but not limited to, medical emergencies, operating or patronizing a permitted business, participating in or attending a permitted community event such as a parade or demonstration, or sitting in line for goods or services.

In addition to implementation provisions, the law requires the Police Department to make written bi-annual reports to the Mayor and the Board of Supervisors about the effect of enforcing this prohibition. It also requires the City to form a neighborhood outreach plan to provide social services to people who chronically sit or lie on public sidewalks.

History of the Legislation

The Sit/Lie ordinance was first introduced to the San Francisco Board of Supervisors by Mayor Gavin Newsom and Supervisor Michela Alioto-Pier on March 3, 2010 (See Appendix A). Following its introduction, several local commissions that would be affected by the Sit/Lie Ordinance submitted letters to the Board of Supervisors regarding their official positions. The San Francisco Small Business Commission heard the ordinance and recommended approval with several modifications, including limiting the ordinance to only commercial corridors and commercial districts and requiring that the Public Safety Committee hold quarterly hearings regarding the ordinance. The San Francisco Youth Commission opposed the ordinance, and the San Francisco Planning Department remained neutral.

On June 8, 2010, the San Francisco Board of Supervisors defeated the Sit/Lie Ordinance, with a vote of 8-3. Supervisors Alioto-Pier, Chu, and Elsbernd voted for the Ordinance and Supervisors Avalos, Campos, Chiu, Daly, Dufty, Mar, Maxwell, and Mirkarimi voted against. Supervisors who voted for the ordinance claimed that the police needed a tool to engage people that were not breaking any laws, but were acting provocatively to passers-by or merchants. In response, other Supervisors argued that the police should be using the existing laws more effectively, which would solve the problem that the Sit/Lie Ordinance was claiming to address.

On June 15, 2010, Mayor Newsom then moved to place the measure on the November ballot to allow the city's voters decide its fate (See Appendix B). The ordinance became known as Proposition L, and contained two major changes in the text of the legislation from the original version that had been defeated at the Board of Supervisors. The first change was the addition of a paragraph to the findings section discussing San Francisco's commitment to providing services to those in need and protecting public safety. The second major change was the addition of Section (h), which also discussed services and outreach and stated the following:

- (h) Outreach. The City shall maintain a neighborhood outreach plan to provide the social services needed by those who chronically sit or lie down on a public sidewalk. The plan will include, but not be limited to, health care and social service capacity, evaluation of service delivery and identification of areas for improved service delivery.

In the months before the November election, Proposition L came under serious scrutiny, debate, support and derision by a number of stakeholders. The Sit/Lie Ordinance drew support from people such as Senator Dianne Feinstein (D-CA); San Francisco's Chief of Police George Gascón; Supervisors Alioto-Pier, Chu, and Elsbernd;

merchants from Upper Haight, Polk Street, Irving Street, Market Street, and Mission Street; the Tenderloin Neighborhood Association; Lower 24th Street Merchant and Neighborhood Association; and the Coalition for San Francisco Neighborhoods. Proposition L was opposed by Supervisors Campos, Daly, Dufty, Chiu, Mar, and Maxwell; an organization called "Sidewalks are for People" which defines itself as a collection of neighborhood, labor, queer, and poor people's organizations; the San Francisco Democratic Party; the San Francisco Labor Council; the American Civil Liberties Union; and many homeless advocacy groups including the Coalition on Homelessness.

Proponents argued that city police officers had inadequate tools to address sitting or lying on sidewalks, which deterred potential customers from entering local businesses and left pedestrians unsafe. They believed the law would return civility and accessibility to the sidewalks, and argued that it had been legal and effective in other cities. Meanwhile opponents argued that the ordinance was a thinly veiled effort to criminalize homelessness, a violation of civil rights, and targeted a problem that did not exist. Many believed that Proposition L was unnecessary and that there were already other laws in place to address dangerous behavior and safety concerns.

On November 2, 2010, San Francisco voters passed Sit/Lie with 54.3 percent in favor and 45.7 percent against. The law officially took effect on Friday, December 17, 2010 and the San Francisco Police Department began enforcement in early March 2011.

Intentions of the Legislation

One of the key debates around the passage of Sit/Lie was whether the problems it sought to address were even problems at all. This presented a challenge in evaluating the impact of the law: without an agreed upon problem, how could we assess the ordinance's success at solving that problem? We ultimately decided to assess the ordinance based on the realization of its intended goals set out by its proponents and the text of the legislation itself. In researching Sit/Lie and interviewing various individuals involved in drafting and passing the ordinance, we found that most proponents saw the law as primarily addressing at least one of the following purposes, and these intentions are clearly reflected in the ordinance's language and procedural requirements.

Improvements for Merchants

Many San Francisco merchants and merchant associations supported the Sit/Lie Ordinance because they believed that people sitting or lying in front of their business deters customers, which hurts their business. Sit/Lie created a rational basis for calling the police whenever an individual was sitting or lying in front of their business. Merchants also expressed appreciation that the ordinance offered them an anonymous means to deal with the situation. Unlike the involvement required to report many Quality of Life law violations, under the Sit/Lie Ordinance, merchants are able to contact the police, report the violation, and remain inside their business without needing to be involved in interviews or questioning.

Tool for Police Officers

A number of law enforcement stakeholders supported the Sit/Lie Ordinance because it provided an additional tool for police to use when handling public disturbances on the street. The Municipal Police Code provides law enforcers with a number of tools that they can apply in different situations involving disturbances on the street. However, officers stated that Sit/Lie gives them enhanced discretion in that it allows them to approach people sitting or lying on the sidewalk and ask them to move along without having to issue a citation.

Outreach and Connection to Services

The Sit/Lie Ordinance requires the creation of a public outreach plan for service delivery to violators of the ordinance who are in need. Ideally, the ordinance could create an opportunity for identification and tracking of people who need to be connected to services.

Increased Public Safety

Some residents supported the law because they were concerned that in certain neighborhoods, large groups of people with dogs and belongings had been obstructing the sidewalk. Residents were uncomfortable confronting these groups of people, and Sit/Lie provides the opportunity for police officers to “move along” these large groups and foster a safer environment.

Regional Context

In passing Sit/Lie, San Francisco joins a number of cities on the West Coast which have passed, or tried to pass similar laws prohibiting sitting and lying on the sidewalk. Several of these cities have faced major lawsuits challenging the constitutionality of the law. In several cases, the ultimate court decisions have upheld the ordinance, including *Roulette v. City of Seattle* (1996), *City of Seattle v. McConahy* (1997), and *Amster v. City of Tempe* (2001). In other cases, the law was struck down or modifications were required. These cases include but are not limited to *Berkeley Community Health Project v. City of Berkeley* (1995) which found that the law violated the first and 14th amendments, *Jones v. City of Los Angeles* (2006) which halted enforcement of the law at night when no shelter beds were available, and a ruling on Portland’s law by the Multnomah County Circuit Court which found the entire law to be unconstitutional because it preempted state law. See below for brief descriptions of other cities’ versions of the Sit/Lie Ordinance:

Seattle, Washington

In 1993, Seattle became the first city in the country to pass a version of the Sit/Lie Ordinance. Seattle’s law prohibits sitting and lying on the sidewalks only in the downtown area from 7am to 9pm, with exceptions for actions like waiting for a bus, participating in a demonstration, or watching a parade. When challenged in court in 1997, the Washington Court of Appeals upheld the law as constitutionally valid in *Roulette v. City of Seattle*.

Portland, Oregon

In 2002, Portland amended its ‘Obstruction as Nuisance’ guidelines to prohibit sitting and lying on the sidewalk. The decision prompted numerous protests and in 2004, a circuit court judge declared the law unconstitutional for being overly broad. Over the next five years, the law went through several iterations of revisions based upon input from a large committee of stakeholders. In 2009, a judge at the Multnomah County Circuit Court ruled that the city’s law was unconstitutional because it preempted state law and, therefore, ceased to be enforced. In 2010, the City Council passed a new sidewalks management plan which is overseen in part by a public Sharing Public Sidewalks Advisory Committee composed of government officials and a wide swath of community organizations. The committee serves as a watchdog over the implementation of the plan and holds regular meetings that are open to the public.

Berkeley, California

Berkeley passed an ordinance prohibiting sitting and lying on the sidewalk in 1994, but the Berkeley Community Health Project immediately challenged the law, and the court found the ordinance unconstitutional on account of violating the first and fourteenth amendments. In 1998, the City Council passed an ordinance solely prohibiting lying on commercial sidewalks which remains in effect. In 2011, the City Council discussed potentially creating a Sit/Lie ordinance modeled after San Francisco's, however there were several protests and the initiative is yet to take root.

Santa Cruz, California

Santa Cruz's sit/lie laws prohibit sitting and lying in commercial, central business, and tourist districts and clearly detail the areas where someone cannot sit on the sidewalk, including at any bus stop, within fourteen feet of any building, and within 50 feet of an ATM machine. It is currently in effect.

Palo Alto, California

In 1997, Palo Alto created a sit/lie ordinance which applied only to one commercial corridor modeled after Seattle's newly upheld law. In 2007, the city expanded the law to prohibit sitting and lying in the entirety of the city's downtown. In 2010, the law was challenged by a man who had been repeatedly cited for violating the law, but the law was upheld by a Santa Clara County Superior Court Judge. It is currently in effect.

II. IMPLEMENTATION

This section examines the individual components that make up the implementation of the Sit/Lie Ordinance, including an overview of Municipal Code Section 168, a description of the education and training police officers received before implementation began, and the exact processes of enforcement and penalties according to the SFPD directive. In addition, the section discusses the process of Service Referrals and how SFPD incorporates the "neighborhood outreach plan" required by the Sit/Lie Ordinance. The section concludes with a comparative overview of how Sit/Lie has been implemented differently in practice by Tenderloin, Southern, and Park police stations.

Municipal Code Section 168: The Sit/Lie Ordinance

An internal Operations Bureau Order dated February 14, 2011 outlines SFPD protocol on the implementation of Municipal Police Code Section 168 or the Sit/Lie Ordinance (See Appendix C). This directive highlights "discretion" as a major component of enforcement while establishing a standard police protocol for responding to people sitting or lying on city sidewalks. The directive defines sitting as "resting on the buttocks or haunches" and lying as "resting in a horizontal position... with at least one elbow or any other part of the upper torso using the ground for support."

Unlike the way many other Quality of Life laws are enforced, such as panhandling, public drunkenness or loitering, the language of the Sit/Lie Ordinance mandates a person be warned before they are officially cited for violating the law. SFPD's internal directive goes beyond the mandate of the Sit/Lie Ordinance by instructing officers to warn individuals *twice* pre-citation, first verbally, and then in writing. This ensures individuals are informed about the law before being cited, and as a result, a citation is commonly avoided. In addition, unlike other sections of the Police

Code, Sit/Lie is a law of general intent, meaning an officer is not required to collect a third party's complaint nor establish intent before taking action.

SFPD Education and Training

From November 2010 to March 2011, the time between passage of the ordinance and the start of enforcement, efforts were made by the San Francisco Police Department (SFPD) to educate the public about the terms and conditions of the law. During this time, the SFPD also conducted trainings for their officers on how and when to use the ordinance and the procedural process from issuing a verbal warning to a citation. Under SFPD standard operating procedure, implementation and enforcement of Quality of Life laws such as MPC 168(b) are largely the responsibility of beat cops at each individual SFPD station. While the terms of the Sit/Lie Ordinance apply citywide, each SFPD station and officer has the discretion to utilize MPC 168(b) when and if necessary.

Officers were required to attend a one day class on MPC 168 that involved a video presentation, clarifications on how to use specific police code forms related to Section 168a and a two page written directive on proper implementation of protocol (*See Appendix D*). Based on interviews with two different police stations and other supervising officers, education and training for Sit/Lie was more or less standardized across police stations³. There continue to be training bulletins and updates about MPC 168(b) issued periodically to patrol officers.

Service Referrals

Delivery of services to individuals in need is another component of the implementation process of the Sit/Lie ordinance. The language of the ordinance makes clear that services must be offered to an individual in violation and that a "neighborhood outreach plan" be developed to implement a service strategy. According to protocol, SFPD officers are directed, at the verbal warning stage, to determine if services might be appropriate. If an individual asks or the officer has reason to believe that a referral would be beneficial, the officer is directed to offer the person a referral for appropriate available services.

In practice, officers can rely on the SFPD 538 "Warning Notice," which contains contact information for the City's 311 call center (*See Appendix F*). According to Protocol, giving an individual this 311 contact information qualifies as an offer of services. However, as is detailed below, depending on station, many officers do not carry the SFPD 538 notices and services are not consistently offered either verbally or in writing to every violator.

In most cases, a service offer is made in writing, but if verbally offered, the individual can either choose to accept or refuse said offer. If refused, the violator must comply with the verbal advisement and move from the prohibited position. If the individual accepts services, the officer(s) contacts the Homeless Outreach Team (HOT), a team of Department of Public Health and Human Services Agency workers which works closely with the SFPD. Upon receiving the call, a HOT team is dispatched to the site of the violation. The officer remains with the violator until the HOT team arrives, after which the police transfer all responsibility and discretion to HOT. The HOT team makes a service assessment and offers a number of potential options to the individual.

³ Based on primary interviews conducted in November 2011 at Park and Southern police stations.

Process of Enforcement

According to the SFPD directive and MPC Section 168(b), when an officer observes an individual sitting or lying on a public sidewalk in violation of Section 168(b), there are four possible repercussions depending on the number and the time period of each offense:

- 1st violation: Verbal warning
- 2nd violation: Written warning
- 3rd violation: Citation
- Future violations within 24-hours OR within 120 days of Sit/Lie conviction: Misdemeanor

Verbal Warning

When an officer observes an individual sitting or lying on a public sidewalk in violation of Section 168(b) for the first time, they first must “verbally advise the individual of the law and request that the individual stand up.” This is considered a “verbal warning.” To assist officers with the verbal warning, a “Civil Sidewalk Advisory Notice” or SFPD 537 shall be given to the individual in violation (See Appendix E). This notice describes the terms of the Sit/Lie ordinance on Side 1, while providing a detailed list of exceptions to the law on Side 2. No personal identification information is recorded by the officer at this time. If the person receiving the verbal warning moves, that person is no longer in violation of Section 168(b). The officer shall take no further action at that time unless the officer can “articulate the specific and objective basis for believing that the subject has received a prior warning.”

Written Warning

When an officer observes an individual in violation of Sit/Lie on a second occasion, a written warning is issued *only after* an individual has first received a verbal warning. This determination is based upon prior empirical knowledge without verifiable or rebuttable evidence. Beat cop officers patrolling the streets must rely on personal memory to distinguish a repeat offender from a first time offender. A proper written warning requires the issuance of a double-sided MPC Warning Form #538 to the violator (See Appendix F). The warning is date and time stamped. A Case/CAD number is issued for tracking purposes. This is also the first time the violator is expected to self-identify. To complete Side 1 of the form, the officer needs the name of the violator and their signature. Side 2 provides a list of services available if an individual were to contact San Francisco 3-1-1. The relevance of Side 2 is discussed on the “Service Referrals” section.

Citation

After at least three violations by the same individual, the person is presumably issued a citation. A citation may be issued *only* upon verification and confirmation that an individual has received a prior written warning. To determine a prior offense, the officer will locate records of prior warnings or citations issued for a violation of Section 168(b), including a QALL query in the CABLE system. Station PSAs monitor the radio for officers running 919 subjects and shall review in-station copies of recent Section 168(b) reports. PSAs shall advise the investigating officer of any documented warning or citations for the subject. Upon verification of a prior written warning, a citation will be issued.

The first issued citation of Section 168(b) or Sit/Lie is an infraction and carries a fine of \$50-100 and/or community service. The individual might qualify for “cite and release” on the infraction charge. This is the most common

citation experience for violators. It is rare for an individual to be arrested upon issuance of a citation, unless a warrant for their arrest is discovered when verifying prior warnings issued for violating Section 168(b).

Misdemeanor

There are two ways in which an individual can get a misdemeanor for a Sit/Lie violation: 1) committing a fourth reported violation within 24-hours of the third offense, or 2) committing a subsequent violation within 120 days of being *convicted* for a prior misdemeanor in violation of Sit/Lie.

If an individual commits an offense under the first path and violates Section 168(b) *within 24 hours of being cited under Sit/Lie*, the infraction becomes a misdemeanor with a fine of \$300-500, community service and/or imprisonment in the County Jail for up to 10 days.

If an individual commits an offense under the second path and violates Section 168(b) *within 120 days of being convicted of a violation under Sit/Lie*, that incident is charged as a misdemeanor, with a fine of \$400-500, community service, and/or imprisonment in County Jail for up to 30 days. Any misdemeanor arrest requires a Sergeant to respond and be present on the scene to ensure that the misdemeanor charge is warranted.



Figure 1. Sit/Lie Enforcement Process as Described by MPC 168(b)

Implementation by Station

While the SFPD directive is intended to standardize implementation across all 10 SFPD police stations, the data on the number of warnings and citations issued by station reveals that each station handles MPC 168(b) violations (i.e. Sit/Lie violations) differently. To better understand the possible differences and nuances of the implementation process, we selected three stations – Park, Southern, and Tenderloin – based on their unique data samples and geographic locations.

While the SFPD directive is intended to standardize implementation across all 10 SFPD police stations, the data on the number of warnings and citations issued by station reveals that each station handles MPC 168(b) violations differently. To better understand the possible differences and nuances of the implementation process, we selected three stations – Park, Southern, and Tenderloin – based on their unique data samples and geographic locations.

As shown below, the number citations issued varied widely by station, ranging from 152 at Park Station to 0 at Tenderloin Station over the period of March to mid-December 2011. Because of this variance by station, we realized that the best way to properly document the implementation of Sit/Lie would be to research how officers enforce the ordinance on a station-by-station basis. See Figure 2.

Station	Citations issued (March – December 2011) ⁵
Central	33
Southern	43
Bayview	0
Mission	59
Northern	15
Park	152
Richmond	3
Ingleside	1
Taraval	0
Tenderloin	0

Figure 2. SFPD Data on Number of Citations by Station

The following descriptions of implementation practices are based on interviews with beat cop officers at Park, Southern, and Tenderloin stations. They are not intended to serve as a representative sample of implementation citywide, however with Park Station officers being the most prolific citation issuers and Tenderloin officers having issued none, these descriptions showcase the variance in implementation practices across the City.

Station 1: Tenderloin Station

A triangular area bordered by Geary, Market and Larkin streets, the Tenderloin Police District is the smallest of the ten district stations in San Francisco. Since March 2011, Tenderloin Station officers report using verbal warnings to discourage loitering on sidewalks and encourage mobility. However, as of mid-December 2011, data at SFPD indicates that Tenderloin Station has issued zero written warnings, zero citations, and zero bookings for a Sit/Lie violation. In interviews with officers at Tenderloin Station, many reported that in the hierarchy of police violations and crimes, sidewalk obstruction is not as serious of an offense and therefore is not readily enforced. Others argue that the ordinance begins as a useful enforcement tool, but as time goes on, the code requires more provisions and steps for documentation.

In addition to officer discretion, many community stakeholders mentioned local services such as the Community Justice Center and the Community Courts system as possible reasons why Tenderloin officers do not enforce Sit/Lie. Unlike the traditional Traffic Court system, the CJC is a collaborative court program in partnership with city agencies and community groups that “represents progressive reform to the current criminal justice system by addressing the primary issues facing the individual and not just their crime⁶.” The Justice Center is both a

⁵ These totals were generated by SFPD’s central internal tracking system which may not fully capture all citations issued. Data for Park Station was gathered from the station’s internal logbook which is more accurate. For more information on citation tracking, see Section D - Before and After Quality of Life Violations & Tracking Citations.

⁶ San Francisco Community Justice Center. *SFSuperiorCourt.org*. Retrieved March 9, 2012 from, <http://www.sfsuperiorcourt.org/index.aspx?page=96>

courtroom and social-service center that includes drug treatment, mental health programs, support groups, counseling, career development and job training. With the CJC based in the Tenderloin neighborhood, many community stakeholders have found it easier to refer previous Quality of Life violators to such a progressive and alternative program rather than citing certain codes like Sit/Lie.

Station 2: Southern Station

Located at the Hall of Justice on Bryant Street, Southern Station serves the South of Market, Embarcadero and China Basin areas. The Market Street corridor between 5th and 9th Streets is the primary area where Sit/Lie has been enforced by Southern Station beat cops in 2011. Before Sit/Lie, officers at Southern Station addressed the issue of sitting and lying by citing PC 640(d)(4) for obstructing the sidewalk. After Sit/Lie passed, officers began enforcing MPC 168(b) through verbal warnings. According to interviews, 15-20 verbal warnings were issued by Southern Station per shift in 2011, and 90% of those warnings were issued to the same offender.

The issuance of any citation is considered a non-custodial arrest. In the process of issuing a citation, identification is requested and a court date is issued. Once terms of the citation are agreed upon, a fingerprint is requested along with a signature. Once the individual signs the citation, they are released. If identification is available, the individual is cited and released. Without identification, the individual is brought to the station to confirm their identification. Violators typically do not spend the night in jail. Since many offenders do not have proper identification, the issuance of a citation creates an additional burden on the beat officer.

At Southern Station, the process of the verbal warning stage differentiates it from other stations. For example, if an individual is verbally warned for sitting on the sidewalk and immediately moves a few feet down the sidewalk and sits down again, such an action is considered a new violation and not a repeat offense. Because the process can restart every time an individual moves, the punishment cycle rarely moves beyond the verbal warning stage. This not only deviates from the direction of the SFPD February 14, 2011 internal directive on how to enforce the ordinance, but may also explain the high number of verbal warnings and yet lower number of citations issued by Southern Station beat cop officers.



Figure 3. Sit/Lie Enforcement Process as Implemented by Southern Station

Station 3: Park Station

Located at 1899 Waller Street in Golden Gate Park, Park Station serves the communities of Cole Valley, the Western Addition, Twin Peaks, Duboce, and the Haight-Ashbury. For its concerted efforts to promote public safety on Haight Street, Park Station played a significant role in the dialogue preceding the Sit/Lie Ordinance as well as its implementation after its passing. Given this area's historical reputation for panhandling and public loitering, it is well known within (and outside of) the SFPD that Park Station is one of the few stations vigorously enforcing the ordinance and attempting to utilize it as a tool for community improvement.

According to interviews with beat cop officers, enforcement at Park Station began in late February 2011. The following diagram demonstrates the enforcement process from verbal warning to citation at Park station:

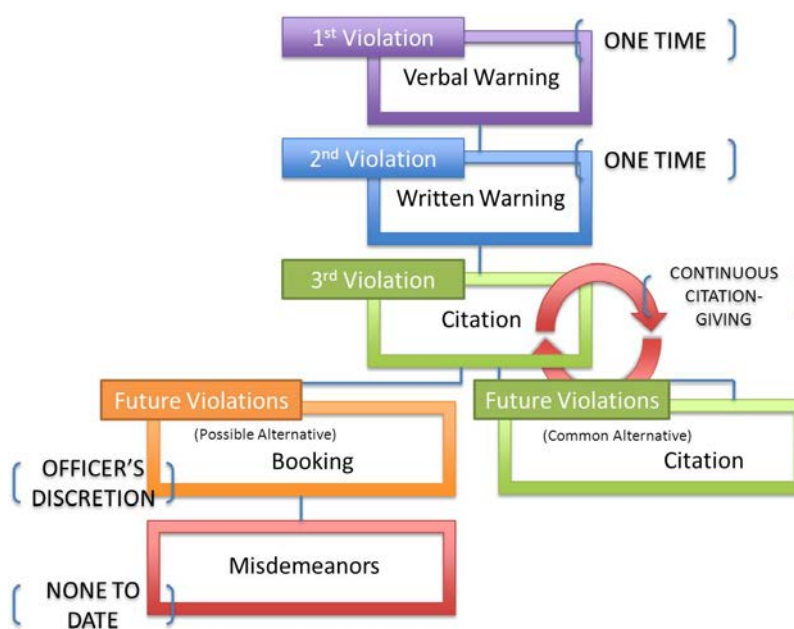


Figure 4. Sit/Lie Enforcement Process as Implemented by Park Station

At Park Station, beat cops reported that when a verbal warning is issued, the officer explains to the individual that they are in violation of MPC 168(b). The officer may make a note of the individual in their notebook by recording details about the person's identity (race, gender, approximate age, location, etc). If the individual complies with the officer's request to move along, then no further action is taken. If the individual is seen sitting or lying again in the same day, a written warning will be issued. Beat cop officers are given discretion regarding warnings and Park Station officers will often verbally warn the same individual a second time if it has been longer than 24 hours since their last violation. Beat cop officers report giving verbal warnings as often as every ten minutes during a shift on Haight Street in 2011.

At Park Station, verbal warnings are followed by written warnings only if an officer has explicit knowledge that a verbal warning has been issued previously. Documentation of any Sit/Lie violation, including written warnings, is recorded in a logbook at Park Station on a daily basis, making it the most accurate and reliable record of Sit/Lie

offenses. Verbal warnings, written warnings, citations, and bookings are all listed in the logbook by CAD number, making it easy to track offenses by individual, date, officer, etc. over time.

Similarly, if the individual already has a written warning on file at Park Station, the officer can issue a citation, which involves an incident report and a charge of an infraction. If, however, an individual is cited within 24 hours of a previous Sit/Lie citation or has been previously convicted of an infraction for Sit/Lie within the last 120 days, he/she can be charged with a misdemeanor.

If booking occurs, individuals are sent to the Hall of Justice where the Sheriff's department takes over. Park Station beat cop officers report that only a handful of individuals have been booked at Park Station. It is common for individuals to spend 1-4 nights in jail but then to re-appear on the street and re-offend again.

In general, for subsequent offenses, Park Station officers are able to decide on the appropriate response, which may include another citation, a booking, being held temporarily in Park Station's intoxication cell or simply a verbal warning. In practice, the majority of recorded offenses are for a small group of individuals who have been repeatedly cited, warned and booked in a cyclical, repetitive fashion.

Alternative interpretations of Sit/Lie's provisions have lead to three very different outcomes of enforcement as presented by the variance of implementation amongst Tenderloin, Southern, and Park Stations. Tenderloin Station recording zero citations and Southern Station creating an on-going cycle of verbal warnings is both telling and revealing of the discrepancies in enforcement. Park Station, on the other hand, demonstrates the closest adherence to the law's written provisions. It is with this finding that we narrowed the scope of the impact analysis to Park Station so we may better review the perceptions of success and shortcomings of the Sit/Lie Ordinance.

III. IMPACT ANALYSIS

Haight Street is not the only commercial corridor in San Francisco that deals with issues of sitting or lying, sidewalk obstruction, public loitering, panhandling or public drunkenness. However, the empirical data provided by SFPD indicates that Haight-Ashbury was the nexus of Sit/Lie enforcement citywide in 2011. With 152 citations, Park Station issued almost 6 times as many citations as the average number of citations issued by all 10 police stations in San Francisco. While the cause of this high issuance of citations could simply be correlated to a higher number of individuals sitting or lying, it must also be understood through a more in-depth analysis of police enforcement and its outcomes.

This section will discuss the varying number of warnings, citations, and bookings by police officers since the ordinance was implemented in March 2011. It will also reveal patterns of repeat offenders, service referrals, and the challenges the SFPD and other City agencies face in tracking this information efficiently and accurately. This section concludes with findings from a merchant survey conducted in November of 2011 along the Haight Street commercial corridor.

A. Park Station Analysis

As the epicenter of support for the Sit/Lie ballot measure and the seat of enforcement since its passage, Park Station offers a dependable case study of how Sit/Lie has been implemented since March 2011. According to Park Station beat cops, enforcement of MPC 168(b) occurs daily along Haight Street and impacts a wide swath of individuals and groups, such as merchants, residents and tourists, as well as transient youth, drifters, and the chronically homeless.

Tool for Beat Cops

Law enforcement stakeholders have argued that the Sit/Lie ordinance has provided a tool for police to more easily handle public disturbances on the street. Beat cops at Park station report that the law has assisted the efficacy of their jobs by providing a legal basis to approach individuals sitting or lying on the sidewalk and ask them to move along without having to issue a citation. Before Sit/Lie, SFPD officers report that they had little authority to ask individuals to “move along.” Since it was not illegal to sit or lie on the sidewalk, officers would have to identify another violation, such as public drunkenness or loitering, to remove the individual from their position of rest. However, there were specific challenges with these other police tools. Trespassing, for example, must occur on a person’s private property for it to be enforced. Vagrancy laws are no longer enforced, and loitering is hard to enforce without a posted placard restricting it.

Beat cops at Park station report that a verbal warning backed by the potential for legal escalation is strong enough to cause most individuals to “move along.” Cops report that these verbal warnings were especially effective with younger people passing through Haight-Ashbury during the summer concert season. Beat cops at Park Station report that individuals will even often stand up and start walking as soon as they see police officers walking or driving nearby. In this way, the law has aided Park Station officers' ability clear the street of people sitting and lying without having to make an arrest or issue a citation for some other crime.

Logbook Data

According to logbook data obtained from Park Station, in the first nine months of implementation, officers at Park Station issued 70 formal written warnings, 152 citations and booked individuals 10 times for violations of Sit/Lie. Beat cops also report frequently giving verbal warnings, but these are not tracked or recorded. Beat cop officers at Park Station record all written warnings, citations, and bookings issued for violations of Sit/Lie in a logbook for purposes of documentation and for tracking repeat offenders.

An analysis of the data indicates that the issuance of written warnings declined sharply from March 2011 to December 2011. Beat cops explained this decline as due, in part, to an increase in public awareness of the law and because the most common violators of the law had been previously warned. While warnings have decreased, the number of citations issued has varied widely over time. Yet, since August 2011, citations have become the primary instrument of enforcement at Park Station. See Figure 5 below. After an individual has been cited once for violating Sit/Lie at Park Station, they are disproportionately likely to be cited again.

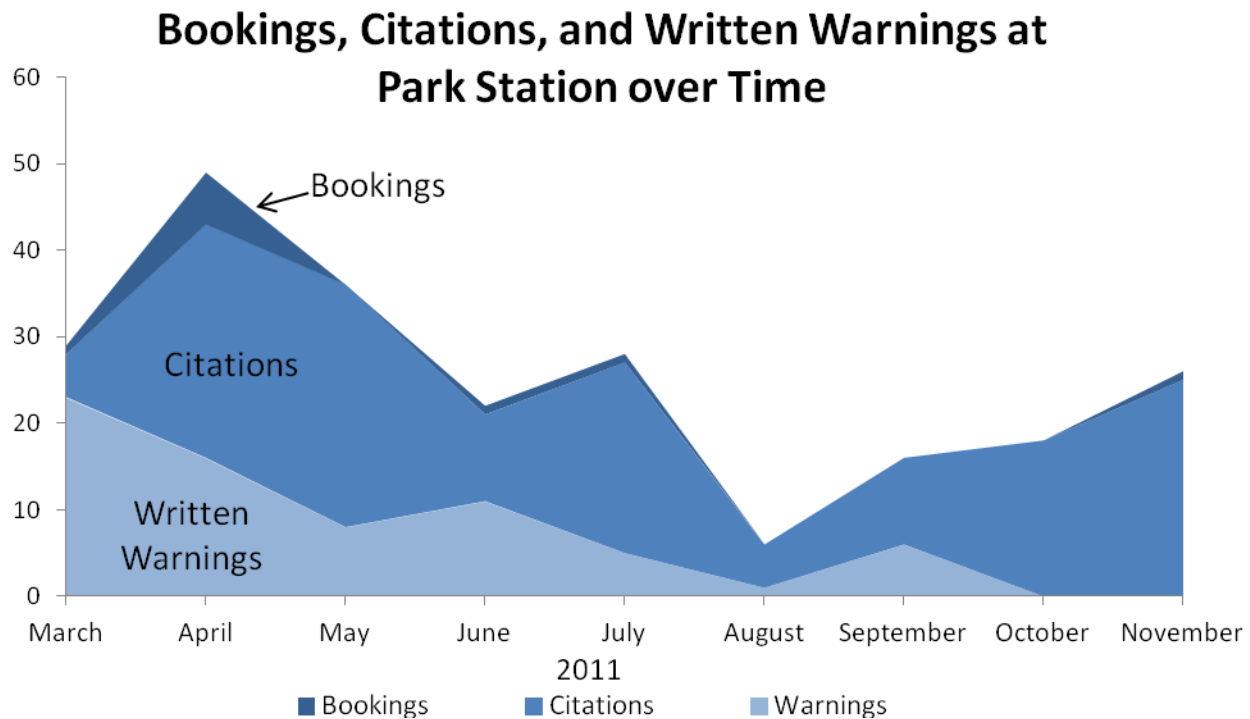


Figure 5

B. Repeat Offenders

Reports from beat cops and evidence gathered from the Park Station logbook indicate that the law has not been successful at addressing the individuals who most persistently violate the law. Over 90 percent of citations issued in the first nine months of the law's implementation were to 19 repeat violators, and more than half were issued to just four individuals. See Figure 6.

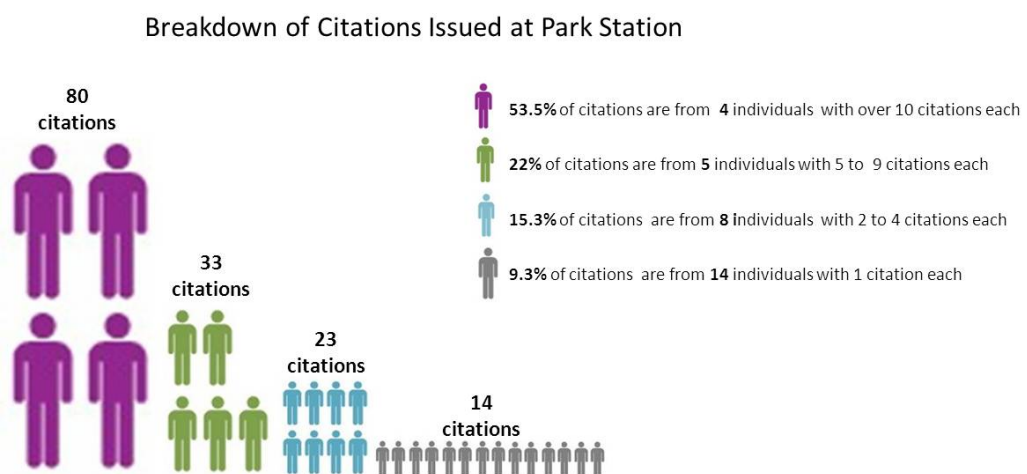


Figure 6

According to MPC 168(b), if an individual has been issued a citation and convicted of an infraction, subsequent offenses are punishable by a misdemeanor. However, as of December 2011, despite the high number of repeat

offenses, no individuals have been convicted of misdemeanors for violating Sit/Lie. The lack of misdemeanor convictions is due in part to the fact that relatively few Quality of Life citations are formally adjudicated in a timely manner, if they are adjudicated at all. According to a study by the Controller’s Office in 2010, it takes approximately 140 days for a protested citation to be scheduled for arraignment and 291 days for it to be scheduled for trial.⁷ This results in a high probability that individuals will fail to appear and that officers will have difficulty remembering the details of the charge. The Controller’s Office found that the defendant does not appear at more than 20 percent of arraignments for Quality of Life citations and that nearly half of protested Quality of Life citations cases are dismissed⁸. Since so few cases have been charged, individuals may not view repeatedly violating the law as a significant risk.

Park Station beat cops report that the most frequently cited individuals are chronically homeless individuals who live in Golden Gate Park and on the Haight Street Corridor. These individuals are generally not the transient youth cited in much of the debate prior to the law, but rather an older homeless population, many of whom suffer from both mental and physical health conditions, and may have a history of substance abuse. The individuals formally warned or cited for violating Sit/Lie are of a wide range of ages, and 37 percent are under age 30. However, most repeat offenders are older, and over 85 percent of citations were issued to individuals over age 30. See Figure 7 below.

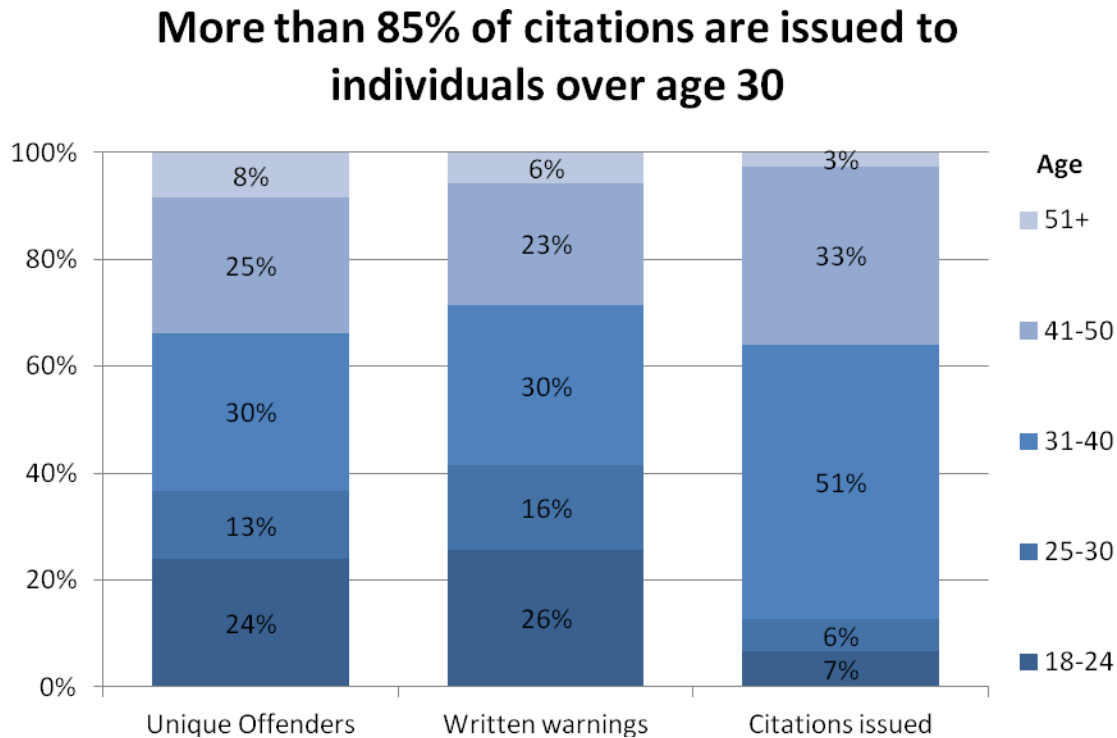


Figure 7. Breakdown of Sit/Lie Offenders by Age

⁷ *Traffic Citation Tracking and Reporting Process and Improvements*. (2010). City and County of San Francisco: Office of the Controller.
⁸ A dismissal occurs because either the defendant is found not guilty, has proof of participation in a qualified social service, the officer does not appear or the officer does not recall the details of the charge.

Despite the older age demographic presented above, individuals older than 30 years old in the Haight may have difficulty accessing social services as the two closest community-based organizations are specifically geared towards youth. For this older, chronically homeless population, the initial citation may pose a significant threat. Unpaid fines or failure to appear in court can result in an arrest warrant. These individuals generally do not have the means to pay a \$50-100 fine without significant sacrifice. However, once that initial arrest warrant has been issued for unpaid fines, subsequent violations of the law bear a less meaningful penalty. Each additional citation simply adds to the fines accrued, which have become somewhat meaningless as they will never be paid. Indeed, several individuals accrued unpaid fines over \$20,000. While the threat of arrest and being booked in jail remains, Park Station beat cops report that those with severe health conditions may not be able to be held in jail for more than a few days. The result is a repetitive, cyclical style of enforcement where a handful of severely vulnerable individuals are repeatedly cited and, even on occasion, taken into custody. For the most vulnerable populations, this policing strategy has failed to result in significant behavioral change.

C. Referrals to Services

As mandated by the Sit/Lie Ordinance, Section 168(g) of the Municipal Police Code requires that the City “maintain a neighborhood outreach plan to provide the social services needed by those who chronically sit or lie down on a public sidewalk.” The offer and delivery of services is a critical component of the ordinance, yet the ordinance itself provides minimal guidance as to how such services should be administered or provided. The vagueness of the law has created an ambiguity of responsibility, which has been left to the SFPD and the City’s Homeless Outreach Team (HOT) to determine.

The language of Section 168(g) dictates that the outreach plan “will include, but not be limited to, health care and social service capacity, evaluation of service delivery and identification of areas for improved service delivery.” Since implementation of the ordinance began in March of 2011, no outreach plan to deliver these services has been formulated to respond specifically to individuals in violation of the Sit/Lie Ordinance. The SFPD has relied upon its own service referral process alongside the general outreach plans designed by the city’s Homeless Outreach Team, a program overseen by the San Francisco Department of Public Health, to engage individuals on the street in need. The Homeless Outreach Team’s role is strictly referral oriented for violators of Sit/Lie. SFPD officers are instructed to refer individuals in need to the HOT team, and therefore, they frequently work in collaboration to assist individuals who chronically sit or lie on the sidewalk. In theory, the Sit/Lie ordinance provides an opportunity for individuals on the street to be connected to the services they need. In practice, there is limited evidence that indicates the ordinance has been used in this way.

In fact, there was no data collected in 2011 to determine the number of service referrals made by SFPD officers enforcing Sit/Lie or a methodology for tracking the individual outcomes of such referrals. Without evidence to bear on the type or frequency of services offered, it is difficult to determine the ordinance’s overall success at connecting individuals on the street with the services they may need.

In the majority of Sit/Lie enforcement scenarios involving a verbal or written warning, the HOT team is most often not contacted. However, based on the SFPD officer’s discretion, the HOT team may be contacted to report to the scene if an individual requests services or if the officer believes the individual is in danger of harming themselves or others. Once members of the HOT team arrive on scene, the SFPD officers transfer responsibility entirely to HOT and usually vacate the scene. The HOT team then offers the individual services. According to a HOT team member,

if the individual refuses services, then the individual is free to carry on and HOT will attempt to follow-up at a later time. If individuals accept services, they accompany HOT to be connected to services.

There are 4 types of services a HOT team member is typically able to offer an individual on the streets: 1) a shelter bed (if available) 2) stabilization room (SRO's where people can stay indefinitely) 3) Urgent care/medical care 4) GA intake, public benefits sign-up. According to a Controller's Office Memo from 2010, an equal percentage of individuals contacted by HOT either declined services (46%) or accepted information and referral services (46%) such as shelter, legal services, substance abuse treatment, Project Homeless Connect, and Homeward Bound.⁹ Only two percent (2%) of those "connected" were placed in a stabilization room, the sobering center or were provided transportation to shelter. The acceptance of an offer of services, however, does not guarantee service availability or connection, particularly in regard to temporary or permanent housing. The lack of tangible and accessible services may correlate to the high rate of refusals (46%).

Members of the HOT team assert that the "planned" outreach mandated by the Sit/Lie ordinance is occurring at each individual police station. According to a HOT team member, the beat officers are overseeing the "outreach" and are identifying the "homeless hot spots." The Mayor's Office also has a list of hot spots it identifies each month (or periodically). HOT also has hot spots based on homeless counts where they find individuals the most. All of these hot spots are likely to be areas where Sit/Lie violations are occurring. However, it is not possible to currently confirm this.

The high rate of repeat offenders and low rate of referral to services might be understood as an outcome of the current model of service outreach. There is also no way to determine the number of referrals that have been made by SFPD or HOT for a Sit/Lie violation as this is not currently being tracked or documented. Under the current "outreach" structure, it is impossible to know if individuals, after violating Sit/Lie and accepting services, end up in housing or under medical care or are enrolled in public benefits.

D. Before and After Quality of Life Violations & Discrepancies in Tracking Citations

An analysis of Park Station's enforcement of the Sit/Lie ordinance since March 2011 reveals some of the challenges the ordinance has faced as a tool for beat officers and a mechanism for service referrals. While enforcement has generated a significant percentage of repeat offenders, further conversations with SFPD, the Homeless Outreach Team, and the Human Services Agency confirm that there is not an existing system to track or document the number of service referrals that result from Sit/Lie's enforcement. Such findings raise the question as to whether Sit/Lie is in fact improving public safety and resulting in fewer quality of life violations throughout the city.

Impact on Quality of Life Citations

Of the many intended purposes of the Sit/Lie ordinance, many proponents of the law anticipated it would lead to a reduction of quality of life violations such as aggressive panhandling, public drunkenness, and public nuisance. Stakeholders viewed the ordinance as a unique mechanism to disrupt people from sitting and lying on sidewalks without immediate punitive consequence, which then serves as a deterrent for further infractions.

⁹ *Haight Ashbury Neighborhood: Summary of Information About Homelessness, Services, Citations, and Public Perception of Crime* (2010). City and County of San Francisco: Office of the Controller.

To analyze whether the implementation and enforcement of Sit/Lie reduced quality of life violations, we attempted to conduct a comparative analysis between the number of quality of life infractions before and after Sit/Lie was implemented. However in the process of acquiring the necessary data to conduct the comparative analysis, it became apparent that the quality of data available to complete a confident analysis did not exist¹⁰. The City’s internal citation tracking process is a 3 step process. Once a citation is issued, it is first recorded at the station level (Park Station), then the department level (SFPD), and then citywide (Human Services Agency). Although we obtained data that determined the total number of infractions for violations such as public drunkenness, loitering, illegal camping, and Sit/Lie from all three “steps” of the tracking process, the overall total outcomes for the same type of infractions proved to be significantly different. Such discrepancies lead us to challenge the value of the data obtained and question the accuracy of the existing system in which citations like Sit/Lie are being tracked. This discovery in our research halted any further progress on the intended comparative analysis and instead prompted a more critical look at the City’s system of tracking citations.

Tracking Violations

The current system and process SFPD operates to document and track citations is vulnerable to inaccuracy, and therefore unreliable. Through interviews and on-site visits with SFPD, we were able to compile primary data that tracked a citation’s lifespan from its initial issuance to its final documentation by the San Francisco Human Services Agency (HSA). Processing a citation broadly exists in three steps: 1) station level documentation (e.g. Park Station’s logbook), 2) department level documentation (e.g. SFPD’s database), and 3) citywide documentation (e.g. Human Services Agency). Taking citations issued by Park Station as a proxy, it is apparent that citations that were initially issued at the station level are not accurately tracked or documented once information is transferred to SFPD and on to the Human Services Agency.

Step 1: Station-level Documentation - Park Station

In November 2011, as part of field research, our group spent one day interviewing Park Station beat cop officers who are responsible for enforcing quality of life laws, such as the Sit/Lie Ordinance, on Haight Street. Because the ordinance mandates that each Sit/Lie violation must be given a verbal warning prior to written warnings and citations, Park Station requires officers to enter daily Sit/Lie related handles into the station’s logbook after every shift. The logbook documents and tracks information by CAD number and includes the type of violation (i.e. warning, citation, booking) and information about the identity of the offender. Since February 2011, Park Station has kept a comprehensive logbook of all Sit/Lie citations¹¹. As Figure 8 shows, since mid-March when the ordinance was first implemented, Park Station beat cop officers have collectively handed out and documented 152 Sit/Lie citations.

Station	Total Citations
PARK	152

Figure 8. Park Station Log Book of Sit/Lie Citations
(Mid-March – Early November 2011)

¹⁰ Data on Homeless-related, “Person-Down,” and Sit/Lie calls were provided by SFPD, but similar codes were not provided by Park Station or the Human Services Agency. From the data provided, discrepancies of tracking were apparent.

¹¹ The dates of data collected from Park Station’s logbook and referenced in this report begin in mid-March and end in early November 2011.

Step 2: Department Level Documentation – SFPD

At the end of each shift, SFPD officers verbally report to a higher ranked officer the total number of citations issued during their shift. Hard copies of the citations are then deposited into an envelope, basket or a box, where they remain until they are transported to the Hall of Justice at 850 Bryant Street where they are recorded into a database. Because this process is highly dependent on timely and thorough communication, the total numbers transferred from the station level to the Hall of Justice are not always accurate. Factors like time-lag, physical transfers, and paper documentation, contribute to the inconsistency in total citations from the numbers recorded at each station to the totals entered into SFPD’s database at the Hall of Justice.

A designated person at the district station compiles the officer-reported citation counts. This information is then reported to various internal entities to meet reporting requirements. According to the Controller’s Office, the SFPD may be under-reporting citations by up to 14 percent, which could be due to common errors associated with self-reporting and manual tracking.¹² Figure 9 reveals the inconsistencies in citations by station. As is evidenced, the 152 citations documented on the station level by Park Station’s logbook is greater than the 115 total citations documented at the Hall of Justice.

Station	Total Citations
CENTRAL	33
SOUTHERN	43
BAYVIEW	0
MISSION	59
NORTHERN	15
PARK	115
RICHMOND	3
INGLESIDE	1
TARAVAL	0
TENDERLOIN	0

Figure 9. SFPD Sit/Lie Citations
(January – mid-December 2011)

Step 3: Citywide Documentation – Human Services Agency

To better understand social service needs, the Human Services Agency (HSA) produces an annual report on the number of Quality of Life law violations citywide. According to a policy analyst at HSA, the data compiled for the report is based on citation information obtained from the SFPD. Presumably after documentation by SFPD at the Hall of justice, a representative at SFPD sends data directly to HSA for citywide reporting purposes. In early 2012, HSA provided their annual findings of Quality of Law violations, which included a total of Sit/Lie citations, for 2011.

As Figure 10 shows, for the year 2011, HSA documented a total of 35 Sit/Lie violations citywide over 12 months. Despite having data from the largest geographic scope and longest range of time, the Human Services Agency documented an astonishing small number of Sit/Lie citations, 35 compared to the 269 documented by SFPD.

¹² *Traffic Citation Tracking and Reporting Process and Improvements*. (2010). City and County of San Francisco: Office of the Controller.

Total Citations	
Citywide	35

Figure 10. Human Services Agency (HSA) Sit/Lie Citations
(January – December 2011)

Over 75% of Sit/Lie citations issued on the station level were undocumented by the Human Services Agency. A report published by the San Francisco Controller’s office in December 2010 made specific findings and recommendations regarding the processing of infraction-level offenses, from citation issuance by the SFPD to final disposition in the San Francisco Superior Court Traffic Division. It was determined by the Controller’s office that the SFPD uses an “irreconcilable and outdated systems to track infraction-level offenses, creating reporting inconsistencies and overall process delays.”¹³ Without further oversight and cross-checking, data representing the total number of Sit/Lie citations generated by the current system will most likely “fall through the cracks” and lead to inaccurate and misleading outcomes as is indicated by Figure 11.

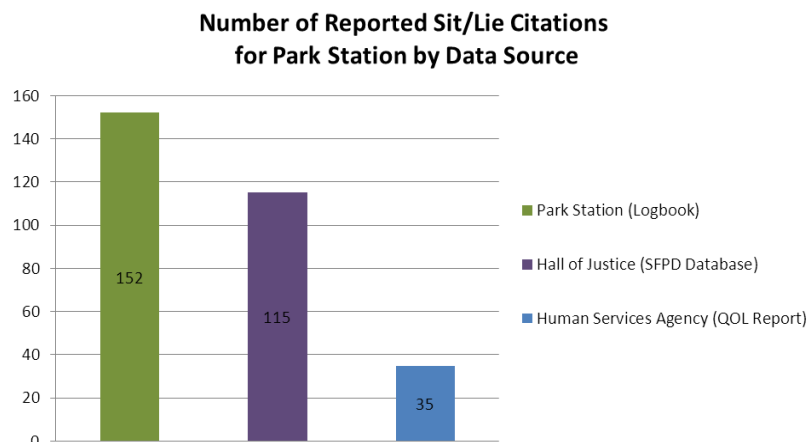


Figure 11

E. Merchant Surveys

A one-time cross-sectional survey of various merchants in the Haight-Ashbury commercial corridor was designed, conducted, and analyzed to assess the effectiveness and impact of the Sit/Lie Ordinance on the merchant community.

Given the limited resources and time for citywide surveying, the survey sample was limited to include the scope of the Haight-Ashbury merchant community. Although the Sit/Lie Ordinance received various support and opposition from other merchant communities, the historical attention to the issue in the Haight-Ashbury merchant community makes it an ideal corridor to survey merchant-specific perspectives of the Sit/Lie Ordinance. Those referred to as “merchants” in the following sections are storeowners and employees with businesses located in the “central” and “upper” Haight Street region, beginning at Central Avenue and ending at Stanyan Street.

¹³ *Traffic Citation Tracking and Reporting Process and Improvements*. (2010). City and County of San Francisco: Office of the Controller.

Survey Design & Methodology

The survey consisted of 26 questions designed over a one week period. Each question was designed to gauge opinions and perspectives on perceptions of change after the implementation of Sit/Lie. Amongst the 26 questions, merchants were asked about their work history in the Haight-Ashbury neighborhood, background information on their business, their experience with the Sit/Lie Ordinance, and their perceptions of the Sit/Lie Ordinance (See Appendix G).

The survey process was conducted by two groups of two surveyors each who verbally asked each question face-to-face with every participating merchant. Surveys were administered in a drop-in manner with one surveyor asking the survey questions and the other noting each participants' answers and comments. To avoid the possibility of social desirability bias, surveyors remained consistent in their rapport, syntax, and tone while administering each survey. Each survey, including introduction, questions, and debrief, lasted an average of 5-20 minutes. The survey was conducted on one Friday and one Saturday afternoon from the hours of 11:00am-5:00pm in November 2011. Over the two-day period, 85 merchants participated in the survey, 15 were unable to participate, and 6 declined comment.

Data Collection & Analysis

The survey data from each participating merchant survey was codified based on answer-type and entered into a separate data spreadsheet. Each answer was codified based on the numerical value given (number of months, years, weeks, times per week) and descriptions such as "sometimes," "never," and "always" were applied comparable numerical values. The survey data was logged in a series of categories, which included business name, business address, length of time at property, employee position, and length of employment.

For questions regarding general observations and feeling, all survey answers were considered viable and material enough to be included in the data sample. For questions pertaining to specific periods of time and change over time, variables such as months/years of employment were controlled to include only those employed for at least a year or longer. For questions inquiring the explicit impact of the Sit/Lie Ordinance, the sample was controlled to include only merchants who had worked in the Haight-Ashbury neighborhood for at least a year, and knew of or were familiar with the Sit/Lie Ordinance. Due to such controlled factors and contexts, the number of surveys comprising the data sample varies depending on the content of the question.

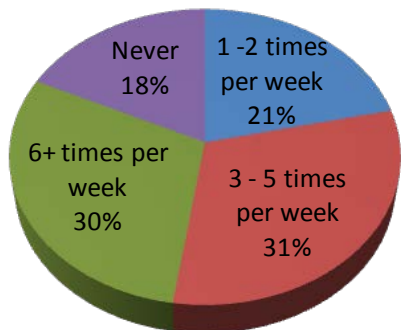
Although the survey data reveals various implications of the effectiveness of Sit/Lie on the Haight-Ashbury merchant community, the analysis sheds light on three basic questions: 1) Is sitting or lying a continuous problem in the Haight-Ashbury corridor? 2) Has the volume of people sitting or lying on the sidewalks changed since the implementation of Sit/Lie? 3) Do merchants view Sit/Lie as being effective at abating people from sitting and lying on the sidewalks?

The data collection and analysis reveal the following outcomes:

1. About 60% of merchants in the Haight-Ashbury observe people sitting or lying in front of their businesses 3 or more times a week, 30% of which observe such acts almost every day.
2. About 58% of merchants in the Haight-Ashbury claimed to observe the same or an increase in volume of people sitting or lying in front of their businesses since the implementation of Sit/Lie, 11% of which describe as a greater increase.

3. About 60% of merchants in the Haight-Ashbury believe that Sit/Lie has not been effective at abating aggressive panhandling, soliciting, or loitering in the proximity of their businesses.

How often do people currently sit or lie in front of your business?



Source: Survey of 84 Haight Street merchants

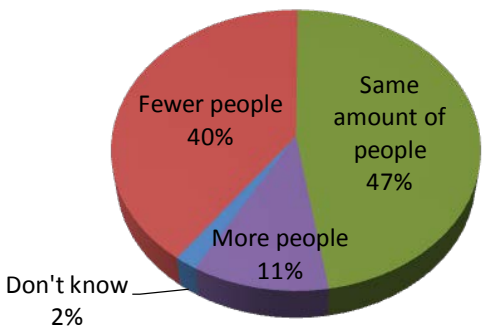
Figure 12. Volume and Frequency of People Sitting & Lying in Front of Businesses

In the merchant survey, employees were asked to describe the number of times a person sits or lies on the sidewalks in front of their businesses on a weekly basis (see question 7). From the perspective of the merchants, this question aims to illustrate the numeric “problem” of people sitting and lying on sidewalks in the Haight-Ashbury commercial corridor. Because this question relates only to general observations and perceptions, all surveys were considered viable and material.

As shown in Figure 12, amongst 84 viable surveys, 18% rarely or never observe people sitting or lying in front of their businesses, 21% answered 1-2 times a week, 31% answered 3-5 times a week, and 30% answered 6 times or greater per week. This means that as of November 2011, a majority (>50%) of merchants continue to observe people sitting or lying on the sidewalks in front of their businesses at least 3 days a week.

Though Figure 12 reveals the current state of behavior pertaining to sitting and lying, it does not particularly address change over time. Figure 13 illustrates change relating to volume and better assesses whether the Sit/Lie Ordinance affected behavior after its implementation in March 2011.

Since March 2011, how has the volume of people sitting or lying outside your business changed?



Source: Survey of 55 Haight Street merchants

Figure 13. Change in Volume of People Sitting & Lying Since March 2011

In the same survey, employees were asked to describe their perceptions on the change in volume of people sitting or lying on the sidewalks outside of their businesses since the implementation of Sit/Lie (see question 8). This questions aims to illustrate how the volume of people sitting or lying on the sidewalks has changed over time, particularly since the implementation of Sit/Lie in March 2011. Because this questions reveals a change over time, only surveys answered by employees who have worked in the Haight-Ashbury corridor for a year or longer are considered a valid part of the sample.

As Figure 13 reveals, out of 55 survey responses, 11% of participants described the change in volume as “more people” since March 2011, 40% described “less people,” 47% see no change, and 2% had no response in regards to change in volume. Therefore, in terms of changes in volume, nearly half of participating merchants do not observe a significant difference of people sitting or lying since the implementation of the Sit/Lie Ordinance in March 2011.

Despite the findings in Figures 12 and 13, general observations of volume and change do not specifically address perceptions of effectiveness. Outcomes in Chart 3 reveal the direct opinions of merchants when asked whether they believe Sit/Lie has been effective at abating the occurrence of other Quality of Life violations.

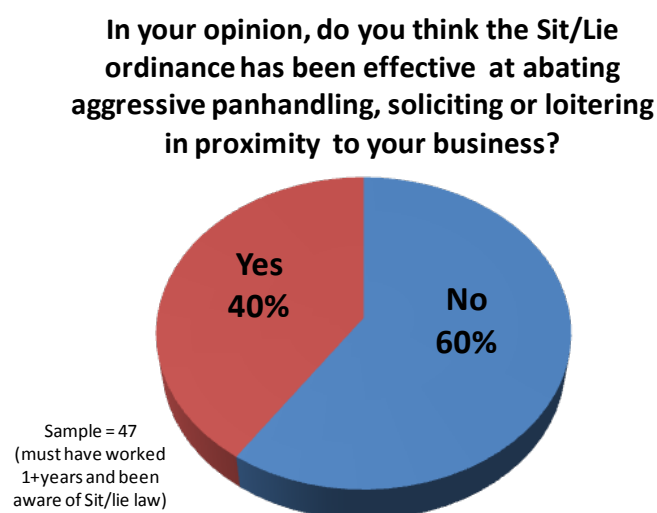


Figure 14. Merchant Opinion of the Effectiveness of Sit/Lie

In the same survey, employees who are familiar with the Sit/Lie Ordinance were asked whether they believe the ordinance has been effective at abating aggressive panhandling, soliciting, or loitering in front of businesses (see question 21). This question aims to capture the direct merchant opinion of how effective the Sit/Lie ordinance has been in the Haight-Ashbury merchant community. Because the question asks about Sit/Lie directly, employees must have worked in Haight-Ashbury for at least a year or longer and have knowledge or familiarity with the Sit/Lie Ordinance to be considered a valid part of the survey sample.

As Figure 14 illustrates, out of 47 viable surveys, 60% of participants do not believe the Sit/Lie Ordinance has been effective in deterring future violations of other Quality of Life violations, specifically abating aggressive panhandling, soliciting, or loitering in the vicinity of their businesses. Therefore, as of November 2011, over a majority of merchants believe the Sit/Lie Ordinance has not been effective.

F. Impact Analysis Summary

The survey data compiled from the Haight-Ashbury commercial corridor reflects a neighborhood divided on the effectiveness of Sit/Lie as a municipal tool to combat sitting or lying on sidewalks. It has been well documented that the Haight-Ashbury neighborhood, and especially Upper Haight Street, has been particularly affected by issues of homelessness, public drunkenness, and aggressive panhandling for a number of years. The neighborhood's frustration over the lack of improvement on this issue was vocalized in 2010 when the Haight-Ashbury Improvement Association overwhelmingly supported Proposition L.

In the face of this push by the community to resolve these quality of life issues in Haight-Ashbury, Park Station took a leadership role in implementing the Sit/Lie Ordinance after its passing. In addition, with the frequent issuance of verbal and written warnings on Haight Street, individuals have become savvy to the law and will rise or move along upon sight of a beat cop. Many have possibly moved on to adjacent sidewalks, private businesses, or public spaces where the law cannot be enforced (i.e. Golden Gate Park). But many have remained in Haight-Ashbury neighborhood due to its culture of inclusivity and its reputation as a haven for what is counter-cultural or unconventional. Many merchants pointed to the Haight-Ashbury "culture" as the biggest deterrent to the effectiveness of a law similar to the Sit/Lie Ordinance taking root in that community.

Yet, other neighborhoods where sitting or lying occurs as consistently have simply chosen not to enforce the Sit/Lie Ordinance. With no citations issued, Tenderloin Station's numbers have indicated a clear decision to not enforce the ordinance in an area many would consider a prime target of its application. According to interviews with beat cops, the Tenderloin station has chosen to utilize other police tools to combat sidewalk obstruction and public loitering. Tenderloin station's lack of enforcement could be in response to the ordinance's "soft" approach on the issue, that is, its protocol for providing multiple warnings before a citation is issued. It could also indicate the redundancy of the ordinance considering the Municipal Police Code already offers an array of tools to combat street violations similar to and/or including sitting or lying on the sidewalk. Tenderloin Station's non-enforcement might also be correlated to the Community Justice Center and the community court approach system that exists in the neighborhood.¹⁴

Excluding the Tenderloin, enforcement by station in 2011 varied greatly by geography, density, proximity to public transportation, and the pedestrian friendliness of a given area. Stations such as Taraval, Bayview, Ingleside, and Richmond all issued between zero to three Sit/Lie citations in 2011. While these areas of the city each possess commercial corridors, sitting or lying does not empirically seem to be a major issue in these communities. For Mission, Northern, Southern, and Central stations, Sit/Lie has been reasonably enforced but with unverifiable outcomes. The data indicates that enforcement has occurred but there is not information at this time that indicates whether or not the results have been successful at abating sidewalk obstruction. To make a stronger determination, assessment of the police station logbook data, performing unbiased merchant surveys, and beat cop interviews would need to be conducted in order to more concretely understand the enforcement outcomes in these stations. Given the quantitative and qualitative data that has been presented in this report, with an emphasis

¹⁴ The Community Justice Center (CJC) is a community court and social services center serving the Tenderloin, Civic Center, Union Square and SOMA neighborhoods in San Francisco. The community court component hears an average of 80 cases per day, while also addressing the underlying problems that keep defendants in the justice system by linking them to services. The service center component provides opportunities for clients to access case management, housing services, on-site support groups, and many other services.

on Park Station as the nexus for this ordinance, the following section will capture the major inefficiencies in the ordinance and present recommendations for improvement.

IV. RECOMMENDATIONS

Based on the data presented in this report and the interviews that were conducted with city leaders, community members, and merchants, there are several aspects of the enforcement of the Sit/Lie Ordinance that have hindered its effectiveness. The following details a list of proposed recommendations that, if implemented, could increase the effectiveness of enforcement:

- 1. Convene a task force consisting of government agencies, residents and community organizations to rethink how to ensure that sidewalks are safe and accessible to all San Franciscans, and that immediate, tangible services are offered at all times.** Implementation of the Sit/Lie Ordinance has resulted in outcomes that indicate it has fallen short of its intended purpose. The same people are being repeatedly cited, a majority of Haight Street merchants do not believe the ordinance is effective, and most offenders are not being connected to services. Convening a task force of both those implementing the law and those affected by it could allow for the development of innovative solutions and ongoing improvements based on 1) the most accurate data as provided by the SFPD and other agencies, and 2) the collective community knowledge of residents, merchants, and service practitioners who encounter Sit/Lie on a daily basis. This group could address issues such as: how to improve tracking and connection of people to services; how to support the needs of repeat offenders; and how to break the cycle of citing people who do not have the means to pay fines, putting them in jail, and releasing them back to the streets where they re-offend. Portland, Oregon has piloted a similar body with its Sharing Public Sidewalks Advisory Committee, a monthly public forum where City officials, community organizations and residents meet to express concerns about the implementation of Portland's Sidewalk Management Plan, share ideas to address challenges and develop actionable solutions. If a similar task force were to be adopted in San Francisco, it could lead to alternative, community-based solutions to ensure that sidewalks are safe and accessible to all San Franciscans.
- 2. Work to ensure that immediate, tangible services are offered to people sitting or lying on the sidewalks and implement a system to track connections to services.** In most cases, the services being offered to individuals sitting or lying on the street are illusory or inconsequential. The Sit/Lie Ordinance requires a neighborhood outreach plan to connect people to social services. This plan has been replaced by an informal working relationship between SFPD and the Homeless Outreach Team. However, in a majority of Sit/Lie scenarios involving a verbal or written warning, the HOT team is not contacted and no tangible offer of services is made. HSA, DPH and community based organizations, perhaps through the taskforce above, should assist SFPD in developing a solid, accountable framework for immediate service referrals.
- 3. SFPD should improve its processes for tracking violations in order to ensure that the most reliable data is used to evaluate large-scale trends and connections to services.** The SFPD's internal tracking system has been prone to inaccuracy, which creates a ripple effect of inaccuracy when this data is reported and consumed by the SFPD, other City agencies, and the public. SFPD needs to review its processes for

inputting and transferring data into its centralized data system to ensure that all violations are accurately accounted for and can be tracked on an individual, station-level and citywide basis.

4. **Given the current cycle of repeat offenses, every offender should have the option to go to community court or the Community Justice Center (CJC). If an individual receives more than one citation, they should automatically be referred to the Community Justice Center.** Repeatedly citing individuals who cannot pay fines does not break the cycle of repeat offenses. Alternatives to jail time should be offered in order to directly connect people with services. Currently, Tenderloin Station sends the most number of quality of life violators to the Community Justice Center. However, any station or SFPD officer within the City can send a violator to the CJC. In practice, few do. To abate the cycle of repeat citations, we support 1) increased referrals to the CJC to adjudicate low-level offenses 2) the establishment of community courts citywide modeled after the Community Justice Center.

V. CONCLUSION

Since March 2011, the Sit/Lie Ordinance has been used by the SFPD, with varying results, as a tool to increase public safety and sidewalk accessibility while reducing loitering, panhandling, and other behavior on San Francisco sidewalks. To best assess the overall impact of the ordinance, four metrics, derived from the intentionality of the ordinance itself, were identified. From a critical analysis of the Sit/Lie ordinance's genesis, data derived from the SFPD regarding the law's implementation, and in-person interviews conducted with stakeholders to best gauge its success, the main intentions of the Sit/Lie Ordinance can be distilled into four basic points:

1. **Improve undesirable situations for merchant communities;**
2. **Serve as a tool for police officers to enforce no sitting or lying on sidewalks;**
3. **Outreach and connect services to those on the streets; and**
4. **Increase public safety for concerned residents and tourists.**

While it can be argued that the Sit/Lie Ordinance has achieved many of these purposes since March 2011, the evidence indicates that the law has yet to fulfill its intentions to the fullest extent.

For the merchant community, the survey outcomes and analysis from the Haight-Ashbury neighborhood reveal that a majority (60%) of merchants do not believe Sit/Lie has been effective at abating aggressive panhandling, soliciting, or loitering outside their businesses. Furthermore, a majority (61%) of viable surveys shows that sitting and lying continues to be a prevalent problem in the Haight-Ashbury merchant corridor, with 31% of occurrences happening 6 or more times a week. Only 40% of survey data shows a perceptive decrease in people sitting and lying, whereas 47% described an increase in observing people sitting and lying on sidewalks.

For SFPD, interviews with various beat cop officers ultimately reveal mixed feelings and perceptions of Sit/Lie as an efficient and effective "tool." On one hand, beat cop officers at Park Station, where the most citations were issued, praise the ordinance and its efficacy at moving individuals along. As many Park Station officers attested, Sit/Lie enables beat officers to enforce continual movement and mobility along sidewalks through the ordinance's permeating reputation, as well as through verbal and/or written warnings. On the other hand, beat cop officers at

the Tenderloin Station, where zero citations were documented, view the ordinance's requirements as overly complex, and therefore, unnecessary compared to other quality of life ordinances. Through interviews with officers in the Tenderloin and Sunset precincts, it became apparent that the utility of the Sit/Lie Ordinance as a tool decreased over time as the ordinance required further documentation and follow-up aside from warnings.

The unforeseen difficulties in implementing and enforcing Sit/Lie have created a system in which police stations utilize and execute the ordinance in various ways. Park Station keeps an up-to-date logbook that tracks cases closely to aid proper implementation. Southern Station enforces the requirements loosely and allows many more warnings versus citations, whereas Tenderloin utilizes Sit/Lie very rarely. Without a burden of proof, SFPD protocol creates an arbitrary and discretionary warning and citation procedure. This cycle of verbal and written warnings has resulted in modest gains at achieving the intended goals of the Sit/Lie Ordinance, which questions the efficacy of Sit/Lie as a useful tool for police officers.

In regards to homeless outreach, the information uncovered reveals very little evidence to imply that the Sit/Lie Ordinance has positively influenced greater connections to services. Aside from standard SFPD protocol to offer services by the Homeless Outreach Team (HOT), Sit/Lie as it is implemented today does not create a new or unique avenue to offering services nor does it guarantee that those services exist. If such capacity and connections to services were available, the troublesome tracking system from police station, to SFPD headquarters, to Human Services Agency, would make it nearly impossible to track successful cases initiated by Sit/Lie. Furthermore, through discussions with homeless advocacy groups, the mechanism that SFPD uses for homeless outreach in accordance with Sit/Lie (i.e. HOT) is not always perceived by the homeless as a helpful or trustworthy source for services.

For aspects pertaining to public safety, it is unclear how to measure perceptions of public safety. Efforts to measure whether the ordinance has contributed to a decline in other quality of life laws were rendered inconclusive due to significant inaccuracies in the data collected by SFPD and HSA. According to merchants in the Haight-Ashbury commercial corridor, people sitting and lying on the sidewalks continues to be significant problem in the neighborhood. Several San Francisco newspaper publications continue to highlight loitering and aggressive panhandling as an unfortunate characteristic of the streets of San Francisco for visiting tourists.¹⁶ Moreover, because the ordinance prohibits strictly sitting or lying on the *sidewalk*, various people have adapted to the ordinance's technicalities by moving to areas outside of the boundaries of enforcement (i.e parks and private businesses). Though it is difficult to measure Sit/Lie's influence on public safety, the behavior it aims to abate clearly continues to be a prevalent issue.

Through an evaluation of these four metrics, it is apparent that the Sit/Lie Ordinance has, on the whole, been unsuccessful at meeting its multi-faceted intentions to improve merchant corridors, serve as a useful tool for SFPD, connect services to those who violate the law, and positively contribute to public safety for the residents and tourists of San Francisco.

¹⁶ James, Scott. (2012, March 1). At McDonald's in the Haight, Calls to Police Have Been Supersized. *The Bay Citizen*. Retrieved from <http://www.baycitizen.org/columns/scott-james/mcdonalds-haight-calls-police-supersized/>

APPENDIX A

FILE NO. 100233

ORDINANCE NO.

[Prohibition on Sitting or Lying on Public Sidewalks]

Ordinance amending San Francisco Police Code by adding Section 168 to prohibit sitting or lying down upon a public sidewalk during specified hours and with exceptions for the disabled and others.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Police Code is hereby amended by adding Section 168 to read as follows:

SEC 168: PROHIBITION ON SITTING OR LYING ON PUBLIC SIDEWALKS.

(a) Findings. The people of the City and County of San Francisco find that maintaining pedestrian and commercial traffic on public sidewalks is essential to public safety and the encouragement of a vital economy and neighborhoods in the City. This need is greatest during the hours of operation of businesses, shops, restaurants, and other City commercial enterprises when public sidewalks are congested, and when City residents are most likely to use their neighborhood sidewalks. Persons who sit or lie down on public sidewalks during business hours threaten the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children. Persons who sit or lie down also deter residents and visitors from patronizing local shops, restaurants and businesses, and deter residents from using the sidewalks in their neighborhoods. Business areas and neighborhoods become dangerous to pedestrian safety and economic vitality when individuals block the public sidewalks. This behavior causes a cycle of decline as residents and tourists go elsewhere to meet, shop and dine, and residents become intimidated from using the public sidewalks in their own neighborhoods. The prohibition applies Citywide in order to prevent displacement of violators from

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1 one district or neighborhood to another.

2 The prohibition against sitting or lying on sidewalks leaves intact the individual's right to speak,
3 protest or engage in other lawful activity on any sidewalk consistent with any City permitting
4 requirements. The prohibition applies only to sidewalks. There are a number of places where the
5 restrictions of this ordinance do not apply, including plazas, public parks, public benches, and other
6 common areas open to the public. The prohibition contains exceptions for medical emergencies, those
7 in wheelchairs, and permitted activities, among others.

8 Present laws that prohibit the intentional, willful or malicious obstruction of pedestrians do not
9 adequately address the safety hazards, disruption and deterrence to pedestrian traffic caused by
10 persons sitting or lying on sidewalks.

11 (b) Prohibition. In the City and County of San Francisco, during the hours between seven
12 (7:00) a.m. and eleven (11:00) p.m., it is unlawful to sit or lie down upon a public sidewalk, or upon a
13 blanket, chair, stool, or any other object placed upon a public sidewalk.

14 (c) Exceptions. The prohibitions in Subsection (b) shall not apply to any person:

- 15 1. Sitting or lying down on a public sidewalk due to a medical emergency;
16 2. Utilizing a wheelchair, walker, or similar device as the result of a disability;
17 3. Operating or patronizing a commercial establishment conducted on the public sidewalk
18 pursuant to a sidewalk use permit;
19 4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting,
20 or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or
21 other applicable permit;

22 5. Sitting on a fixed chair or bench located on the public sidewalk supplied by a public agency
23 or by the abutting private property owner;

APPENDIX A

1 6. Sitting in line for goods or services unless the person or person's possessions impede the
2 ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance
3 alongside the sidewalk; or

4 7. Who is a child seated in a stroller.

5 (d) Warning. No person shall be cited under this Section unless the person engages in conduct
6 prohibited by this Section after having been notified by a peace officer that the conduct violates this
7 Section.

8 (e) Other laws and orders. Nothing in any of the exceptions listed in Subsection (c) shall be
9 construed to permit any conduct which is prohibited by Police Code Sections 22-24, which prohibit
10 willfully and substantially obstructing the free passage of any person.

11 (f) Penalties

12 1. First Offense. Any person violating any provision of this Section shall be guilty of an
13 infraction. Upon conviction, the violator shall be punished by a fine of not less than \$50 or more than
14 \$100 and/or community service, for each provision violated.

15 2. Subsequent Offenses. Any person violating any provision of this Section within 24 hours
16 after violating and being cited for a violation of this Section shall be guilty of a misdemeanor and shall
17 be punished by a fine of not less than \$300 and not more than \$500, and/or community service, for each
18 provision violated, or by imprisonment in the County Jail for a period of not more than ten (10) days,
19 or by both such fine and imprisonment. Any person violating any provision of this Section within 120
20 days after the date of conviction of a violation this Section shall be guilty of a misdemeanor, and shall
21 be punished by a fine of not less than \$400 and not more than \$500, and/or community service, for each
22 provision violated, or by imprisonment in the County Jail for a period of not more than thirty (30) days,
23 or by both such fine and imprisonment.

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1 (g) Reporting. One year after the effective date of this ordinance, and every two years
2 thereafter, the Police Department shall make a written report to the Mayor and the Board of
3 Supervisors that evaluates the effect of enforcement of this ordinance on the City's neighborhoods
4

5 (h) Severability. If any subsection, sentence, clause, phrase, or word of this Section be for a
6 reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
7 decision shall not affect the validity or the effectiveness of the remaining portions of this Section or
8 part thereof.
9

10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By 
13 Linda M. Ross
14 Deputy City Attorney

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Mayor Newsom, Supervisor Alioto-Pier

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APPENDIX B

SAN FRANCISCO
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DEPARTMENT OF ELECTIONS

**PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED
BY THE MAYOR TO THE VOTERS AT THE NOVEMBER 2, 2010 ELECTION.**

[Under Charter Sections 3.100(15) and 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no fewer than 45 days prior to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Civil sidewalks.]

Ordinance amending the San Francisco Police Code By adding Section 168 to promote civil sidewalks.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike-through italics Times New Roman*~~.

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

Section 1. The San Francisco Police Code is hereby amended by adding Section 168, to read as follows:

SEC 16.8. PROMOTION OF CIVIL SIDEWALKS.

(a) Findings. San Francisco is a dense, urban environment where everyone must use the public sidewalk for travel. The people of San Francisco find that maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety, thriving neighborhoods and a vital economy in the City. The people of the City and County of San Francisco find that sitting or lying down is not the customary use of the public sidewalks. The need to maintain pedestrian and commercial traffic is greatest during the hours of operation of businesses, shops, restaurants, and other City commercial enterprises when public sidewalks are congested, and when City residents are most likely to use their neighborhood sidewalks. Persons who sit or lie down on public sidewalks during business hours threaten the safety of pedestrians, especially the elderly, disabled, vision-impaired, and

APPENDIX B

children. Persons who sit or lie down also deter residents and visitors from patronizing local shops, restaurants and businesses, and deter people from using the sidewalks in their neighborhoods. San Franciscans seek policies that preserve the right to enjoy public space and traverse freely, while protecting the free-speech rights of individuals and groups, as well as other safe activity consistent with City permitting requirements. Business areas and neighborhoods become dangerous to pedestrian safety and economic vitality when individuals block the public sidewalks. This behavior causes a cycle of decline as residents and tourists go elsewhere to walk, meet, shop and dine, and residents become intimidated from using the public sidewalks in their own neighborhoods. Because lying down or sitting is an incompatible use of the sidewalk in residential and commercial areas, and in order to prevent displacement of violators from one district or neighborhood to another, the prohibition applies Citywide.

The prohibition against sitting or lying down on sidewalks leaves intact the individual's right to speak, protest or engage in other lawful activity on any sidewalk consistent with any City permitting requirements.

The prohibition applies only to public sidewalks. There are a number of places where the restrictions of this ordinance do not apply, including private property, beaches, plazas, public parks, public benches, and other common areas open to the public. The prohibition contains exceptions for medical emergencies, those in wheelchairs, and permitted activities, among others.

The people of San Francisco acknowledge that there are myriad reasons why one might sit or lie down on a public sidewalk. The City has offered and offers services to those engaged in sitting or lying down on the sidewalk who appear to be in need, or to those who request service assistance, but the offers are refused in many cases or people continue the conduct despite the provision of services. The City will continue to invest in services for those in need and make efforts to maintain and improve safety on public sidewalks for everyone. In order to provide an opportunity for law enforcement officers to engage people, and to offer to refer to an appropriate entity if the person asks, or if the officer has

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reason to believe that such a referral would be beneficial, a peace officer may not issue a citation without first warning a person that sitting or lying down is unlawful.

Present laws that prohibit the intentional, willful or malicious obstruction of pedestrians do not adequately address the safety hazards, disruption and deterrence to pedestrian traffic caused by persons sitting or lying on sidewalks.

(b) Prohibition. In the City and County of San Francisco, during the hours between seven (7:00) a.m. and eleven (11:00) p.m., it is unlawful to sit or lie down upon a public sidewalk, or any object placed upon a public sidewalk.

(c) Exceptions. The prohibitions in Subsection (b) shall not apply to any person:

1. Sitting or lying down on a public sidewalk due to a medical emergency;
2. Using a wheelchair, walker, or similar device as the result of a disability;
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a sidewalk use permit;
4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
5. Sitting on a fixed chair or bench located on the public sidewalk supplied by a public agency or by the abutting private property owner;
6. Sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk;
7. Who is a child seated in a stroller; or
8. Who is in an area designated as a Pavement to Parks project.

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(d) Warning. No person shall be cited under this Section unless the person engages in conduct prohibited by this Section after having been notified by a peace officer that the conduct violates this Section.

(e) Other laws and orders. Nothing in any of the exceptions listed in Subsection (c) shall be construed to permit any conduct which is prohibited by Police Code Sections 22-24, which prohibit willfully and substantially obstructing the free passage of any person.

(f) Penalties

1. First Offense. Any person violating any provision of this Section shall be guilty of an infraction. Upon conviction, the violator shall be punished by a fine of not less than \$50 or more than \$100 and/or community service, for each provision violated.

2. Subsequent Offenses. Any person violating any provision of this Section within 24 hours after violating and being cited for a violation of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for a period of not more than ten (10) days, or by both such fine and imprisonment. Any person violating any provision of this Section within 120 days after the date of conviction of a violation this Section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$400 and not more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for a period of not more than thirty (30) days, or by both such fine and imprisonment.

(g) Reporting. One year after the effective date of this ordinance, and every two years thereafter, the Police Department shall make a written report to the Mayor and the Board of Supervisors that evaluates the effectiveness of enforcement of this ordinance on the City's neighborhoods.

(h) Outreach. The City shall maintain a neighborhood outreach plan to provide the social services needed by those who chronically sit or lie down on a public sidewalk. The plan will include,

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but not be limited to, health care and social service capacity, evaluation of service delivery and identification of areas for improved service delivery.

(i) Severability. If any subsection, sentence, clause, phrase, or word of this Section be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Section or any part thereof.

SUBMITTED.

Mayor, City and County of San Francisco

Date: _____

6/15/2010

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DEPARTMENT OF ELECTIONS

APPENDIX B

APPENDIX C

SAN FRANCISCO POLICE DEPARTMENT

OPERATIONS BUREAU ORDER

ORDER NO. 2011-03

February 14, 2011

CIVIL SIDEWALK ENFORCEMENT

A. Purpose

Clear and safe sidewalks have been of concern to residents and visitors all over San Francisco. In order to address these concerns, the voters of San Francisco passed a Civil Sidewalks Ordinance, Section 168 of the Municipal Police Code. This order is intended to establish guidelines for the enforcement of the ordinance.

B. Policy

The San Francisco Police Department will use discretion and enforce Section 168 in a reasonable manner that protects the rights and well-being of San Francisco's residents, visitors, and businesses.

1. Section 168

- Section 168(a) includes findings that articulate the interests underlying the ordinance, including the following:

1. Maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety. People must use sidewalks for travel. Sitting or lying is not a customary use of a public sidewalk. Persons who sit or lie on public sidewalks, especially during hours when sidewalks may be congested or used by residents and visitors, threaten the safety of pedestrians, deter people from patronizing local businesses, and deter people from using the sidewalks in their neighborhoods.

2. San Franciscans seek policies that preserve the right to enjoy public space and traverse freely, while protecting the free speech rights of individuals and groups, as well as other safe activities consistent with City permitting requirements. The prohibition on sitting or lying leaves intact individual's right to speak; protest or engage in other lawful activity on any sidewalk consistent with any City permitting requirements.

- Section 168(b) of the Municipal Police Code states:

In the City and County of San Francisco, during the hours of 7:00 AM and 11:00 PM, it is unlawful to sit or lie down upon a public sidewalk or any object placed upon a public sidewalk.

Section 168(b) is a narrow, specific ordinance that provides an additional tool in a large set of "Quality of Life" codes. Officers shall be familiar with Section 168, as well as other quality of life laws.

- Section 168(c) of the Municipal Police Code enumerates eight specific exceptions to Section 168(b):
 1. Sitting or lying down on a public sidewalk due to a medical emergency;
 2. Using a wheelchair, walker, or similar device as the result of a disability;

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3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a sidewalk use permit;
 4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
 5. Sitting on a fixed chair bench located on the public sidewalk supplied by a public agency or by the abutting private property owner;
 6. Sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk;
 7. A child seated in a stroller;
 8. An area designated as a Pavement to Parks Project.
- Section 168(d) restricts an officer from taking enforcement action unless the individual has been warned that his/her conduct is in violation of the ordinance.

2. Definitions

- **Pavement to Parks Project** - A City program that converts portions of city streets and public rights-of-way into temporary plazas and parks. The Castro Commons at 17th and Castro is an example of a Pavement to Parks Project. Information on this program and the most up-to-date list of Pavement to Parks Projects is available at <http://sfpavementtoparks.sfplanning.org/>.
- **Sidewalk** - Section 168(a) specifies that the prohibition on sitting or lying applies only to public sidewalks, and not private property, beaches, plazas, public parks, public benches, and other common areas open to the public. For the purposes of enforcement of Section 168(b), a "sidewalk" is defined per Section 555 of the California Vehicle Code as "that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel."
- **Sitting** - Resting on the buttocks or haunches.
- **Lying** - Resting in a horizontal position or substantially horizontal position, with at least one elbow or any other part of the upper torso using the ground for support.

C. Procedure

1. Contact

Section 168 is a law of general intent. Unlike certain sections of the Police Code that require an officer to establish specific intent (such as Section 22 MPC, Sidewalk Obstruction), an officer observing a violation of Section 168 is not required to collect a third party's complaint nor establish intent before taking action. Rather, as with most infractions and misdemeanors, officers may take action regarding Section 168 based upon a complaint or upon direct observation of a violation.

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2. Dispatch Notification

The Department has established a new radio code for officers to use for an incident or investigation related to Section 168. Officers shall use "919" regarding a "Person Sitting or Lying on a Public Sidewalk." Officers may be dispatched or take self-initiated action regarding an observed violation of Section 168 MPC using the 919 radio code.

3. Warning

Before an officer may cite a subject per Section 168(b), the subject must have been warned that his or her conduct violates Section 168. Officers contacting a subject pursuant to Section 168 shall give the subject, at minimum, a warning of the violation, as specified below.

a. Verbal Advisement

If an officer observes an individual sitting or lying on a public sidewalk in violation of Section 168(b), the officer shall verbally advise the individual of the law and request that the individual stand up. The Civil Sidewalk Advisory Notice (SFPD 537) was developed to assist officers with the verbal warning.

The officer should use this initial interaction to evaluate whether any of the exceptions under Section 168(c) apply and to determine if any services might be appropriate. If the person asks or the officer has reason to believe that a referral would be beneficial, the officer should offer the person a referral for appropriate available services.

If a person receiving this verbal advisement moves from a prohibited position, that person is no longer in violation of Section 168(b). The officer shall take no further action pursuant to Section 168 for this occurrence, unless the officer can articulate the specific and objective basis for believing that the subject has received a prior warning.

The officer shall use an "advised" (ADV) disposition when going back in service ("10-8") if the verbal advisement is complied with.

b. Written Warning

A written warning may be issued to subjects who sit or lie in violation of Section 168(b) after having received a verbal warning of the ordinance. Officers issuing a written warning shall use the MPC Warning form (SFPD 538).

If a subject refuses to sign the MPC Warning Form, the officer may write "Refused" in the corresponding box, provided that the officer is satisfied that the subject has been properly identified.

An officer issuing a written warning for violation of Section 168(b) shall complete the abbreviated Civil Sidewalks Report form (SFPD Form 539). If the officer issues a written warning but not a citation, the officer shall check the report title, "Civil Sidewalks, Warning," with incident code 64031. When going back into service ("10-8"), the officer shall use the disposition "Report" (REP).

4. Investigative Detentions for Section 168(b)

If an officer reasonably suspects that a person sitting or lying in violation of Section 168(b) has previously been warned about this ordinance, the officer may detain the subject in accordance with DGO 5.03 to investigate whether the subject has been issued a prior warning. The basis for this suspicion shall be documented in a report. **The officer must be able to articulate the objective and specific basis for his or**

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her suspicion that the subject had been given a prior warning (for example, the officer can articulate personal knowledge that he warned this subject on a prior occasion).

All detentions under Section 168(b) shall be documented using the Civil Sidewalks Report form. Officers shall issue an MPC Written Warning (SFPD 538) and/or a Citation to Appear, depending upon the outcome.

The "Civil Sidewalks, Warning" report and MPC Written Warning form (SFPD 538) will satisfy the requirements for documenting the Investigative Detention and issuing a Certificate of Release (849b) form, respectively. Preparation of the "Civil Sidewalks, Warning" report is in lieu of an "Investigative Detention Report," and the issuance of an MPC Written Warning is in lieu of a Certificate of Release.

When detaining a subject pursuant to Section 168(b), the investigating officer should attempt to locate records of prior warnings or citations issued for violation of Section 168(b), including a QALL query in the CABLE system.

Station PSAs shall monitor the radio for officers running 919 subjects and shall review in-station copies of recent Section 168(b) reports. PSAs shall advise the investigating officer of any documented warnings or citations for the subject.

5. Citation Release

Having verified a subject detained for Section 168(b) has received a written warning, the officer may cite the subject in accordance with established Department policies for infraction and misdemeanor citation release. Refer to DGO 5.06.

Note if the subject will not comply with verbal and written warnings issued by an officer, an officer may issue a warning and citation during the same contact.

When an officer issues a citation for a violation of 168(b), the officer shall complete an incident report documenting the incident with the abbreviated Civil Sidewalks report form (SFPD Form 539). The officer shall title the report, "Civil Sidewalks, Citation," with the incident code 64032. When going back into service ("10-8"), the officer shall use the disposition "Citation Issued" (CIT).

a. Infraction Violation

A first violation of Section 168(b) is an infraction and carries a fine of \$50-100 and/or community service. If the individual cited qualifies for cite and release on the infraction charge, the officer shall cite and release in accordance with Department policies.

b. Repeat Offense within 24 hours of Citation (Misdemeanor)

If a person violates Section 168(b) *within 24 hours of being cited under that section*, the infraction becomes a misdemeanor with all assigned fine of \$300-500, community service, and/or imprisonment in County Jail for up to 10 days.

c. Repeat Offense within 120 days of Conviction (Misdemeanor)

If a person violates Section 168(b) *within 120 days of being convicted of a violation under that section*, that incident is charged as a misdemeanor, with an assigned fine of \$400-500, community service, and/or imprisonment in County Jail for up to 30 days.

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d. Sergeant required for any Misdemeanor Citation

An officer shall request a Sergeant to respond to the scene for misdemeanor arrests under Section 168(b). Sergeants shall respond and review the elements to ensure that the misdemeanor charge is warranted. If approved by the Sergeant at the scene, an officer shall cite and release or book the subject in accordance with DGO 5.06.

6. In Custody Arrest


Should a contact result in an in-custody arrest, the officer shall document the incident using the standard SFPD 377 report form, not the abbreviated Civil Sidewalks report. The officer shall title the report based upon the most serious violation; pursuant to Department policy and procedure. If the primary probable cause to arrest is related to Section 168(b), the officer shall title the report, "Civil Sidewalks, Booking," with the incident code 64033. If the probable cause to arrest is a violation other than Section 168(b) MPC, the officer shall also make a notation in CAD to that effect. When going back into service ("10-8"), the officer shall use the disposition "Arrest" (ARR).

District Station Commanding Officers shall ensure that copies of Civil Sidewalk Report forms are maintained at District Stations in an area accessible by station PSAs for a period of at least one week.

D. References

Members should familiarize themselves with relevant laws and policies prior to taking enforcement action regarding Section 168(b). Related references include:

- DGO 5.03, "Investigative Detentions"
- DGO 5.04, "Arrests by Private Citizens"
- DGO 5.06, "Citation Release"
- DGO 6.08, "Aggressive Soliciting"
- DGO 6.11, "Obstruction of Streets and Sidewalks"
- DGO 6.18, "Warrant Arrests"
- DGO 8.10, "Guidelines for First Amendment Activities"
- DB 10-103, "Traffic Court Responses (TCR) Forms/Quality of Life Infractions"
- DB 10-339, "Civil Sidewalks Ordinance Enforcement Ordinance & FAQ"
- SFPD Form 481, "Quality of Life Enforcement Reference Card"


Assistant Chief Denise Schmitt
Office of Operations

San Francisco Police Department



CIVIL SIDEWALK ORDINANCE

Enforcing Section 168(b) MPC.
Civil Sidewalks

Radio Code: 919

What

Section 168(b) of the MPC makes it an infraction or misdemeanor

●To Sit

Resting on the buttocks or haunches

●Or Lie

Resting in a horizontal position

Where

●In the City and County of San Francisco

●On public sidewalks

That portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel (555 VC)

●Or upon an object placed upon a public sidewalk

When

●Between 7 AM (0700) hours and 11 PM (2300 hours)

Exceptions:

Section 168(c) enumerates eight specific exceptions to Section 168(b):

1. Sitting or lying down on a public sidewalk due to a medical emergency;
2. Using a wheelchair, walker, or similar device as the result of a disability;
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a sidewalk use permit;
4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
5. Sitting on a fixed chair or bench located on the public sidewalk supplied by a public agency or by the abutting private property owner;
6. Sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk;
7. A child seated in a stroller;
8. An area designated as a Pavement to Parks Project.

How (the law is enforced)

Verbal Advisement

- Always issue verbal advisement on contact
- Use initial contact to assess for exceptions or service needs
- If first contact for Section 168, take no further action, if advisement heeded
- "ADV" disposition in CAD. No report necessary.
- If advisement not heeded or officer reasonably believes subject has already received a warning, subject may be detained

Written Warning

- If officer believes subject warned for Section 168(b), officer may detain subject

- Investigative detention policy (DGO 5.03); QALL will determine if a warning or citation issued to subject
- Must have received written warning before citation may be written. (Officer may write citation in same contact, if written warning is not heeded.)
- If written warning issued, report required. May use short form (SFPD 539)
- If result of contact is written warning issued, disposition in CAD is "REP"

Citation/Arrest

- Must establish that subject has received written warning before citation may be written.
- Citation Release policy (DGO 5.06)
- Report required. May use short form (SFPD 539) for citation. Must use long form (SFPD 377) if contact results in arrest.
- If contact results in citation issued, disposition in CAD is "CIT;" if result is in-custody arrest, disposition is "ARR"

Misdemeanor

Section 168(b) rises to a misdemeanor if

- Citation within 24 hours of being cited

OR

- Citation within 120 days of conviction

Reminders

- Limited in scope; Section 168 enforcement to be used in concert with other ordinances; refer to DB 10-103 and SFPD 481 for additional
- Initiate contact for Section 168 with verbal advisement, regardless of prior contacts
- Detained subject issued a paper when released (Written Warning or Citation)

Frequently Asked Questions

What is the Civil Sidewalk ordinance? San Francisco's Civil Sidewalk Ordinance, Section 168 of the San Francisco Police Code, makes it unlawful, with certain exceptions, to sit or lie on a public sidewalk, or on an object placed on a public sidewalk, between 7AM and 11PM.

When does the law become effective? The law becomes effective 10 days after the Board of Supervisors declares the results of the November 2, 2010 election. The Board of Supervisors declared the election results at its meeting on December 7, 2010. The law becomes effective December 17, 2010.

How did we get this law? The voters of the City and County of San Francisco passed Proposition L, "Sitting or Lying on Sidewalks," at the November 2, 2010 election. Proposition L added Section 168, "Promotion of Civil Sidewalks," to the San Francisco Police Code.

Does it apply to everybody? The law includes eight specific exceptions, and does not apply to any person: (1) sitting or lying on the sidewalk due to a medical emergency; (2) using a wheelchair, walker or similar device as a result of a disability; (3) operating or patronizing a commercial establishment conducted on a public sidewalk under a sidewalk use permit; (4) participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on a sidewalk under and in compliance with a street use or other applicable permit; (5) sitting on a fixed chair or bench supplied by a public agency or abutting private property owner; (6) sitting in line for goods or services if not impeding pedestrians from using the sidewalk or entering a door or other entrance along the sidewalk; (7) who is a child in a stroller; and (8) in an area designated as a Pavement to Parks project.

How is the law supposed to work? No person can be cited under this section without having been warned about the law. The police will approach people who are sitting or lying on the sidewalk and let them know about the City ordinance. If someone refuses to stand after being warned about the law, however, the police can write a citation.

What is the penalty for a violation? A first offense is an infraction and could result in a citation. If that citation results in a conviction, the penalty is a fine between \$50-100 and/or community service. If someone violates the law again, within 24 hours of receiving a citation, the person is guilty of a misdemeanor. The penalty for a conviction increases, to a fine between \$300-500, and/or community service, and/or up to 10 days in County Jail. If someone violates the law within 120 days of a conviction, that offense is also a misdemeanor, and the penalty for a conviction is a fine between \$400-500, and/or community service, and/or up to 30 days imprisonment in County Jail.

When will the police start their enforcement? The Police Department recognizes the importance of educating people—members of the public and officers—about this new law. The Department is developing policies and procedures for enforcement of this ordinance, and a training program for officers. An initial period of public awareness and education is planned, as well. Therefore, the Department will not initiate enforcement action under Section 168 until we have had opportunity to inform the public about the law, and our officers are trained on the related policies and procedures.

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Section 168 (b) Advisory Notice

Are you aware Section 168 (b) of the Municipal Police Code prohibits sitting or lying on public sidewalks and sitting or lying on an object placed on a public sidewalk between the hours of 7 AM and 11 PM in the City and County of San Francisco?

You are sitting/lying in violation of this section. Will you now comply with this ordinance?

San Francisco Police Code, Section 168 (b)

In the City and County of San Francisco, during the hours of 7:00 AM and 11:00 PM, it is unlawful to sit or lie down upon a public sidewalk or any object placed upon a public sidewalk.

SFPD 537 (Side 1)

Exceptions, Section 168 (c)

Per San Francisco Police Code, Section 168 (c), the exceptions to Section 168 (b) are:

1. Sitting or lying down on a public sidewalk due to a medical emergency;
2. Using a wheelchair, walker, or similar device as the result of a disability;
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a sidewalk use permit;
4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
5. Sitting on a fixed chair or bench located on the public sidewalk supplied by a public agency or by the abutting private property owner;
6. Sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk;
7. A child seated in a stroller;
8. An area designated as a Pavement to Parks Project.

SFPD 537 (side2)

APPENDIX F

Warning

San Francisco Municipal Police Code Violation Notice

This is neither a citation nor a notice to appear.

Case/CAD: _____ Date: _____ Time: _____

☐ 120-2(d) MPC, Aggressive Solicitation
☐ 121(b) MPC, Loitering in Front of a Nightclub

☐ 168(b) MPC, Civil Sidewalks
☐ Other: _____ MPC

On the above date and time at (location): _____, I observed you,

(name): _____, in violation of the Municipal Police Code section(s) checked above and advised you of the law. You were detained only and have been issued this certificate in accordance with the provisions of Penal Code Sections 849(b), 849.5, and 851.6(b).

Signature of Warned Person: _____

Officer Name (Print and Signature)/Star

Agency Copy SFPD 538 (Side 1)



3-1-1 An easy-to-remember telephone number has been established by the City and County of San Francisco to connect residents, businesses, and visitors with Customer Service Representatives who are ready to provide access to public information and services, including (but not limited to):



Animals & Pets: Adoption, Spaying & Neutering, Dog Licensing, Animal Bite/Noise Complaints



Community: Birth/Death Records, Marriage, School Info, Elections, City ID Cards, Taxes, Veteran Resources



Parks: Playgrounds, Golden Gate Park, Recreational Activities, Park Trees, Structural Maintenance



Streets & Sidewalks: Potholes, Sidewalk Defects, Tree Maintenance, Damaged Property, Street Lights, Parking Zones and Meters



Transportation: MUNI, SFO Airport, Taxi, Bicycles, Abandoned Vehicles, Parking, Blocked Driveways



Utilities: Catchbasins, Sewers, Street Lighting, Flooding, Water Quality, Gas, Electric/Power



Garbage & Graffiti: Graffiti, Litter, Street/Sidewalk Cleaning, Recycling, Garbage Can Maintenance



Other: 2-1-1, Shelter, Medical Clinics, Mental Health Services, Substance Abuse Treatment, Homeless Connect

24 hours a day, 7 days a week, 365 days a year.

SFPD 538 (Side 2)

APPENDIX G

Merchant Survey

Date: _____

Name of Business: _____

Address: _____

Position: _____

How long have you worked here? _____ years _____ months

How long has this business been located at this address? _____ years _____ months

How often do individuals sit or lie in front of your business? Often Sometimes Never

If ever, how frequently? _____ times a week

Has the volume of people sitting and lying in front of your business changed at all since March 2011?

More People Same Amount Less People Don't know

Has your business seen any change in customer volume since March 2011?

More People Same Amount Less People Don't know

Have you called the SFPD to issue a complaint for panhandling, public drunkenness, loitering, or nuisance in front of your storefront in the past two years? Y N Don't know

Would you fear being retaliated against for making a police complaint about panhandling, public drunkenness, loitering or blocking doorway in front of your storefront? Y N Don't know

Have you called the police since March 2011 because someone was sitting or lying in front of your property? Y N Don't know

If yes, how many times? _____

If yes, how long did it take before a police officer arrived? _____ minutes

If yes, did the person leave the premises? Y N Unsure

If yes, did the person return in the near future? Y N Unsure

If yes, did you fear retaliation? Y N Unsure

Do you view individuals sitting or lying in front of your property as a problem? Y N Unsure

Would you characterize sitting or lying on the sidewalks as a significant problem for this neighborhood or commercial corridor? Y N Unsure

Are you familiar with San Francisco's Sit/Lie Ordinance? Y N Unsure

In your opinion, do you think the Sit/Lie ordinance has been effective at abating aggressive panhandling, soliciting or loitering in proximity to your business? Y N Unsure

Is your business a member of a neighborhood merchants association? Y N Unsure

If yes, which association? _____

If yes, did the association take a position on Sit/Lie? Y N Unsure

If yes, why? _____

If no, why not? _____