

KNOW YOUR RIGHTS

SEPTEMBER 2020

SWEEPS



Coalition on
Homelessness
San Francisco



KILL



Poster
Syndicate

SAN FRANCISCO, CALIFORNIA

Your Rights During the Declared State of Emergency

Please note: The recommendations in this section are based on an evolving area of law. You can find SF's most recent Health Orders at <https://www.sfdcp.org/infectious-diseases-a-to-z/coronavirus-2019-novel-coronavirus/>

The Current Stay-At-Home Order

- San Francisco (SF) Health Order No. C19-07e *exempts* persons experiencing homelessness from the mandatory shelter-in-place (SIP) requirements and travel restrictions.¹
- If you are homeless, you cannot be issued a fine or be arrested for failing to comply with SF's SIP Order.
- **IMPORTANT:** Most offices and legal clinics are not accepting walk-ins at this time. Call before you go to their offices!
 - Coalition on Homelessness: 415-346-3740
 - GLIDE Unconditional Legal Clinic: 415-674-6149
 - Lawyers' Committee for Civil Rights of the San Francisco Bay Area: 415-543-9444

The Face Covering Order

- The state of California requires you to wear a face covering when in public.
- You may remove your face covering when eating or drinking.
- You are not required to wear a face covering if you are stationary outside and have a distance of at least six feet between you and other people. Even in this circumstances, however, SF still requires that you have a face covering visible and ready for use (like worn under your chin or around your neck)
 - Those who are exempt from the face covering order:
 - Children 12 years or younger
 - People inside of private cars
 - Anyone who has a written exemption from a health care provider
 - What counts as a face covering:
 - Any covering made of cloth, fabric, etc. that covers the nose and mouth
 - T-shirts, scarves, bandanas, etc. can be used!

Social Distancing

- SF has issued the following social distancing directives for folks living in tents:
 - Keep tents 6 feet apart² (at most 5 tents in one block)
 - Keep sidewalks clear³
 - Keep your tent 6 feet away from doorways, bus stops, fire hydrants
 - Do not pitch your tent in a park⁴
 - Do not have a fire⁵

COVID-19 Testing

- COVID-19 Testing Locations can be found at www.datasf.org/covid19-testing-locations/
- If you do not have a doctor, call:
 - Tom Waddell Urgent Care: 415-713-1963
 - ZSFGH Urgent Care: 628-206-8000
 - COVID-19 Clinical Consult Line: 415-554-2830

1 City and County of San Francisco Dept. of Public Health [SFPDH] (2020). Order of the Health Officer No. C19-07e.
2 San Francisco [SF] Health Code Art. 11 §581, "Prohibited Public Health Nuisances." SFPDH (2020) Order C19-07e.
3 SF Public Works Code Art. 15 §723, "obstruction of public right of way prohibited." SFPDH (2020) Interim Guidance for Safe Sleeping for Unsheltered Persons Experiencing Homelessness to Reduce the Risk of COVID-19.
4 SF Park Code Art. 3 §3.12.
5 California Code of Regulations, Title 19, Division 1, §321, "general authority to eliminate hazards".

- **If you test positive for COVID-19**, a Department of Public Health (DPH) or Homeless Outreach Team (HOT) worker should follow up with you to shelter you while you recover.
 - If you are placed in quarantine, the City **must** provide you with food, healthcare, and hygiene supplies.
 - Call on-site staff for grievances concerning access to the facilities, programs, or services at your Emergency Housing site. Provide your name, room number, and a detailed description of the incident or condition.
 - On-site staff must respond to your complaint within three days.⁶
 - If you feel that the response from the on-site staff is inadequate or they have not responded within three business days, you may bring your complaint to the Compliance Coordinator by email at HSADOCHousing@sfgov.org or by phone at 415-314-4247.
 - If you are not satisfied with the resolution, or the Compliance Coordinator has not responded within five business days, you may file a complaint via the City's Whistleblower Program.

Your Rights with Cops in Public Places

KNOW YOUR RIGHTS:

- You have the right to remain silent.
- You have the right to refuse consent to a search of yourself, your car, or your belongings.
- If you are not under arrest, you have the right to walk away.
- You have the right to the presence of an attorney *before and during* any questioning.

Your Right to Remain Silent

- You *always* have the right to remain silent, absent a court order.⁷
 - If you wish to exercise this right, simply refuse to talk, or say "I take the 5th," or "I want an attorney."
 - Once you ask for an attorney, **cops must stop questioning you.**
- If cops approach you, you do not have to identify yourself or answer any questions, including about where you were born, whether you are a U.S. citizen, or how you entered the country.
 - If cops question you, ask whether you are being detained or you are free to go.
 - If you are free to go, you may walk away.
 - If you are being detained, you **STILL** have the right to remain silent.
 - Cops must have **reasonable suspicion**, meaning a *clear, specific, and unbiased reason* for suspecting that you committed, are committing, or are about to commit a crime, in order to detain you for questioning.⁸

Your Right to Refuse Consent to a Search

- You have the right to refuse consent to a search.⁹
 - You can deny your consent simply by saying, 'I do not consent to this search,' or by refusing to sign a document authorizing the search.
 - When cops interact with you for no obvious reason, they must have **reasonable suspicion** (definition above) to search you or your personal belongings.¹⁰
 - When the police search you under **reasonable suspicion**, they may pat down your outer clothing only.¹¹
 - They cannot squeeze or reach into your pockets unless they believe they felt a weapon after patting you down.

6 SF Emergency Housing Grievance Procedure (2020).

7 U.S. Const. 5th Amendment, "No person... shall be compelled in any criminal case to be a witness against himself."

8 U.S. v. Sokolow, 490 U.S. 1, 7 (1989).

9 U.S. Const. 4th Amendment, "protection from unreasonable searches and seizures"; Cal. Const. Art. I §13 "the right of the people to be secure in their persons... against unreasonable seizures and searches."

10 Terry v. Ohio, 392 U.S. 1, 30 (1968).

11 Terry, 392 U.S. 1 at 30 (1968).



If You Are Arrested/Your Right to an Attorney

- Police must have **probable cause** to arrest you and to search your person.¹²
- **Probable cause:** *a strong, unbiased, factual reason* for believing that you have committed a crime.
- You have the right to remain silent.
- You have the right to an attorney during any interview and before you answer any questions.
- Once you ask for an attorney, **cops must stop questioning you.**
- **If you are on probation or parole** at the time of arrest, you have the **same rights** to remain silent and to have an attorney.

Your Rights During a Sweep

- If the police sweep your camp, they are required to:
 - Provide written notice that SF intends to remove your tent in 24 hours.¹³
 - Offer shelter to all tent residents who are present.¹⁴
 - Post a written notice near the area where your property has been bagged and tagged. This notice must include:¹⁵
 - General description of any personal property removed
 - When and why your property was removed
 - Address, phone number, and hours of location where SF is storing your personal property
 - Statement that SF is not charging for the storage or retrieval of your personal property
 - SF will discard your personal property after 90 days if not retrieved
- Police sometimes waive the 24-hour notice requirement by claiming an ongoing emergency or imminent health danger to residents by way of crime, sanitation, etc.¹⁶

Your Rights to Your Belongings

Protect Your Belongings

- Photograph your belongings
- Keep receipts, pictures, etc. Use any available way to document your property and its condition.
 - In order to reclaim your property from the Department of Public Works (DPW) Yard, you must provide 'satisfactory proof of ownership.'¹⁷
 - DPW will discard belongings that they claim are "abandoned," so any evidence of the condition of your belongings is useful.
- Tag your belongings with your contact information to make it easier to identify.
- Take a photo of the tag.

What To Do if Your Belongings have been Taken by the City:

- When SF Police bag and tag property from a public space, they are **required** to bring it to the Department of Public Works yard where it is **required** to be held for **90 days**.¹⁸
- Whether they do this or not, they are required to by law.

12 Florida v. Hastings, 568 U.S. 237, 243 (2013).

13 San Francisco Police Code Art. 2 §169(f)(1)

14 San Francisco Police Code Art. 2 §169(d)

15 San Francisco Police Code Art. 2 §169(f)(2)

16 San Francisco Department of Public Works [SFDPW] (2016) Departmental Procedures Manual Vol. 16, Procedure 16.05.08(D), "NOTICES".

17 SFDPW (2016) Procedure 16.05.08(G), "PROCEDURE FOR RETRIEVAL OF PERSONAL ITEMS".

18 San Francisco Police Code Art. 2 §169(g).

DPW Procedure:

- Items picked up by DPW are bagged and tagged.
 - When DPW clears an encampment, they are *supposed to* document property seizures with a 'Personal Property Collection Bag and Tag Intake Form,' and place seized property in labeled storage containers at the DPW Yard.¹⁹
 - DPW will NOT bag wet or moldy clothing, wet or moldy bedrolls, or food items (or anything else with health concerns).²⁰
 - DPW may seize and discard items that constitute evidence of a crime or contraband.²¹
- The tag on bagged items **should** include:²²
 - Date and time of the pickup
 - Location of the pickup
 - Name of the owner (if known)
 - Brief description of the contents
 - SFPD officer name and badge number (if involved)

To Get Your Belongings Back:

- We recommend doing this process within 72 hours of the incident resulting in lost property!
 - Items held in the "First 72 Hours" holding area may be easier to locate and return to you.
- Before going to the yard, be prepared to provide the following information:
 - Date and time of the pickup
 - Location of the pickup
 - Description of the items
- DPW does not allow folks to visit the storage area to look for lost items, so try to bring as much documentation and evidence of your belongings as possible.²³
 - SFPD badge number (if one was provided)
 - *You are not required to present an official I.D.*²⁴
- The location of the DPW Storage Yard is **2323 Cesar Chavez St.** (intersection of Kansas and Marin)
 - Open Monday through Friday 9am to 2pm.
 - From downtown, you can take the 9 or 9R Muni lines to the area.
 - Ask the guard at the gate for assistance.
- If there is no guard at the gate, call for Public Works staff on the intercom, or call the Radio Room at **415-695-2134**, and someone from DPW will come to assist you.

If Your Belongings Are Not at the DPW or Have Been Destroyed by City Workers:

- You may file a claim for property damage or loss with the Controller's Office.
- You need to file your claim within **6 months** after the incident.
- **How to file your claim:**
 - Get a form to make a CLAIM AGAINST THE CITY AND COUNTY OF SAN FRANCISCO at www.sfcityattorney.org/claims/
 - You can also get a claim form (and help filling it out) at the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, or at the GLIDE Unconditional Legal Clinic.
 - Things to file with your claim:
 - Pictures of your belongings before confiscation

19 SFDPW (2016) Procedure 16.05.08(E), "PROCEDURE FOR COLLECTING PERSONAL ITEMS".

20 San Francisco Police Code Art. 2 169(g)(1).

21 San Francisco Police Code Art. 2 §169(g)(2).

22 SFDPW (2016) Procedure 16.05.08(E), "PROCEDURE FOR COLLECTING PERSONAL ITEMS".

23 SFDPW (2016) Procedure 16.05.08

24 Id.

- Witness statements
- Written explanation for the amount of your claim
- File your completed Claim Form in person or by mail to:
 - Controller's Office Claims Division
 - 1390 Market St, 7th Floor
 - San Francisco, CA 94102-5408
- Once you file, you should receive a letter of acknowledgement with a claim number. If you don't have an address, call them at (415)554-7500.
 - Use this claim number when making inquiries about your claim.
 - A claims adjuster will notify you of the decision on your claim. It may be:
 - A settlement offer, if your claim is successful
 - A formal denial of your claim
 - **If your claim is denied or you don't get a response in 45 days, you may choose to file a small claims lawsuit against the city.**
 - If your claim is formally denied, you have 6 months from the date of the denial to file a lawsuit.
 - If you do not receive a formal denial, you have 2 years from the date of the incident to resolve your claim or file a lawsuit.²⁵
 - **You may want assistance with your claim. In normal times, you could visit the Coalition on Homelessness or the GLIDE Unconditional Legal Clinic.**
 - **During the pandemic, call ahead to see if they can help.**

Living in Your Car

- While it is current policy not to enforce SF Police Code §97, which prohibits sleeping in your vehicle between 10pm-6am, the law still stands and could change at any time.
- If you are living in your car or trailer, you are less likely to be ticketed or towed in a Safe Overnight Parking Lot or on private property with permission from the owner.
 - Without permission, parking or camping on private property is trespassing, and can lead to citation or arrest.

● Parking Violations

- **Always** check for signs within 100 feet of the front and back of your vehicle before parking.
- Parking on the street in the same location for more than 72 hours is prohibited.
 - The 72 hours is enforced through complaints from people, so if you move your car to avoid violating this time limit, make sure you move it to another location such as a different block.
 - SF may tow or boot your car if you have 5 or more delinquent parking citations.
 - Once a vehicle has been booted, you have 72 hours to pay the boot fee.
 - If your vehicle has been towed you can recover it at AutoReturn, at 450 7th Street.
- Please note, you must pay all tow- and storage-related fees for AutoReturn to release your vehicle.
 - There is no payment plan for AutoReturn fees.
 - Reduced low-income boot fees can be paid in person at:
 - SFMTA Customer Service Center
 - 11 South Van Ness Ave. (near Market St.)
 - Apply for a low-income payment plan for your parking citations with SFMTA:
 - The application can be found on SFMTA's website, in the 'Getting Around' tab > Driving and Parking Services > Citations
 - Visit the SFMTA office at 11 South Van Ness Ave. to enroll. You can also bring or mail a completed form to:

- SFMTA -- Attn: Payment Plan

11 South Van Ness Ave.

San Francisco, CA 94103

- There is an enrollment fee of \$5.

■ Even if you enroll in the payment plan for your tickets, you will owe the remaining AutoReturn fees if your vehicle is towed.

■ If you are enrolled and active in a payment plan for your parking tickets, you cannot be towed for five or more unpaid parking tickets.

- **Impoundment**

- If you think your car has been towed:

■ Call 415-865-8200 to confirm the tow.

■ Or visit Autoreturn.com and enter your vehicle information

- If SFPD has towed your car..

■ To retrieve your vehicle after SFPD ordered it to be towed, you must get a vehicle release from Room 154 at 850 Bryant.

■ Then you may pick up your vehicle and pay towing fees at:

- The City and County of San Francisco Impound

450 7th Street (between Harrison St. and Bryant St., around the corner from the Hall of Justice)

■ To contest a SFPD tow, request a hearing within 10 days of the tow.

- SFPD tow hearings are conducted in Room 154 at 850 Bryant.

- You can walk in anytime Mon-Fri 9 AM - 3 PM

- If SFMTA has towed your car..

■ Retrieve it by appearing in person and paying all fees at:

- City and County of San Francisco Impound

470 7th St.

San Francisco, CA 94103

■ SFMTA now **waives some** administrative fees and up to three days of storage fees for eligible low income individuals.

- You will need to prove eligibility by bringing one of the following:

- CA State Medi-Cal

- Electronic Benefits Transfer (EBT)

- SFMTA Lifeline

- Eligibility Letter from the Dept. of Homelessness and Supportive Housing (DHS)

- WIC Benefits

- Completed Income Verification form (available at 170 Otis St, SF)

■ To contest a SFMTA tow, you must request a hearing within 30 days of the tow.

● Call 415-701-5400, or complete an online 'Contest a Tow' form, available at <https://sfmta.tfa-forms.net/5>

● You can choose to have your hearing by telephone, email, mail-in, or through online submission.

● Contact LCCR (415-543-9444) for support if your vehicle has been towed.

- **Tow Hearings**

○ During a hearing, you have the chance to argue that SFMTA lacked reasonable grounds to tow your car.

■ A successful hearing can result in a refund or waiver of the tow and storage fees, and dismissal of the associated parking citation, which will include a refund if you have already paid the citation.

- You are not required to pay parking citations before your hearing.

- But if you choose to pay, the hearing officer will not consider this an admission of fault and will not hold this against you in any way at the hearing.²⁶
 - Evidence to present at your hearing:
 - Pictures or video of sign obstruction
 - Names of any witnesses
 - Your own testimony
 - Reach out to LCCR for support and a helpful tow questionnaire to prepare for your hearing

For assistance or more information on any issues, contact:

Coalition on Homelessness

280 Turk Street, Second Floor

415-346-3740

- **Monday-Thursday**

- **9am-5pm**

- **Friday**

- **9am-noon**

- www.cohsf.org

- **Citation Defense**

- Do you have unpaid homeless-related tickets from SFPD?

- Monday & Wednesday

- 10am-Noon

GLIDE Unconditional Legal Clinic

Glide - 330 Ellis St.

- **Monday & Thursday**

- **2pm - 5p**



MR ROGERS WOULDN'T CALL THE COPS