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COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee:		Date:		
Board of Supervisors Meeting		Date:	November 15, 2016	
Cmte Boar	d			
	Motion Resolution Ordinance Legislative Digest Budget and Legislative Analyst Youth Commission Report Introduction Form Department/Agency Cover Lett MOU Grant Information Form Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Commission Award Letter Application Public Correspondence	er and/		
OTHER	(Click the text below for a direc	<mark>t link to</mark>	the document)	
	DOJ Initial Assessment Report			
	President's Task Force on 21st (Century	Policing Report	
	Civil Grand Jury Report			
	Blue Ribbon Panel Report			
Prepared by Prepared by	: John Carroll	Date: Date:	November 10, 2016	

An Assessment of the San Francisco Police Department

OCTOBER 2016





The Internet references cited in this publication were valid as of the date of publication. Given that URLs and websites are in constant flux, the COPS Office cannot vouch for their current validity.
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Contents

Letter from the Director	Vi
Collaborative Reform Team	viii
The team	viii
Research team	viii
Additional experts	viii
Executive Summary	ix
Background	ix
Outreach	X
About Collaborative Reform	X
Goal and objectives of Collaborative Reform	X
Key findings	xi
Conclusions	xiii
Part I. Introduction	1
Introduction	1
Collaborative Reform process	1
Goal and objectives	1
Purpose and intent	2
Stakeholders demonstrated openness to change and reform	3
1. Organization and Structure	4
Part II. Assessment	5
2. Use of Force	5
Methodology used to assess this objective	6
Use of force policies and processes	6
Use of force training	12
Use of force investigations	15
Crisis Intervention Training	23
Community interaction and communication	23
Assessing the SFPD's use of force files and data	26
Findings and recommendations	37

An Assessment of the San Francisco Police Department

3. Bias	50
Methodology used to assess this objective	50
Anti-bias policies and practices	51
Training	52
Responding to community complaints and concerns over police bias	55
The role of leadership	56
The impact of biased policing in San Francisco	59
SFPD stop data	63
Assessing the SFPD's stop data	68
Findings and recommendations	77
4. Community Policing Practices	87
Community policing in San Francisco	87
Methodology used to assess this objective	87
SFPD policies and processes related to community policing	88
District policing as the driver of the SFPD's community policing practices	91
Organizational efforts to build community trust	92
SFPD officers need training that supports community policing	95
Ensuring a guardian mindset through awards, appraisals, and promotions	96
Community stakeholders are at the heart of community policing	97
Homelessness as a unique challenge	100
The SFPD's successes and challenges in providing police services at the community level	101
Findings and recommendations	103
5. Accountability	115
Accountability in San Francisco	115
Methodology used to assess this objective	116
Complaint and discipline policies and processes	117
Institutional coordination and communication	143
Accountability and transparency sources	145
Policy promulgation in the SFPD	
Performance evaluation	
Organizational performance	152

	Contents
Technology and accountability	152
Assessing the SFPD's complaint files	155
Findings and recommendations	158
6. Recruitment, Hiring, and Personnel Practices	172
San Francisco's diversity as a city impacts the need for diversity among SFPD personnel	172
Methodology used to assess this objective	172
Policy support of diversity	172
Four key elements of strategic planning	173
Recruitment and hiring	173
SFPD's diversity in staffing	183
Promotion process	193
SFPD's need for a strategic diversity plan	195
Role of performance appraisals	196
Training needs analysis	196
Findings and recommendations	197
Part III. Conclusion	204
7. Summary	204
1. The importance of leadership in areas ranging from integrity to implementation	204
2. The vital role of communications across constituencies from officers to the public	205
3. The need for a clear vision of the SFPD's future and a strategic plan	206
4. Protocols required to make oversight and accountability effective	206
5. Challenges in using data and technology	207
8. Next Steps	208
Next steps	208
Part IV. Appendices	209
Appendix A. Findings and Recommendations	209
Appendix B. Background on San Francisco	257
San Francisco Police Department	259
San Francisco crime statistics	265

An Assessment of the San Francisco Police Departmen

Appendix C. Methods	266
Document review	266
Interviews and focus groups	267
Observations	269
Appendix D. Use of Force Data and Methodology	270
Data	270
Use of force analysis variables	271
Analytic strategy	275
Results	276
Conclusion	289
References	290
Appendix E. Traffic Stop Data Statistical Analysis	292
Stop data and methodology	292
Stop analysis results	299
At-fault collision benchmark analysis	303
Daytime versus nighttime benchmark analysis	306
Post-stop analysis data and methodology	309
Post-stop analysis variables	309
Post-stop analytic strategy	313
Post-stop analysis results	313
The initial decision to stop	325
Post-stop outcomes	328
Conclusion	332
Logistic regression tables	333
References	340
Appendix F. SFPD Stop Data Collection Recommendations	343
What data should be collected?	343
Traffic stop data	345
Pedestrian stop data	350
How data should be collected and analyzed	356
References	358

Appendix G. Memorandum of Agreement between U.S. Department of Justice, Office of Community Oriented Policing Services and San Francisco Police Department for Collaborative Reform Initiative for Technical Assistance	360
Appendix H. Goal and Objectives Statement	363
Overall goal	363
Objectives	363
Appendix I. Memorandum Re: Review of San Francisco Proposed Use of Force Policies	365
Introduction	365
Summary of Review	366
Appendix J. SFPD Draft Department General Order 5.01 – Use of Force	369
Appendix K. Memorandum Re: Recommendation Regarding Recent Electronic Communication Incident	387
Abbreviations and Acronyms	388
Bibliography	390
About the COPS Office	111

Letter from the Director

Dear Colleagues,

Decades of experience have taught us that law enforcement is a collaborative effort requiring honest, open, and positive relationships with the communities we serve. When we lose the people's trust, we lose their cooperation. Put simply: If people do not believe they are treated fairly, they will not work with us and we cannot maintain the safety of the public.

In response to community concerns regarding several controversial officer-involved shootings, San Francisco Mayor Ed Lee and former Police Chief Greg Suhr asked the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS Office) to assess the department's policies and practices through the Collaborative Reform Initiative for Technical Assistance (CRI-TA) process.

I applaud Mayor Lee and former Chief Suhr for responding to community concerns in such a strong way. It takes both courage and leadership to open your department to scrutiny. But we know that is the only way to identify our weaknesses, reinforce our strengths, and improve the relationship between police and the communities they serve.

As part of our assessment we conducted interviews, focus groups, observations, community engagement events, data analysis, and document review. We found a department with concerning deficiencies in every operational area assessed: use of force; bias; community policing practices; accountability measures; and recruitment, hiring, and promotion practices. We also found serious deficiencies concerning the San Francisco Police Department's (SFPD) data systems regarding the ability to collect, maintain, and analyze data. Overall, the DOJ identified 94 findings and provided 272 recommendations.

Notwithstanding the deficiencies noted, we also found a police department wanting to provide fair and unbiased policing while protecting the community. Throughout the process, the police department has been open, cooperative, and willing to make changes. For example, the SFPD established the Principled Policing and Professional Standards Bureau to work in a coordinated effort to increase transparency and accountability and to be a central contact for the COPS Office through the CRI-TA process.

We look forward to working with the department, the city, and the community in implementing the recommendations contained in the report. In closing, I want to again thank Mayor Lee, former Chief Suhr, and Interim Chief Toney Chaplin for having strong leadership to open the department up to an assessment of this nature. In the end, this will benefit the department and the community and will be a road map for other agencies moving forward.

Sincerely,

Ronald L. Davis

R.B.

Director

Office of Community Oriented Policing Services

Collaborative Reform Team

The Collaborative Reform Team is composed of neutral, independent experts from a wide range of law enforcement–related fields and community advocacy.

The team

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Executive Summary

As a result of an extensive independent assessment of the San Francisco Police Department's (SFPD) activities and operations, the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS Office) presents findings and recommendations on how to address the agency's needs proactively in a long-term manner to improve trust between the SFPD and the communities it serves.

Background

San Francisco, California, is one of the country's most iconic cities, known as much for its hills and vistas as for its progressive political climate. Indeed, identification of counterculture movements can be invoked merely by naming some of the city's neighborhoods, including Haight-Ashbury and the Castro. Today, San Francisco and other Bay Area communities like Berkeley and Oakland are leading the nation's conversations around questions of police accountability, civic engagement, constitutional policing, police use of force, and individual rights.

These are timely conversations because police-community relations in the United States have reached a pivotal moment. Recent highly publicized events involving law enforcement officials, particularly officer-involved shooting incidents, have communities questioning the integrity of police, the rights of individuals, and the role of the community in ensuring that police practices align with community expectations.

The people of San Francisco are among the voices calling for urgency in police reform and building trust between law enforcement agencies and communities. A series of incidents involving the SFPD has raised questions about the department's use of force practices, accountability, and oversight of its practices. These incidents include the following:

- In 2015, the SFPD was involved in six fatal officer-involved shootings.¹
- In a 2010 criminal investigation, a series of racist, sexist, and homophobic text messages was found to have been shared among a group of SFPD officers.² The public was not informed about this issue until February 2014.³
- In a similar incident made public in early 2016, prosecutors investigating an alleged sexual assault involving an SFPD officer discovered a series of racist and homophobic texts shared among the accused officer, his supervisor, and several additional SFPD officers in 2015.4

^{2. &}quot;Government's Opposition to Defendant Furminger's Motion for Bail Pending Appeal," United States of America v. lan Furminger, No. 3:14-CR-00102-CRB-1 N.D. Calif., filed March 13, 2015, https://assets.documentcloud.org/documents/1688121/sample-of-racist-homophobic-text-messages-from.pdf.

^{3.} Vivian Ho, "Officers in Texting Case Win Key Ruling," San Francisco Chronicle, December 22, 2015, http://www.pressreader.com/usa/san-francisco-chronicle/20151222/281977491581708.

^{4.} Tamara Aparton, "Bigoted Text Messages to Affect 200+ Cases," San Francisco Public Defender, last modified April 26, 2016, http://sfpublicdefender.org/news/2016/04/bigoted-text-messages-to-affect-200-cases.

An Assessment of the San Francisco Police Department

These events have placed the city in the national spotlight regarding policing practices and opened a public and passionate conversation around the SFPD's community engagement, transparency, and accountability. As the *Final Report of the President's Task Force on 21st Century Policing* notes, trust is the key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

Outreach

In response to community outcry after several officer-involved shootings and other high-profile incidents, San Francisco Mayor Edwin M. Lee and former SFPD Chief of Police Greg Suhr requested assistance from the DOJ to help address the significant community concerns regarding the status of policing in San Francisco. Specifically, they sought an independent assessment of SFPD through the DOJ's COPS Office Collaborative Reform Initiative for Technical Assistance (CRI-TA).

About Collaborative Reform

The DOJ COPS Office established the CRI-TA program in 2011 in response to requests from the law enforcement community for a proactive, nonadversarial, and cost-effective form of technical assistance for agencies with significant law enforcement–related issues. The COPS Office partners with law enforcement executives to assess agency needs and tailor an effective technical assistance approach. In San Francisco, the COPS Office offered CRI-TA, a long-term, holistic strategy to improve trust between police agencies and the communities they serve by providing a means to organizational transformation.⁵

As part of CRI-TA, the SFPD committed to providing the resources and access necessary to facilitate an indepth look into its policies and practices to help identify areas for improvement and reform particularly as they relate to use of force. The SFPD and the city are to be commended for taking this important step.

Goal and objectives of Collaborative Reform

On April 29, 2016, the COPS Office and the City and County of San Francisco entered into a Memorandum of Agreement for CRI-TA (see appendix G on page 360 for a copy). The goal of CRI-TA with SFPD is to assess, monitor, and assist the department, in collaboration with the community, in the implementation and sustainment of reforms that increase public trust through improvements in community policing practices, transparency, professionalism, and accountability while taking into account national standards, promising practices, current and emerging research, and community expectations (see appendix H on page 363 for the full statement).

^{5.} *Collaborative Reform Initiative for Technical Assistance* (Washington, DC: Office of Community Oriented Policing Services, 2016), http://www.cops.usdoj.gov/pdf/technical_assistance.pdf.

The CRI-TA program in San Francisco began with an assessment phase that addressed the following areas:

- Use of force policies and practices
- Policies, practices, and training to address issues of bias in policing
- Community policing strategies and protocols
- Policies and practices regarding complaint and disciplinary processes
- Recruitment, hiring, and personnel practices

Key findings

The COPS Office found a department that is committed to making changes and working with the community. On the other hand, the department has significant deficiencies in the operational systems assessed. Deficiencies were found ranging from outdated use of force policies to inadequate data collection and lack of accountability measures. We also found disparities in traffic stops, post-stop searches, and use of deadly force against African Americans. In addition, there are numerous indicators of implicit and institutionalized bias against minority groups. Focusing on the five objectives, we identified 94 findings and developed 272 associated recommendations. Following are key findings from each chapter.

Use of force

See chapter 2 for the full narrative.

- The majority of deadly use of force incidents by the SFPD involved persons of color (finding 1).
- The SFPD does not adequately investigate officer use of force (finding 18).
- The SFPD does not maintain complete and consistent officer-involved shooting files (finding 19).
- The SFPD has not developed comprehensive formal training specifically related to use of force practices (finding 6).
- Community members' race or ethnicity was not significantly associated with the severity of force used or injury arising from an officer's use of force (finding 21).
- The SFPD does not capture sufficient data on arrest and use of force incidents to support strong scientific analysis (finding 20)

Bias

See chapter 3 for the full narrative.

- The weight of the evidence indicates that African-American drivers were disproportionately stopped compared to their representation in the driving population (finding 30).
- African-American and Hispanic drivers were disproportionately searched and arrested compared to
 White drivers. In addition, African-American drivers were more likely to be warned and less likely to be
 ticketed than White drivers (finding 31).
- Not only are African-American and Hispanic drivers disproportionately searched following traffic stops but they are also less likely to be found with contraband than White drivers (finding 32).

An Assessment of the San Francisco Police Department

- The SFPD did not conduct a comprehensive audit of official electronic communications, including
 department-issued e-mails, communications on mobile data terminals, and text messages on
 department-issued phones following the texting incidents (finding 24).
- The SFPD's failure to fully and adequately address incidents of biased misconduct contributed to a perception of institutional bias in the department (finding 28).
- Allegations of biased policing by community members have not been sustained against an officer in more than three years (finding 29).

Community policing practices

See chapter 4 for the full narrative.

- The SFPD does not collect data around community policing nor measure success within community policing functions and programs (finding 46).
- The SFPD engages in a range of successful activities, programs, and community partnerships that support community policing tenets, particularly those coordinated through the Youth and Community Engagement Unit (finding 43).
- There is a strong perception among community members that the SFPD is not committed to the principles of procedural justice finding 38).

Accountability

See chapter 5 for the full narrative.

- The SFPD is not transparent around officer discipline practices (finding 55).
- Evaluation of employee performance is not an institutionalized practice in the SFPD (finding 79).
- The SFPD's Internal Affairs Division does not have standard operating procedures or templates for investigation reporting (finding 61).
- The SFPD does not analyze trends in complaints, situations that give rise to complaints, or variations between units or peer groups in relation to complaints and misconduct (finding 67).
- The process to update Department General Orders is overly protracted and does not allow the department to respond in a timely manner to emerging policing issues (finding 70).

Recruitment, hiring, and personnel practices

See chapter 6 for the full narrative.

- Despite a relatively good record in hiring diverse candidates, perception remains in the community that the SFPD seeks to eliminate diverse candidates from its hiring pool (finding 81).
- Gender, racial, and ethnic minority recruits were terminated at a higher rate from recruit training as compared to White male recruits (finding 88).
- The SFPD does not have representative diversity within all its ranks in the organization, especially in the supervisory and leadership ranks (finding 90).

The complete list of findings and recommendations is contained in appendix A, starting on page 209.

Conclusions

The COPS Office found a department that is committed to making changes and working with the community. Although there are deficiencies, this report summarizes the full assessment including findings and recommendations that will help the department modernize its policing practices and enhance community trust. As the SFPD continues to address the challenges outlined in the CRI-TA assessment, it will need to take into account issues related to its leadership and vision, communication and accountability efforts, and technological infrastructure. Trust and collaboration between the SFPD and the community are needed to develop co-produced policing, an environment in which police practices and decisions are transparent, appropriate, understood, and supported. In turn, the SFPD must be willing to share decision-making authority over policing priorities and respond to community expectations and needs. This alignment of police and community interests can be served through effective, collaborative application of the principles of community policing.

This report and its recommendations need to be required reading for officers and supervisors of the SFPD. Further, the Police Commission and the Board of Supervisors should require the SFPD to adopt the recommendations contained in this report and to provide quarterly reporting from the chief on progress in meeting the reform goals contained in this assessment.

Part I. Introduction

Introduction

As a result of an extensive independent assessment of the San Francisco Police Department's (SFPD) activities and operations, the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS Office) presents findings and recommendations on how to address the agency's needs proactively in a long-term manner to improve trust between the SFPD and the communities it serves.

Collaborative Reform process

The COPS Office established the Collaborative Reform Initiative for Technical Assistance (CRI-TA) program in 2011 in response to requests from the law enforcement community for a proactive, nonadversarial, and cost-effective form of technical assistance for agencies with significant law enforcement-related issues.

In particular, the COPS Office developed CRI-TA to engage with law enforcement agencies on issues such as use of force, biased policing, and police legitimacy. Collaborative Reform is a long-term, holistic strategy that identifies issues within an agency that may affect public trust. Under the CRI-TA model, requesting agencies receive comprehensive organizational assessment followed by a series of recommendations and a period of technical assistance and monitoring to help in the implementation of reforms.

Participating in CRI-TA is a sign of a modern, progressive police department that is committed to implementing and advancing procedurally just, impartial, and transparent policies, practices, and procedures throughout the organization.

Goal and objectives

The COPS Office's goal in San Francisco was to assess, monitor, and assist SFPD—in collaboration with the community—in the implementation and sustainment of reforms that increase public trust through improvements in community policing practices, transparency, professionalism, and accountability while taking into account national standards, promising practices, current and emerging research, and community expectations.

Three community listening sessions were held in San Francisco, and assessment team members conducted numerous interviews, observations, and contacts with various police officers and community members to gather insights and comments regarding the SFPD's policies, practices, and relationships with the community. Emerging from this process, the goal and objectives for the Collaborative Reform process were developed and presented to the SFPD.

^{6.} COPS Office, Collaborative Reform.

An Assessment of the San Francisco Police Department

The goal and objectives provide the framework for collaborative reform. Specifically, the DOJ and the SFPD agreed to collaborate in addressing the following technical assistance objectives:

- Assess the SFPD's use of force policies and practices as they relate to training, implementation, reporting, supervision, and oversight and accountability.
- Assess the SFPD's policies and operational practices to determine if there is biased policing with a specific focus on people of color, people with mental illness, the LGBTQ community, and the homeless.
- Assess the community policing, procedural justice, and community engagement protocols and practices across the SFPD in light of national and best practices.
- Assess whether the accountability, oversight policies, and practices related to community complaints and their investigation comport with national standards and best practices.
- Analyze recruitment, hiring, and personnel practices to evaluate diversity efforts in the SFPD to determine adherence with national standards and best practices.⁷

In the course of this assessment, the subject matter experts conducted numerous site visits. The COPS Office spoke with more than 400 individuals from the SFPD and the San Francisco community; attended numerous community meetings; conducted more than 50 observations of the SFPD's engagement with community members; observed Academy training; participated in more than 20 ride-alongs in seven district stations; conducted nine focus group sessions with SFPD officers; and reviewed, assessed, and analyzed hundreds of documents and data files.

Purpose and intent

This assessment report is aimed primarily at the SFPD and the San Francisco community. On the one hand, it is intended to help the SFPD understand the state of its relationship to the San Francisco community and provide a starting point for repairing, cultivating, and enhancing those relationships. On the other hand, this report is also intended to serve as a strategic, independent lens through which the residents of San Francisco can better understand the strengths, constraints, challenges, and limitations of their police department. For both of these audiences, the report's findings and recommendations provide specific, actionable guidance on improving the SFPD's practices in the area of use of force, bias, community policing, accountability, and diversity.

This report is also prepared to help educate, inform, and inspire members of the national audience who seek clear insights and examples on how to advance police-community relations in a positive, productive, collaborative, and sustainable manner. While this report is focused specifically on San Francisco, it contains observations, findings, and recommendations that will assist law enforcement executives, officers, community leaders, and community members across the United States understand and improve the state of policing where they live.

^{7.} COPS Office, Goal and Objectives Statement.

The public release of this report serves as a road map for proactive organizational and cultural changes in law enforcement agencies across the United States. The recommendations can be easily replicated and modified to improve policing practices across the country.

This report reflects the first phase of CRI-TA and is intended to guide meaningful changes to the SFPD's policies, practices, and relationship with the San Francisco community. By identifying the SFPD's strengths and weaknesses, articulating models of emerging practice, and setting out a series of findings and recommendations, this report is a roadmap for the department to move forward in creating a consistent, transparent, and measurable policing strategy.

Stakeholders demonstrated openness to change and reform

The people of San Francisco are proud of their city, and they want to be proud of their police department. Throughout the assessment, community members, governmental representatives, and SFPD personnel engaged willingly and openly in conversation and action around reform and rebuilding trust. Community members engaged in dialogue during listening sessions, forums, and one-on-one interviews to share their points of view, interests, and needs with the assessment team. Many public agencies made staff and resources available to the assessment team, including the Office of the Mayor and other governmental representatives, the Police Commission, the district attorney, the public defender, the Office of Citizen Complaints, the Mayor's Office of Disability, the city attorney, the Human Resources Division, the DOJ United States' Attorney's Office, and the DOJ Community Relations Service.

SFPD personnel and officers worked collaboratively with the Department of Emergency Management, the Comptroller's Office, and the San Francisco Sheriff's Department to fulfill the assessment team's document and data requests. The whole of the SFPD participated cooperatively in interviews, focus groups, ridealongs, and observations. The input of multiple persons across the range of San Francisco communities contributed immensely to the assessment process. Both former Chief Greg Suhr and Interim Chief Toney Chaplin demonstrated a commitment to the CRI-TA program, and the assessment team anticipates an engaged and productive collaboration with the SFPD during the implementation phase. Advancing reform in the SFPD is a shared priority.

1. Organization and Structure

This report is organized in thematic chapters. Each chapter begins with a statement of the methodology followed by a narrative detailing the observations from the assessment team as well as data analysis if any was done. Each chapter concludes with findings and recommendations for the San Francisco Police Department (SFPD).

Chapter 2 provides an analysis of the SFPD's use of force and deadly force practices and policies. Chapter 3 attends to questions of bias in policing. Chapter 4 focuses on community policing practices. Chapter 5 examines the SFPD's disciplinary process. Chapter 6 explores the SFPD's recruitment, hiring, and personnel practices.

In general, subject matter experts in each of the five objectives conducted voluntary, at-will interviews with sworn and civilian SFPD personnel, community members, and other stakeholders with a focus on one or more of the objectives; examined protocols and procedures across the SFPD and its divisions; and, where possible, used data to generate statistical trends and patterns that helped contextualize the SFPD's operations (see appendix C on page 266 for more about the assessment methodology).

For clarity, each chapter in this report addresses one objective of the assessment. However, as reflected in the findings and recommendations, such an isolation of objectives is impossible and counterproductive in practice. Questions of use of force and bias, community policing and accountability, and diversity in hiring practices necessarily and inevitably impact and influence one another. Therefore, the SFPD and the community it serves as well as police departments and communities across the country should understand this report as greater than the sum of its parts. Stakeholders should consider this report both a snapshot and a roadmap: an assessment of where the SFPD is today and where it can go with support and oversight from an engaged, informed public.

Chapter 7 draws conclusions based on the foregoing chapters, and chapter 8 concludes the report with a description of the SFPD's next steps in advancing reform. The appendices provide the full findings and recommendations; background on San Francisco; methodology of the assessment; datasets that informed the statistical analyses; and documentation of the Collabortive Reform Initiative for Technical Assistance (CRI-TA), the Office of Community Oriented Policing Services (COPS Office) response and identification of the goal and objectives, and the Memorandum of Agreement that launched the CRI-TA effort.

We identified a number of findings that are supported in detail. These findings and recommendations highlight the most important opportunities for residents of the City and County of San Francisco and the SFPD to address in order to guide the department along the path toward true community policing.

Part II. Assessment

2. Use of Force

The San Francisco Police Department (SFPD) has had several high-profile and controversial officer-involved shooting incidents. As seen in table 2.1, the SFPD was involved in nine deadly use of force incidents during the time frame of review for this assessment, 2013–2015. Between January 2016 and July 2016, the SFPD was involved in two other deadly officer-involved shooting incidents. However, during this same time frame, the SFPD also successfully resolved two highly charged situations with armed gunmen; neither resulted in any injuries, and neither devolved into an officer-involved shooting incident. All but one of the investigations referenced in table 2.1 remain open investigations, pending decision of the district attorney on whether the officers' actions were lawful. According to a civil grand jury report, the average length of time from the initiation by the district attorney of an officer-involved shooting case to the completion an investigation and issuance of a charging decision letter is 654 days. From May 1, 2013 to May 31, 2016, nine out of the 11 individuals killed as a result of officer-involved shooting incidents were people of color.

Table 2.1. SFPD fatal officer-involved shooting incidents and declinations May 1, 2013-May 31, 2016

Date	Subject	District Attorney's Office Legal Review Decision
March 21, 2014	Mr. Alex Nieto	Lawful actions; district attorney declined to charge
September 25, 2014	Mr. Giovany Contreras Sandoval	Open
October 7, 2014	Mr. O'Shaine Evans	Open
January 4, 2015	Mr. Matthew Hoffman	Open
February 26, 2015	Mr. Amilcar Perez-Lopez	Open
March 17, 2015	Ms. Alice Brown	Open
October 15, 2015	Mr. Herbert Benitez	Open
November 11, 2015	Mr. Javier Lopez Garcia	Open
December 2, 2015	Mr. Mario Woods	Open
April 7, 2016	Mr. Luis Góngora	Open
May 19, 2016	Ms. Jessica Williams	Open

From the first community listening sessions through the conclusion of the Collaborative Reform Initiative for Technical Assistance (CRI-TA) assessment phase, we observed significant protest activity centered on the SFPD's officer-involved shooting incidents. The community voice was loud and consistent in expressing that the SFPD needs to be more transparent and accountable regarding its use of force practices.

The Final Report of the President's Task Force on 21st Century Policing, published in May 2015, advocates the sanctity of life and use of force policies that emphasize de-escalation.9 An officer's decision to use deadly force must be balanced with the recognition that it is more than a policy decision, directly impacting another human being.

^{8.} City and County of San Francisco Civil Grand Jury, *Into the Open*.

^{9.} President's Task Force on 21st Century Policing, Final Report.

An Assessment of the San Francisco Police Department

Methodology used to assess this objective

To assess the SFPD's use of force and deadly force practices, we reviewed a range of documents, including Department General Orders (DGO), Department Bulletins, reports, forms, the recruit training curriculum, and various training documents. We interviewed a variety of individuals, including members or representatives of the following organizations:

- San Francisco Police Department (SFPD)
- Office of Citizen Complaints
- San Francisco Police Commission
- San Francisco City Attorney
- San Francisco District Attorney's Office
- San Francisco Public Defender's Office
- San Francisco Office of the Medical Examiner
- U.S. Attorney's Office for the Northern District of California
- San Francisco Police Officers Association
- San Francisco Board of Supervisors
- San Francisco Office of the Mayor
- San Francisco community members and stakeholders

In addition, the assessment team conducted many direct observations, including focus groups and ridealongs. Last, we conducted qualitative and quantitative assessments on three years' worth of data and investigative files for the period from May 1, 2013, through May 1, 2016. In the qualitative review of use of force files, assessment team members used a random sampling methodology to determine overall investigative quality. Files were rated using a review process that used good practice benchmarks based upon the knowledge and experience of the subject matter experts.

During site visits in San Francisco, we observed a variety of activities centered on officer-involved shooting incidents. Assessment team members observed the SFPD's community outreach following the officer-involved shooting death of Luis Góngora on April 7, 2016. We attended the town hall meeting following the incident and observed firsthand the anguish and anger many in the community expressed regarding the SFPD's use of force practices. After the officer-involved shooting death of Jessica Williams on May 19, 2016, assessment team members observed the SFPD's initial response and on-scene investigative practices for an officer-involved shooting incident.

Use of force policies and processes

Policy provides officers with the framework and guidance for their actions and decisions. Understanding precisely how and when force can be used is a critical component of officer safety. It also has significant impact on the communities that are policed. DGOs are the official codified policies of the SFPD. However, given the challenges of updating DGOs, SFPD leadership often relies on Department Bulletins to

temporarily update or modify policies. Department Bulletins are issued by the police chief and are distributed across the department. Department Bulletins are distributed via e-mail to all SFPD staff members, who assume responsibility for knowledge of their content.

In San Francisco, the policies outlining responsibilities and procedures for officers and the use of force, including deadly force, are contained in DGO 5.01 – Use of Force and DGO 5.02 – Use of Firearms. Other critical orders include DGO 3.10 – Firearm Discharge Review Board; DGO 8.01 – Critical Incident Notification; DGO 8.04 – Critical Incident Response Team; and DGO 8.11 – Officer-Involved Shootings, which are specific subsets of use of force policies and practices.

DGO 5.01 – Use of Force, revised October 4, 1995, allows SFPD officers to use force in the following circumstances:

- To prevent the commission of a public offense
- To prevent a person from injuring him or herself
- To effect the lawful arrest or detention of persons resisting or attempting to evade that arrest or detention
- In self defense or in the defense of another person

While officers are allowed to use force in these circumstances, they are permitted to use only whatever force is reasonable and necessary to protect others or themselves but no more.¹⁰

There are two types of use of force investigations in the SFPD: One addresses use of force generally and one addresses use of deadly force, namely officer-involved shooting incidents. The first use of force investigation generally is a less intensive investigation process. The second involves a variety of inputs and responses.

A variety of Department Bulletins also cover use of force. Each of these policies provides guidance on the variety of operational and administrative issues that arise when officers engage in the use of force against a member of the public.

The SFPD is to be commended for incorporating key concepts, such as de-escalation and sanctity of life, into its existing policies. Department Bulletin 15-106 states, "When an officer is able to decrease his/her exposure to a threat by creating time and distance, the officer will need less force to overcome the decreased-level of risk and thereby increase his/her level of safety." Department Bulletin 15-155 – Response to Mental Health Calls with Armed Suspects, drafted July 16, 2015, stresses that officers need to request the response of a supervisor to the scene of an armed person who appears to be suffering from mental illness as a means to ensure appropriate response. These policies project tenets of de-escalation.

^{10.} San Francisco Police Department, *Department General Order 5.01 — Use of Force*.

^{11.} San Francisco Police Department, Avoiding the "Lawful But Awful."

An Assessment of the San Francisco Police Department

Department Bulletin 15-106 also supports a sanctity-of-life approach in stating that the best scenario is "one where nobody gets hurt: civilian, suspect, or officer." This is in keeping with the President's Task Force's support for a clearly stated sanctity-of-life philosophy reinforced through policy and training.¹³

However, the SFPD also uses Department Bulletins to repeat the same use of force provisions contained in a DGO. It is not clear whether these Department Bulletins were intended to reinforce key issues or were intended to be corrective. For example, Department Bulletin 15-051 – Use of Force Options: Reporting and Medical Assessment Requirements, published March 5, 2015, states the need to report force in certain instances as already outlined and required in DGO 5.01 – Use of Force. In addition, three Department Bulletins all essentially reiterate DGO 5.02, which states that an officer may not discharge a firearm at a person who presents a danger only to him or herself:

- 1. Department Bulletin 14-015 Reminder Regarding General Order 5.02, Use of Firearms: Permissible Circumstances to Discharge Firearm
- 2. Department Bulletin 15-106 Avoiding the "Lawful but Awful" Use of Force
- 3. Department Bulletin 15-155 Response to Mental Health Calls with Armed Suspects

As outlined in this report, the process to update general orders for the SFPD is a cumbersome and lengthy. Nowhere is this more apparent than in the recent process undertaken by the Police Commission to draft new orders for use of force, as the existing DGOs on use of force are years old.

Starting in December 2015, the Police Commission engaged with community members and other stakeholders to update and modify the SFPD's use of force policies. The process of redrafting the SFPD's use of force policies entailed significant public and stakeholder discussion and input. Building trust and nurturing legitimacy on both sides of the police-community divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve. ¹⁴ Parties who participated in the draft review process described it positively to us.

The process has been remarkably transparent with the Police Commission posting on its website the various stages and inputs to the process. ¹⁵ The Office of Community Oriented Policing Services (COPS Office) developed a memorandum (see appendix I on page 365) with their comments on the draft order. These comments were posted on the Police Commission's website.

Assessment team members heard deeply held beliefs on what was considered the appropriate course of action regarding the use of force policies for the SFPD, from drafting participants and members of the community alike. Despite concerns, most felt the process was adequate if not perfect. Most community members focused on transparency and noted that, for the first time, they had a voice in policing decisions that affect their community. Participants in the review process felt that good work had been done and that the outcome, though not flawless, reflected many of the group's goals as a whole.

^{12.} San Francisco Police Department, Avoiding the "Lawful But Awful."

^{13.} President's Task Force on 21st Century Policing, Final Report.

^{14.} President's Task Force on 21st Century Policing, Final Report.

^{15.} City and County of San Francisco, "Use of Force Documents."

The overall process employed by the Police Commission bodes well for the transparency of the guidelines that direct police officers' actions in San Francisco.

The assessment team was also present for some of the public presentations and the subsequent frank and heartfelt public input regarding their perspective on the use of force by police officers and the new draft orders. ¹⁶ These observations; interviews of officers, community members, community leaders, and elected officials; and the review of policies and reports all informed our findings.

The assessment team is concerned with the SFPD's perception of the difficulty in drafting timely and appropriate DGOs to guide its officers. The public's knowledge and input into the policies of its police department is critical to effective and transparent policing. However, such input cannot come at the expense of the efficiency and effectiveness of police operations. The fact that some DGOs have not been updated since 1994 is concerning for a modern law enforcement agency. Policies are the framework for police decision and accountability.

At the time this report went to publication, the revised use of force orders had not yet been enacted. The San Francisco Police Officers Association (POA) has elected to take the draft orders through the collective bargaining process, identifying changes to the orders as an issue subject to collective bargaining under the agreement between the POA and the City and County of San Francisco. As a result, it is believed that the draft use of force orders will not move forward until the collective bargaining process is resolved. Therefore, the meet-and-confer collective bargaining process, currently underway between the City and County of San Francisco and the SFPD's POA regarding the provisions of the draft orders for use of force, has impact on the transparency and public support for the process and for the SFPD. As a matter of procedural justice and transparency, the assessment team believes the SFPD will need to quickly engage the stakeholders once there is an agreement and ensure the community understands its intent and what it allows regarding an officer's decision to use force.

Whether these draft orders are fully codified as SFPD policy and how they are implemented will be monitored during the CRI-TA implementation phase. In the interim, the existing patchwork of use of force policies, both DGOs and Department Bulletins, continue to guide officers' use of force decisions.

This assessment of the SFPD regarding its use of force and officer-involved shooting policies and practices should provide context and a road map for law enforcement agencies seeking to update their own use of force policies in keeping with the needs and interests of the communities they serve.

The majority of the CRI-TA assessment focused on the processes surrounding an officer-involved shooting incident given their significance and impact on the communities of San Francisco. However, an overview of the practices into a use of force investigation is also necessary, as it sets the policies and practices that provide the framework for an officer's decision to engage in force against an individual.

^{16.} The revised DGO 5.10 — Use of Force, dated June 22, 2016, is currently under collective bargaining meet-and-confer and has not been formally enacted by the SFPD.

An Assessment of the San Francisco Police Department

Reportable use of force

Not every incident of a use of force is reportable in San Francisco. Reportable use of force incidents include the following:

- Physical control, when the person is injured or claims to be injured
- Liquid chemical agent, when sprayed on or at the person
- Department-issued baton, when the person is struck or jabbed
- Strikes against a person with the officer's fist, a flashlight, or any other object
- Carotid restraint
- Firearm against a person¹⁷
- Firearm intentionally pointed at a person¹⁸

Documenting use of force incidents

San Francisco does not have a stand-alone use of force report to document the specific actions and events for a use of force incident. The SFPD documents these incidents within the narrative of the incident report recording the initiating incident.

Use of force is recorded on a Use of Force Log and has 12 categories for reporting the type of force used:

- 1. Carotid
- 2. Extended range impact weapons
- 3. Firearm—officer-involved discharge
- 4. Firearm—officer-involved shooting
- 5. Impact weapon
- 6. K-9
- 7. Oleoresin capsicum (pepper spray)
- 8. Physical control
- 9. Pointing of firearm
- 10. Strike by object or fist
- 11. Vehicle deflection
- 12. Other

The Use of Force Log captures basic information about use of force incidents. The information captured includes the following:

- The name and star number of the officer
- The subject's name, age, race, and sex
- Whether the subject complained of pain
- Whether the subject was injured
- The category of force used by the officer

^{17.} San Francisco Police Department, *Department General Order 5.01 — Use of Force.*

^{18.} San Francisco Police Department, Pointing of Firearms.

Each district maintains a Use of Force Log. Supervisors are responsible for ensuring the reportable use of force information is entered into the Use of Force Log. Use of Force Logs are stored on a clipboard in district stations.

Twice monthly, the commanding officer forwards the log and one copy of any related incident reports to the Training and Education Division. Pursuant to DGO 5.01, a copy of the Use of Force Log is sent to the commanding officer of the Training and Education Division to be reviewed for "number, types, proper application and effectiveness of uses of force reported by members" to help inform training needs for the SFPD. ¹⁹ Interviews with SFPD members identified that this does not routinely occur.

The second copy of the Use of Force Log and related incident reports are forwarded through the officer's chain of command to the appropriate deputy chief, who is responsible for reviewing the Use of Force Log and reports and then forwarding them to the Internal Affairs Division (IAD). The IAD commanding officer is responsible for assuring all unit logs are received and reviewed to determine if any individual officers are having problems with use of force. However, in practice, the Early Intervention System Unit enters the log information into the early warning system used by the SFPD. The early warning system identifies potential performance issues pursuant to the Early Intervention System protocols, as further discussed in chapter 5.

For the period from May 1, 2013, through November 30, 2015, SFPD officers did not consistently document the types of force used on the Use of Force Log. For example, for the period from May 1, 2013 through December 31, 2013, the SFPD had only five reports that categorized the type of use of force used by the officer out of more than 500 reported incidents of use of force. Department Bulletin 14-111 – Documenting Use of Force, drafted April 4, 2014, required officers to document the type and amount of force used, including the use of impact weapons, with supervisors responsible for ensuring compliance with the policy. However, through 2015, we found that force data remained incomplete. The overall lack of consistent data collection is indicative of limited oversight of force reporting.

As of January 1, 2016, the SFPD began listing the category of force used on all reported use of force incidents. We learned that this occurred because of an initiative wherein report data were being verified and cleaned by a team of people attached to the Early Intervention System Unit.

We heard from SFPD members that the information contained in the Use of Force Log was limited and not supportive of good analysis. These comments have been borne out by the analysis conducted by us and reported in the following sections and in appendix D beginning on page 270. Assessment team members reviewed use of force reporting forms that had been discontinued years earlier that required far more descriptive information than the current Use of Force Log. The capacity for capturing detailed information on use of force incidents existed at one time and was significantly scaled back in the current Use of Force Log version.

^{19.} San Francisco Police Department, *Department General Order 5.01 — Use of Force.*

An Assessment of the San Francisco Police Department

At a time when most law enforcement agencies are moving to greater transparency through better, more comprehensive data collection, such an anomalous practice limits the organizational ability to analyze and learn from use of force incidents. Use of Force Logs and incident reports need to be analyzed soon after a given incident to allow for the timely discovery of emerging officer safety issues or identification of potential problems in the policing response.

Use of force training

Developing an officer's capacity to decide how and when to use force begins with an officer's initial training at the San Francisco Police Academy. The minimum training requirements for recruits are established by the California Commission on Peace Officer Standards and Training (POST), which requires 60 hours in use of force. The SFPD provides significantly more training on use of force to its recruits, including the following courses as identified in table 2.2.

Although we did not observe the classroom presentation for recruits on use of force training during the assessment period, its review of the curriculum revealed that the general requirements associated with standard use of force training are sufficiently covered and comport with California POST requirements.

Table 2.2. Use of force recruit courses at the academy

Training topic	Number of hours
Use of force policy	20
Defensive tactics	129
Use of force scenario training	40
Firearms	140
Crisis intervention and de-escalation	103

Source: San Francisco Police Department, Use of Force Training and Policy Review.

As part of Continuing Professional Training, every peace officer must complete 24 or more hours of POST training during every two-year cycle. As part of this requirement, peace officers must complete a minimum of 12 hours of training for perishable skills, which are driving training and awareness, arrest and control, and tactical firearms or a Force Options Simulator program.²⁰ Continuing Professional Training often focuses on refreshing skills or providing critical policy and physical skills updates. California POST identifies two perishable topic areas that are specific for use of force incidents: (1) arrest and control and (2) tactical firearms. Therefore, POST requires a minimum of eight hours of training for each of these two components in a two-year training cycle.

The SFPD provides ongoing Continuing Professional Training to update officers on policies related to use of force and qualifications on firearms. The training provides context for understanding when use of force is appropriate. Current curriculum needs to be enhanced and integrated across the training environment for the appropriate regard for sanctity of life and de-escalation principles that are being invoked in the new policy.

^{20.} Commission on POST, "Required Updated or Refresher Training Requirements."

SFPD Officer-Involved Shooting Course: Incidents & Investigations is offered as peer training on investigating officer-involved shooting incidents. In this course, a lieutenant and sergeant with experience on the Internal Affairs shooting investigation team offer insights into investigating shooting incidents. We noted that the training provides supervisors with a fairly broad background on officer-involved shooting incidents. In addition, this course advises the use of a public safety statement card by supervisors to obtain statements post-incident, a practice assessment team members noted in the file review of officer-involved shooting incidents. We were informed that this class is being expanded beyond supervisors to all officers.

The Academy is adapting its training modules to more realistically reflect the conditions that officers face with a focus on mental health and de-escalation to minimize deadly or use of force encounters. Use of a Force Options Simulator training is a way to advance comprehensive use of force decisions, as the simulators are scenario-based. Assessment team members observed this training and found the scenarios to be well-developed and presented.

From written policies to training, the SFPD was not consistent in its guidance on use of force policies and training. The SFPD introduced Department Bulletins that incorporated the key concepts of de-escalation and sanctity of life, but it did so without supportive training. Effecting this type of culture change requires rigorous, practical, and ongoing training in a nonjudgmental atmosphere where views are shared safely with fellow officers about how they behaved in use of force situations. ²¹ Training must also reinforce de-escalation and identifying alternatives to arrest or summons in situations where appropriate. ²² Absent an understanding of the concepts and how to employ them, officers do not have sufficient guidance to meet the policy goals.

However, overall training on use of force is not as strong as it could be in the emerging practice areas. Given that policy exists that supports key fundamental concepts—including de-escalation, sanctity of life, and the need for time, distance and cover—the SFPD should continue to develop and provide training on these principles.

Poor internal communication on use of force developments

The Department Bulletin process reveals additional internal challenges related to communication around policy development and implementation. For example, Department Bulletin 16-071, published on April 30, 2016, requires all officers to carry a 36-inch baton as part of their daily uniform requirements. The assessment team was concerned that the Training Academy staff did not have advance knowledge of the baton policy change. During our visit, Training Academy staff members were drafting training guidelines for use of the 36-inch baton after the policy had already been issued. There must be good communication before and following the publication of orders that affect daily activities or provide for a change in organizational focus. This would allow for smoother implementation and ensure that appropriate training is available, particularly for key orders.

^{21.} President's Task Force on 21st Century Policing, Final Report.

^{22.} President's Task Force on 21st Century Policing, Final Report.

An Assessment of the San Francisco Police Department

Ensuring policy is effective and reflects SFPD values requires supervision, training, and accountability. If the SFPD is going to continue using Department Bulletins to address key risk areas such as use of force, ensuring that officers read and acknowledge policy must be accompanied by training, supervision, and consistent reinforcement of the intended purpose of the policy.

Operational and training coordination

One area requiring improvement is the coordination and sharing of information on use of force incidents. SFPD members responsible for training said that they generally do not identify trends by reading the Use of Force Logs in any structured manner and instead read them only for information. A timely, consistent, and robust data collection practice around use of force data would contribute to a better training environment. Such data would allow for more effective analysis of use of force incidents and the eventual inclusion of the findings into training scenarios and safety training for officers.

The assessment team was informed that training the entire staff on mandatory policy changes takes up to eight months to complete, given the number of officers in the SFPD and the time that training takes. As a result, developing and providing a training response to policy changes is a continuing challenge for the SFPD. Given this potential training-related lag time, it is important to develop clear policies to guide officers in a structured, coordinated fashion.

We did not see a consistent focus on developing a training needs assessment for the SFPD. Rather, POST-mandated training consumes most of the Continuing Professional Training conducted by the SFPD. Lieutenants in each district support Continuing Professional Training, but their roles are primarily administrative because they control training requests and ensure mandatory training is completed. Training records are not fully automated, so training data are not easily accessible. For example, there is no efficient way to identify training completion rates for the organization, to determine the training completion for specific categories of officers, or to conduct an organizational analysis of the training provided and its effect on subsequent performance. We tried to identify how many officers had completed bias training and were told that the records were not easily retrievable. A search of the data SFPD provided to assessment team members revealed that data were not organized nor easily classified by training type and completion date. The lack of easily digestible and robust data creates significant barriers to effective management of training in the SFPD, particularly as it relates to use of force.

Unique factors to the SFPD, such as effective engagement with the homeless community, need to become part of the training needs assessment and delivery of training. Homelessness is a factor in several officer-involved shooting incidents as is mental health crisis. The responsibility of responding to the homeless population is shared among multiple city agencies and should not fall solely to the SFPD. However, the SFPD needs to ensure that its officers are better equipped to deal with specific issues facing homeless individuals.

Use of force investigations

Pursuant to DGO 5.01, following a use of force incident the officer involved notifies his or her supervisor and documents on the report the supervisor's name, rank, star number, and time notified of the use of force in addition to his or her own name. They are also supposed to document the type of force used and the reason for the force

Supervisors are authorized to use their discretion in responding to reported use of force incidents other than those listed on page 10. If the supervisor does not respond to the scene, the officer includes in the incident report the reason why his or her supervisor was not able to respond. However, in the event a use of force incident results in injuries serious enough to require immediate medical treatment, supervisors are required to respond to the scene. Whenever supervisors respond to a scene, they are to conduct observations of witnesses, the scene, and injured parties.

Supervisors review the incident report and any other reports documenting the use of force incident. Supervisors are tasked with determining whether the force used appears reasonable and within SFPD guidelines. We learned through discussions with SFPD members that use of force incidents are normally treated as final investigations upon the supervisors' review.

Officer-involved shootings

Officer-involved shooting incidents are a unique subset of use of force. DGO 5.02 – Use of Firearms, revised March 16, 2011, provides the policy circumstances in which it is allowed for an officer to discharge his or her firearm. DGO 8.11 – Officer Involved Shootings and Discharges, revised September 21, 2005 provides for the investigation and reporting requirements.

SFPD officers are allowed to use their firearms in the following circumstances:

- In self defense when the officer has reasonable cause to believe that he or she is in imminent danger of death or serious bodily injury.
- In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury. However, an officer may not discharge a firearm at a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an imminent danger of death or serious bodily injury to the officer or any other person.
- To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; and
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed.

An Assessment of the San Francisco Police Department

- To kill a dangerous animal; or to kill an animal that is so badly injured that humaneness requires its removal from further suffering where other alternatives are impractical and the owner, if present, gives permission.
- To signal for help for an urgent purpose when no other reasonable means can be used.

Pursuant to DGO 8.11, officers need to notify the Emergency Communications Division, which has transitioned to the Department of Emergency Management, and his or her immediate supervisor of the shooting. Therefore, an officer-involved shooting is initially recorded in the intake and dispatch system for the Department of Emergency Management, an independent agency that manages the dispatch and radio system for the SFPD as part of its response portfolio.

Once recorded, the Department of Emergency Management notifies the SFPD's Department Operations Center, which is responsible for initiating the callout for agencies to the scene. An officer from the Operations Center contacts people individually from a list of on-call personnel from the following: Homicide Detail, Crisis Incident Response Team, IAD, District Attorney's Office, Office of Citizen Complaints (OCC), and various SFPD command staff members. Included as part of the callout are the commanding officer of the member(s) involved, chair of the Firearm Discharge Review Board (FDRB), captain of the Risk Management Office, secretary of the Police Commission, and the Police Officers Association.

Agencies that respond to officer-involved shootings

San Francisco has a multiagency response to officer-involved shootings, and various SFPD functions and components are potentially involved in an incident of police use of force—especially officer-involved shooting incidents. At an agency level, the Police Commission is charged with policy oversight of the SFPD. The District Attorney's Office, OCC, Department of Emergency Management, SFPD Department Operations Center, and medical examiner's office all have independent responsibilities during an officer-involved shooting incident.

When an SFPD officer is involved in a shooting, there are five distinct investigative processes that are initiated.

SFPD Homicide Detail

The first investigative process is that of SFPD's Homicide Detail, situated in the Investigations Division under the Operations Bureau. The Homicide Detail is the lead investigative unit for fatal officer-involved shootings. The Homicide Detail conducts criminal investigations into the underlying criminal activity that precipitates incidents and the actions of the officer to ensure the officer's actions were consistent with legal requirements.

SFPD Internal Affairs Division

The second investigative process is that of SFPD's IAD and its Officer-Involved Shooting Team, situated in the Risk Management Office under the chief of staff. The Officer-Involved Shooting Team responds to the scene of an officer-involved shooting to conduct an administrative investigation. The role of IAD is to determine whether the officer's action comported with SFPD policy.

Because of the nature of employment law and an individual's right to avoid self-incrimination, the IAD and Homicide Detail investigations run in parallel, but each has a distinct focus and maintains an internal firewall around the investigation. The reason is that unlike with respect to most criminal investigations, when it comes to investigations of its employees the SFPD not only has its traditional investigative role but is also their employer. As such, it has the authority to compel a statement from an officer. If the officer refuses to give a statement when so ordered, the officer could be subject to termination of employment. However, compelled statements are generally not admissible in the event of a criminal trial regarding the officer's actions. Therefore, the criminal investigation into an officer's act of misconduct, particularly if criminal charges are anticipated, is kept separate from the administrative investigation.

San Francisco District Attorney's Office

The third investigative process is that of the San Francisco District Attorney's Office, which makes the final decision as to whether the officer's actions complied with the law. Its investigation is independent of the SFPD and the OCC. The SFPD's investigation into the officer-involved shooting is not deemed complete until the district attorney provides a letter, either of declination of charges or of a decision to charge, which informs the SFPD whether charges will be entered against the involved officer.

Office of Citizen Complaints

The fourth investigative process is that of OCC, which responds to the scene. However, until June 8, 2016, OCC did not have the authority to investigate use of force incidents, including officer-involved shootings, without a member of the public lodging a complaint. On June 7, 2016, the voters of San Francisco passed Proposition D, which mandates OCC to investigate all San Francisco-based incidents in which a uniformed police officer discharges a weapon resulting in injury or death.²³ Proposition D did not specify an effective date, but under California Constitution, art. 2, §10(a), "an initiative statute or referendum approved by a majority of the votes thereon takes effect the day after the election unless the measure provides otherwise."

As of the submission of this report, OCC has begun developing anticipated protocols and preparing for this mandated review. The assessment team has concerns over the change in role for OCC. It is not clear whether the SFPD's IAD will cease investigating officer-involved shootings and cede jurisdiction to OCC, if it will be a shared authority between IAD and OCC, or if the roles will essentially continue as they operate presently. Under the newly granted authority, it would be duplicative to have two administrative investigations. The intention of the voters is clear: They seek a greater level of independence in the investigation of officer-involved shootings.

We will monitor the coordination between the SFPD and OCC for investigation information as well as the overall systemic support for the new role assumed by the OCC as part of the CRI-TA implementation phase.

^{23.} Ballotpedia, "San Francisco, California, Citizen Complaints Office."

An Assessment of the San Francisco Police Department

San Francisco Office of the Medical Examiner

The fifth investigative process is that of the medical examiner's office, which responds when an officer-involved shooting results in a fatality. The medical examiner's office responds to the scene to collect the body of the deceased and notifies the family or next of kin. The medical examiner then performs an autopsy and collects evidence from the deceased and reports the findings to the SFPD. Unlike in many other jurisdictions, SFPD officers are not present during the autopsy. The SFPD does receive the evidence collected by the medical examiner's office and inventories it at an SFPD facility.

Response to officer-involved shooting incidents

The assessment team's review of randomly selected officer-involved shooting files (more details in "Assessing the SFPD's use of force files and data" beginning on page 26) demonstrated that the SFPD's approach to the initial response of officer-involved shooting incidents is appropriate. Pursuant to the SFPD's response protocols, an on-duty supervisor is dispatched to the location upon notification of a shooting involving injury or death to a person. Upon the supervisor's arrival, officers assist in setting up the appropriate perimeters. The SFPD ensures there are resources to secure the scene, assists in identifying witnesses, and canvasses the area for additional evidence or witnesses. SFPD practice ensures that involved officers are supported yet separated to guard against undue influence from one another. We found that at this stage of the investigation, the SFPD maintains the integrity of the scene and provides the initial structure, something that many law enforcement organizations continue to struggle to achieve.

A review of one investigation documented how officers from a neighboring patrol district were rotated into the district where the officer-involved shooting incident occurred to ensure that the SFPD's response to calls for service and assistance was not unnecessarily delayed as a result of the unavailability of district officers. Viewed from this perspective, the SFPD ensures that these incidents are thoroughly investigated with a focus on ensuring continued service delivery.

We heard from members of the District Attorney's Office and OCC that the SFPD occasionally fails to provide timely notification to its agencies of officer-involved shooting incidents. Protocols for an officer-involved shooting require notification by the Department of Emergency Management to the SFPD's Department Operations Center. The Department Operations Center is then tasked with manually placing telephone calls to notify key individuals of the officer-involved shooting. Representatives of both agencies said that at all times, the SFPD controls the contact information of the persons requiring telephonic notification when an officer-involved shooting occurs. Members of the SFPD's IAD also raised concern over untimely notification of officer-involved shootings.

The parties raising this issue feel that this is not intentional impropriety on the part of the SFPD. Some are frustrated to learn that response is delayed in some cases because the SFPD called the wrong contact number or called during hours when someone could not reasonably be expected to answer. Members of the SFPD acknowledged that there are occasionally notification delays because of administrative issues and the time it takes to notify required parties of an incident. Regardless of the reason, delayed notification to key partners means that those partners are not present at the earliest stages of an officer-involved shooting investigation. Notifying external oversight partners promptly allows for timely arrival on the scene

and facilitates effective and transparent external oversight of officer-involved shooting investigations. This issue was also noted in the review of officer-involved shooting incidents in the report of the City and County of San Francisco Civil Grand Jury.²⁴

The SFPD's crime scene management is to be commended. In the file review and as observed by assessment team members, the SFPD does a good job of securing a scene and preserving evidence. Investigations reflected proper action early on by responding officers and supervisors. In one incident, a supervisor made an early call to have all of the municipal buses on the route of the location queried for their video recording, signs of good scene management. Crime logs are maintained, completed, and inventoried in the district of occurrence.

Members of the SFPD who were involved in the investigation of officer-involved shootings cited the need to preserve the integrity of the crime scene as one factor in limiting access to the inner perimeter. However, this explanation does not suffice when SFPD command staff and others who have no investigative role are allowed into the inner perimeter while members of the District Attorney's Office and OCC occasionally wait for access.

When we observed the active investigation into an officer-involved shooting incident, access was made available to investigators from the District Attorney's Office and OCC. Access to the crime scene during the early stages of an investigation is appropriate for agencies with official responsibilities, and the SFPD needs to ensure that protocols are in place to support transparency at all stages of the investigation.

Independent investigations and external review

The Police Commission and government officials are sensitive to concerns over transparency and the need for external review of officer-involved shooting investigations, as demonstrated in discussions with various institutional partners regarding the issue. The assessment team was told that the modification of the memorandum of understanding between the District Attorney and the SFPD regarding the investigation of officer-involved shootings is under consideration, including expanding the investigative role of the district attorney. Another proposal being discussed by community stakeholders is developing a special team of investigators working jointly for the state attorney general and the San Francisco District Attorney to handle all SFPD officer-involved shooting investigations. The District Attorney's Office and OCC have also publicly sought stronger roles in the investigation of officer-involved shooting incidents. As of August 1, 2016, a decision has not been made regarding external criminal investigations of SFPD officer-involved shootings.

^{24.} City and County of San Francisco Civil Grand Jury, Into the Open.

^{25.} Currently, the District Attorney's Office investigates officer-involved shootings pursuant to a Memorandum of Understanding with the SFPD.

An Assessment of the San Francisco Police Department

There is room for improvement in San Francisco regarding the investigation of officer-involved shootings. The *Final Report of the President's 21st Century Task Force* notes that external and independent criminal investigations in cases of police use of force resulting in death assure the community of the integrity of the process.²⁶ No matter who ultimately investigates such incidents, the focus has to be on conducting a fair and impartial investigation with transparency for the community.

Administrative status

When an officer-involved shooting incident occurs, the officer is removed from field duty and placed on administrative leave. Within five business days of the officer-involved shooting incident, the police chief convenes a panel to discuss whether it is appropriate for the involved member to return to duty.

Pursuant to DGO 8.11, this panel consists of the following:

- A representative of the Behavioral Science Unit
- The officer in charge of the Homicide Detail
- The deputy chief, commander, and captain overseeing the involved officer's unit
- The officer in charge of the Management Control Division (now known as IAD)
- The deputy chief of Investigations
- The officer in charge of Risk Management

The panel's decision is forwarded to the Police Commission for final review. Prior to returning to duty, the officer must attend refresher training at the Academy and meet with Behavioral Science Unit personnel for assessment and to be cleared for return to duty. The IAD Officer-Involved Shooting Team member assigned to the given investigation tracks compliance with these requirements.

Police Commission

Although it is part of the initial notification list for an officer-involved shooting incident, the Police Commission does not respond to the scene or have an investigative role. Rather, the Police Commission plays an active role in the event that the SFPD or OCC finds misconduct by the involved and recommends discipline in excess of 10 days' suspension. The Police Commission is responsible for adjudication of the recommendation for such discipline. For findings of misconduct that recommend discipline of 10 days' suspension or less, the police chief has the authority to impose the suspension. Further, in its role of oversight of the SFPD, the Police Commission needs to be informed of critical events.

^{26.} President's Task Force on 21st Century Policing, Final Report.

Firearm Discharge Review Board

The FDRB is an oversight board that also conducts reviews of officer-involved shooting incidents. The FDRB assesses officer-involved shooting investigations and makes findings on whether the discharge is consistent with SFPD policy.

Pursuant to DGO 3.10 – Firearm Discharge Review Board, the FDRB is composed of SFPD personnel and representatives from OCC and the Police Commission, including the following:

- Deputy chief of the Administration Bureau, Chair
- Deputy chief of the Field Operations Bureau
- Deputy chief of the Airport Bureau
- Deputy chief of the Investigations Bureau
- Range master, Advisory
- Commanding officer of Risk Management, Advisory
- Member of the Police Commission, Advisory
- Director of OCC, Advisory

The last four, as advisory members, do not have the right to vote on the FDRB's findings.

Pursuant to DGO 3.11, the FDRB will convene within 30 calendar days following the receipt by the board of the investigatory reports from Homicide Detail and IAD. Under current practice, the IAD sergeant who conducts the administrative investigation presents his or her findings to the FDRB. If the discharge is deemed to be within policy, the investigation may be closed without additional substantive review. If the discharge is considered inconsistent with department policy, the review continues and the involved officer may receive a variety of interventions, including disciplinary action. The FDRB issues its findings to the Police Commission.

We attended a FDRB session and reviewed several of the officer-involved shooting investigative files under review by the board. The findings of the FDRB during the observed sessions as to whether the discharge was within policy were appropriate. However, with respect to the cases considered to be within policy, the assessment team believes that the FDRB's limited review of factors other than policy compliance resulted in missed opportunities to consider the degree to which policy, training, or tactics contributed to the officer-involved shooting event.

One case under review involved an officer who was off duty and calling from his cell phone to report the incident. There were significant issues with the manner in which the operator at the Department of Emergency Management handled the call. The FDRB did not discuss or review the dispatch issues that contributed to confusion in assigning officers, and the FDRB noted no action or decision. Members of the FDRB told assessment team members that the Department of Emergency Management was an independent agency. We took this to mean that the FDRB could not do anything about the incident.

Instead of addressing how the call was handled by the dispatcher and what improvements would assist the response to such calls, the FDRB singularly focused on whether the shooting incident was within SFPD

An Assessment of the San Francisco Police Department

policy. Considering the current emphasis on de-escalation and other alternatives to the use of deadly force, this narrow focus is inappropriate. The FDRB should determine what policy, training, communication, and tactics contributed to the use of force incident. Rather than reiterate a finding of within policy, the FDRB has the opportunity to determine if alternative options would have resulted in de-escalating or resolving the incident without harm or injury to the officer or individual. A good review process is one in which police departments pay attention to the officers' and involved persons' behaviors immediately before the firearm discharge.²⁷ The FDRB did not give adequate consideration to these factors. In one of the cases, a nighttime search warrant was executed wherein it was subsequently found that two children lived on the premises. Despite an OCC inquiry, the FDRB never answered as to whether a pre-warrant surveillance was conducted or measures were taken to mitigate the inherent safety issues. These types of questions advance safety for all concerned.

The FDRB does not broadly consider the events that immediately precede an officer-involved shooting from an institutional perspective. One FDRB member repeatedly sought guidance on the training implications of an incident being discussed; however, specifics as to when and the type of training conducted was not provided. Another member of the board inquired whether an officer's continued assignment to a specialized unit should be re-evaluated in light of the employee's unintentional discharge of a weapon. This issue was not addressed by the board.

Because a board secretary keeps a record of FDRB deliberations, it is possible these items may be acted on by others in the SFPD subsequent to the hearing. However, from the perspective of the assessment team it appeared unlikely, as there was no reporting to or from the board regarding such actions from the prior month's hearing.

An FDRB member was asked whether review of the unanswered issues raised by board members occurred elsewhere in the department. The member was not aware of an established protocol for such actions to occur. If the sole responsibility of the board is to determine whether the officer's use of force was consistent with policy, it is duplicative of other processes, including that of OCC; the San Francisco District Attorney's Office; and the chief's return to duty panel, which makes the decision on whether to return an officer to duty shortly after the incident. Pursuant to policy, the FDRB has a greater authority than it exercises and should review an incident beyond whether an officer discharged his or her firearm in accordance with policy.

Although SFPD policy gives the impression that a comprehensive review does occur, the assessment team's review of officer-involved shooting files and its observation of the FDRB's deliberations determined that the process of considering a range of factors is not institutionalized within the department. We have concerns over the direction and efficacy of the board in light of the narrow focus on the officer's actions to determine whether the incident was compliant with policy, excluding numerous other factors that contribute to the incident, such as training, tactics, equipment, and policy.

^{27.} IACP, Officer-Involved Shooting Guidelines.

Crisis Intervention Training

Some of the officer-involved shooting incidents involved persons who were of altered mental health status because of alcohol or drug consumption or mental health disability. Despite this, we did not find any consistent review of officer use of force incidents that allowed the SFPD to alter or adapt its response. In part, as identified in appendix D beginning on page 270, this is because the data are not conducive to such examination. However, the SFPD has been expanding its training on crisis intervention for officers, and this is to be commended. Crisis Intervention Team (CIT) training instructs officers how to effectively manage behavioral crisis situations in the field. The training is designed to teach officers how to manage individuals in behavioral crisis using de-escalation techniques and time, distance, and cover for the safety of all individuals. As of March 2016, 593 members, or 27 percent of the department, have received crisis intervention training.²⁸

Since August 2015, all recruits complete the 40-hour CIT training before they leave the Academy. This training is intended to foster a more informed response to persons in mental health crisis—one that focuses on de-escalation and sanctity of life.²⁹ This should expand the knowledge and understanding of issues facing persons in mental health crisis in the SFPD.

However, although there is a policy that supervisors are to be requested at the scene of an incident where a member of the public in mental health crisis is armed, more must be in place to address such situations. ³⁰ Department Bulletin 14-143 requires that the SFPD move towards a practice of assigning a CIT-trained officer to calls for service that identify persons in mental health crisis. CIT-trained officers are not routinely identified as such on rosters. Rather, the officers self-identify after responding to an incident by entering a designated code into the report. ³¹ The Department of Emergency Management maintains the dispatch protocols. The assessment team was informed that CIT-trained officers are not pre-identified to facilitate their assignment to calls related to persons in mental health crisis. However, given the data issues facing the SFPD, the ability to clearly track and confirm policy adherence for identifying CIT-trained officers remains an issue.

Community interaction and communication

The SFPD engages with the community after officer-involved shooting incidents primarily through media reporting. However, the chief, lead SFPD investigators, and the district captain also host a town hall meeting near the officer-involved shooting incident to inform the community about the facts known about the investigation and to provide the community an opportunity to have input. The team observed one such meeting and found it to be challenging for the SFPD as a result of vociferous community protest.

^{28.} City and County of San Francisco, "SFPD Crisis Intervention Team (CIT)."

^{29.} San Francisco Police Department, *Use of Force Training and Policy Review*.

^{30.} San Francisco Police Department, Response to Mental Health Calls with Armed Suspects.

^{31.} San Francisco Police Department, Response by Crisis Intervention Trained Officers.

An Assessment of the San Francisco Police Department

The opportunity to inform the community about the facts known about the incident is critical to police accountability and demonstrates the SFPD's willingness to share information and facts. However, the SFPD does not keep as active an engagement during the investigative process, and consideration should be given to publishing findings once an investigation is completed to ensure community closure.

In addition, some force options remain contentious with the community. For example, in San Francisco, there is community concern over the use of electronic control weapons (ECW) and the carotid restraint as force options.

Electronic Control Weapons

ECWs are not an authorized force option for SFPD officers. As part of the revision of the draft orders, however, the use of ECWs was initially put forth as a force option. These tools are less-lethal weapons that are meant to help control persons who are actively resisting authority or acting aggressively.³² Many police agencies use these tools and identify that they have helped reduce injury to officers and individuals. Despite their widespread use in other jurisdictions, community stakeholders had very disparate views on their use by the SFPD.

ECWs tend to raise concerns about negative medical effect on some individuals and appropriate oversight and control of their use in police departments.³³ The COPS Office provided comment on the use of ECWs in its original submission of comments to the Police Commission, as referenced in appendix I on page 365. However, ECWs have been removed from the draft orders currently posted on the Police Commission's website.³⁴

Carotid restraint

The carotid restraint is a vascular restraint that employs compression of the carotid arteries and jugular veins at the sides of the neck. This bilateral compression decreases blood flow to the cerebral cortex and thereby leads to unconsciousness.³⁵ Assessment team members observed a clear consensus among community stakeholders that this use of force option should be prohibited.

Contemporary policing discussions regarding use of force suggest that police agencies should carefully weigh any perceived benefit of the use of carotid restraint against potential harm. It is challenging to maintain the appropriate leverage and placement in close-encounter struggles, thereby increasing the risk on an unintended, harmful outcome.³⁶ It is also critical that continued training be available for officers to gain proficiency in the use of vascular holds to ensure that the holds are properly applied. Improperly applying the holds may cut off an individual's air supply and produce other unintended consequences.

^{32.} PERF, Electronic Control Weapon Guidelines.

^{33.} PERF, Electronic Control Weapon Guidelines.

^{34.} San Francisco Police Department, DRAFT Department General Order 5.01.

^{35.} Martinelli, "Reconsidering Carotid Control."

^{36.} AELE, "Use of Force Tactics."

Members of the SFPD identified that carotid restraint worked effectively with minimal struggle. When asked to consider the potential harm that could occur from the improper use of carotid restraint, SFPD officers reported that they have not had a use of force incident involving the carotid restraint result in injury. When discussing this use of this force option, officers did not give weight to the community perspective. What mattered was that the outcome, from their perspective, was successful. We believe that these hard-working officers were engaged with us in a meaningful and productive way. However, their awareness of the tenets of procedural justice was limited. However, as identified by the President's Task Force on 21st Century Policing, the public legitimizes those whom they believe are acting in procedurally just ways. To maintain the public trust, particularly as it relates to decisions around use of force, the SFPD needs to become more willing to listen to the community and cede some authority to the public it serves to develop co-produced policing strategies.

As it relates to the carotid hold, absent an effective ongoing training program, there is significant potential for unintended harm. Most large law enforcement agencies have eliminated the use of the carotid hold for risk reasons and because it is highly disfavored in their communities. The pending revision of DGO 5.01 – Use of Force would prohibit the use of carotid restraint.

Honest, open conversation, predicated upon mutually shared concerns and outcomes, is needed to bridge the divide within the San Francisco communities. Many SFPD officers interviewed by the assessment team do not believe the department has a problem with how it engages with use of force. SFPD officers, including supervisors of various ranks, consistently expressed this sentiment during interviews with the team. While recognizing that the use of force policy needed to be updated, the majority of officers did not believe major modifications were necessary.

As identified throughout this chapter, the communities of San Francisco have a different opinion. The assessment team notes a significant disconnect between the community concerns around use of force by SFPD officers and the perspective of officers and their use of force decisions. The SFPD needs to engage the community in constructive dialogue and truly listen to their concerns. It also needs to educate the public on its use of force practices and policies so that there is an understanding of the issues facing officers and how their decisions are made. Use of force decisions do not occur in a vacuum and have significant impact on the communities served by the SFPD and the officers involved. The SFPD can only become a procedurally just policing organization—one that has the trust and support of the community it serves—by giving the community a voice in its use of force policies and practices

An Assessment of the San Francisco Police Department

Assessing the SFPD's use of force files and data

To assess the department's use of force and deadly force practices, the team conducted qualitative and quantitative assessments on three years' worth of SFPD data and investigative files.

Qualitative review of officer-involved shooting files

The team conducted a qualitative review of officer-involved shooting case files for the period May 1, 2013, through May 31, 2016, for overall investigative quality using a review process that used good practice benchmarks based on the knowledge and experience of the subject matter experts. The case files were also subject to an in-depth review for overall quality, transparency, comprehension, and clarity in their respective investigations and processes.

For the time frame of the data review, there were 22 SFPD officer-involved shooting incidents. Only one of the 11 investigations into officer-involved shooting incidents in which the individual was killed had been completed at the time of the review, as noted in table 2.1 on page 5. This is concerning to the assessment team because these incidents are of the highest concern for the community and police alike.

Officer-involved shooting incidents result in two investigative processes: one through IAD and one conducted by the Homicide Detail. Both have distinct protocols and practices, and each maintains a separate record of the investigation. However, members from both units assisted the team and were open with answers to questions and interested in ensuring that the files requested were present.

Homicide Detail is the lead investigative unit. IAD observes the process in its entirety, such as the questioning of all witnesses, including officers. In addition, IAD can compel a statement by right of administrative investigation and does so after the Homicide Detail investigation is completed. Neither unit closes its investigation until the district attorney's letter of declination is received. Once the units receive the letter of declination, the Homicide Detail closes its investigation into the criminal aspect of the officer-involved shooting. This is then followed by the IAD closing the administrative investigation.

For both types of investigations, the assessment team reviewed files that were not consistently organized and did not have a master index as to what should have been in the file. Although the SFPD has an investigations manual, it does not have a specific protocol for the investigation into officer-involved shootings. Most of the files had a chronological log that was fairly well-maintained in the early stages of the investigation but was not updated as the investigation progressed, leaving gaps in the knowledge of where the investigation was at that later stage. Team members found no indication of consistent supervisory review during the pendency of the investigations.

In addition to incomplete files, assessment team members found no templates to guide the report structure. The SFPD did provide a guide document on the tabulations in the file but provided none on what should be in the tabulations. Team members encountered a lack of consistency as to the investigations as well. The fact that some investigative evidence is digital while other evidence is still in paper format may contribute to this inconsistency.

Because Homicide Detail and IAD do not share protocols or standards for investigations of officer-involved shooting incidents, there is a likelihood for evidence not to be properly identified or assessed, particularly with dual investigative approaches. Photos, crime scene logs, and video collection were referenced in many reports. However, these items were inventoried elsewhere without copies in the investigative files. In order to review or obtain evidence, investigators would need to request the evidence be sent to their unit or travel to the location of storage.

Some pictures were available in most of the files, and both IAD and the Homicide Detail had digital records of photos. However, most were not labelled nor was there an index describing the vantage point or location. When assessment team members examined the digital photographs, they found that many were just a progression of photographs of the scene. Team members did not see consistent evidentiary photographs of officers, their uniform status, the condition of their vehicles, or their weapons within the files. There was not an index or other document to track the photographs and what they were depicting.

In an officer-involved shooting investigation, the statements of officers are critical. As observed by IAD, the Homicide Detail has an established process for conducting a formal interview that is videotaped and audiotaped. The district attorney's investigator also participates in this interview. SFPD investigations both in IAD and in Homicide Detail summarized officers' statements in reports. However, the practice of summarizing statements presents a challenge for subsequent review. Reviewers do not view the video or listen to the audio tape of the full interview but rely upon the paper summary as contained within the investigation. Some of the summaries inappropriately bolded or highlighted portions of officer statements, such as a statement that they were in fear of their life.

Consistently, the IAD investigations had a transcribed copy of the shooting officer's statement but did not interview any witnessing officers or responding supervisors. The officer's statement was not isolated within the file to ensure that no impact occurred on the criminal matter. Although IAD files are secured, it is good practice to isolate an officer's statement in situations where criminal charges have not been fully resolved.

In addition, assessment team members found that interviews were not always conducted with openended questions. In some interviews, questioning was not well-structured or approached in a manner to develop a sense of what the officer saw and did independent of the leading questioning that occurred at times. Inconsistencies in statements, either at an earlier stage or within the interview, were not always followed up.

Investigative files did not contain preliminary finding reports or draft reports—even those that were years old. In Homicide Detail, many contained an initial summary report but did not document basic records of who was called to attend the scene or who was on scene. Such details may be captured in the closing

An Assessment of the San Francisco Police Department

investigative report in the Homicide Detail, but the team reviewed only one such report, which did not have that detail. IAD reports contained information about the administrative processes, including the chief's return to duty panel and the evaluation of the Behavioral Sciences Unit.

Overall, the case files reviewed were not truly investigations. Instead, investigators documented a series of events, collected appropriate evidence, and took statements. Witnesses were not always interviewed in depth. There was not a sense of using factual support or the absence of facts to make an investigative summary. Inconsistencies in statements were often not pressed.

A principal concern of the assessment team is that no single source aggregated all of the parts of the investigation. Team members were initially told that the complete record would be at IAD, but this was not the case. As team members subsequently discovered, the shooting investigations for the time frame requested were open, and therefore the records were contained in Homicide Detail. As noted, IAD and the Homicide Detail maintained separate files focused on investigation, but the SFPD could not produce a complete file—one that documented initiation through the FDRB's determination—of any officer-involved shooting incident. Furthermore, there was not any clear indication of ongoing supervisory review of the progression of the investigation for either unit.

Finally, it is unacceptable for officer-involved shooting investigations to remain open for years. Unnecessarily long investigations can cause undue distress to everyone involved.³⁷ The SFPD must work with the City and County of San Francisco to develop a process that provides for timely, transparent, and factual outcomes for officer-involved shooting incidents.

Qualitative review of use of force files

The assessment team used a random sampling methodology to identify investigations as part of the expert assessment of the overall investigative quality of the SFPD's investigative files for the period May 1, 2013, through May 1, 2016. Team members began with the review of the case files for 2015. The team validated its conclusions regarding the investigative quality of these files against 2014 and 2013 case files. A sample of the case files was also subject to an in-depth review for overall quality, transparency, comprehension, and clarity in the investigation and its processes. There were 287 files in the sample, and 40 were selected for review.

Use of force incidents in San Francisco are not treated as prioritized investigations. Assessment team members found the files to be primarily perfunctory, with basic level reporting. The officer is responsible for completing the incident report and recording the use of force incident in the narrative, and there is a Use of Force Log entry. An investigative file for use of force essentially is the incident report documenting the incident and the Use of Force Log. In the SFPD these are not stored together but rather are distinct reporting mechanisms. In fact, none of the investigative files reviewed for officer-involved shooting incidents contained the Use of Force Log as identified in the case file review on officer-involved shooting incidents.

^{37.} IACP, Officer-Involved Shooting Guidelines.

As identified in the sample a significant number of use of force cases did not have the Use of Force Log adequately filled out. From an oversight perspective, these reports did not have any tracking specific to the use of force incident that allowed tracking other than by associating the incident back to the Use of Force Log. The log is the only independent record of the use of force, underscoring its importance.

Overall, most officers did sufficiently document their use of force within the incident report. Some did not fully explain the circumstances, and some did not explain the actual force used. However, these incidents were not accompanied by evidence of any true investigation. There was a tendency to use SFPD jargon, which can obscure details and affect clarity for internal and external review of these incidents. Although the summary of the incident was generally sufficient it often lacked effective descriptive detail.

Where sergeants responded to the scene, it is not always clear what, if any, action they took regarding interview of witnesses, documentation of injury, or decisions relative to the use of force. This lack of clarity was routinely noted by assessment team members. Information regarding the specific actions of supervisors was not consistently identified within the use of force investigations in the majority of the files reviewed.

Given the poor quality of the use of force data and the types of documents that constitute a use of force report, it would appear that the routine investigation does not exist. Rather, officers document their use of force and supervisors approve the report.

A few case files did identify that photos were taken, but they were not included in the case files. In addition, the files reviewed did not identify any follow-up investigation or supply any Department of Emergency Management call data. Absent a complaint being raised at the time of the incident, the investigation ended with the sergeant's approval. There was no indication of any further supervisory review subsequent to the submission of the incident report.

The assessment team recommends the SFPD employ a stand-alone use of force report. Inherent in that recommendation is the requirement that use of force incidents be investigated. At present, the level of investigations in the SFPD is not sufficient as it relates to officer use of force. There is minimal documentation of witnesses, no separate or summarized interview of witnesses, no routine collection of photographic evidence, and no analysis of the event from an evidentiary standpoint. If a supervisor does not respond, then it falls to the officer who used force to complete the investigation, which is unacceptable.

Quantitative review of use of force data

The data analysis for use of force consisted of data review for the period from May 1, 2013, through May 1, 2016, to ensure the most recently available data. For the time frame identified the number of use of force incidents reported was as shown in table 2.3 on page 30.

An Assessment of the San Francisco Police Department

Table 2.3. Use of force incidents reported by the SFPD by year, May 1, 2013-May1, 2016 (N = 2,578)

Period	Number of use of force incidents	
May 1-December 31, 2013	558	
January 1-December 31, 2014	790	
January 1-December 31, 2015	765	
January 1-May1, 2016	465	
Total	2,578	

The full context of the data used, the research theory, and the analysis used to inform this section are contained in appendix D beginning on page 270.

Use of force reporting

As part of the assessment, team members conducted a scientific analysis of use of force data.³⁸ The analysis used a sample of 548 use of force cases recorded by the SFPD over a three-year period (May 2013–May 2016) to investigate the following:³⁹

- Whether members of racial or ethnic minorities (or both) in San Francisco were subjected to greater (or more severe) levels of force compared to White people
- Whether minority individuals were more likely than White individuals to be injured during a use of force encounter with the police

Unfortunately and because of limitations in the manner in which use of force and arrest data were collected by the SFPD,⁴⁰ assessment team members were unable to perform a multivariate frequency analysis, which would have shed light on whether minority individuals were subjected to force more often than White individuals during an arrest.

Overall, as demonstrated in table 2.4 on page 31, African Americans constituted the largest racial group against whom force was used (37 percent) followed by White (35.4 percent) and Hispanic (18.4 percent) individuals. Persons of other races, including Asian, constituted 8.4 percent of the use of force sample.⁴¹ Although it is tempting to compare these percentages to the census populations of these groups in San Francisco, such comparisons do not take into account the nature of the underlying offenses associated with the use of force incidents or the levels of resistance offered by the individuals, among other important factors.

^{38.} The findings of this entire analysis are reported and contained in appendix D beginning on page 270.

^{39.} See appendix D beginning on page 270 for more information on sampling.

^{40.} The research team was unable to match 1,674 (out of 2,578) of the SFPD use of force—related incident numbers to the incident numbers that appear in the San Francisco Sheriff's Department's arrest database. As a result, the team could not reliably account for arrests that resulted in the use of force and those that did not, which is essential to determining whether minorities were more or less likely than non-minorities to be the subjects of force during an arrest. We strongly recommend that the SFPD collect use of force data in a manner that will allow future researchers to accurately assess which arrests involved the use of force and which did not so that a multivariate frequency analysis of the factors that predict force during an arrest (including suspect race) can be conducted.

^{41.} These percentages have a margin of error of 3—4 points at a confidence level of 95%.

Table 2.4. Racial or ethnic makeup of the use of force sample (N = 548)

Individual race or ethnicity	N	Percent
White	194	35.4%
African American	203	37.0%
Hispanic	101	18.4%
Other	46	8.4%
Unknown	4	0.7%
Total	548	100.0%

Review of the district data

Table 2.5 presents the racial or ethnic breakdown of use of force incidents by SFPD district. It reveals that a majority of officer force in Bayview (54.7 percent) and Tenderloin (56.1 percent) was used against African-American individuals, while Hispanic individuals were most frequently involved in use of force incidents in the Mission (30.0 percent) and Taraval (27.6 percent) districts. White individuals were most often the targets of force in the Central (52.0 percent), Park (61.5 percent), and Richmond (50.0 percent) districts. Again, caution must be used in concluding that force was used disproportionately against a particular racial or ethnic group based solely on that group's representation in the population of a particular district.

Table 2.5. Racial or ethnic makeup of the use of force sample by district

District	White	African American	Hispanic	Other	Missing	Total
Bayview	9	35	12	7	1	64
Percent of Bayview total →	14.1%	54.7%	18.8%	10.9%	1.6%	100.0%
Central	26	12	5	7	0	50
Percent of Central total →	52.0%	24.0%	10.0%	14.0%	0.0%	100.0%
Ingleside	14	18	15	6	0	53
Percent of Ingleside total →	26.4%	34.0%	28.3%	11.3%	0.0%	100.0%
Mission	34	24	27	4	1	90
Percent of Mission total →	37.8%	26.7%	30.0%	4.4%	1.1%	100.0%
Northern	23	19	9	3	0	54
Percent of Northern total →	42.6%	35.2%	16.7%	5.6%	0.0%	100.0%
Park	16	6	3	0	1	26
Percent of Park total →	61.5%	23.1%	11.5%	0.0%	3.9%	100.0%
Richmond	7	2	1	4	0	14
Percent of Richmond total →	50.0%	14.3%	7.1%	28.6%	0.0%	100.0%
Southern	38	33	7	7	1	86
Percent of Southern total →	44.2%	38.4%	8.1%	8.1%	1.2%	100.0%
Taraval	9	8	8	4	0	29
Percent of Taraval total →	31.0%	27.6%	27.6%	13.8%	0.0%	100.0%
Tenderloin	18	46	14	4	0	82
Percent of Tenderloin total \rightarrow	22.0%	56.1%	17.1%	4.9%	0.0%	100.0%
Total	194	203	101	46	4	548
Percent of cumulative total \rightarrow	35.4%	37.0%	18.4%	8.4%	0.7%	100.0%

An Assessment of the San Francisco Police Department

Table 2.6. Highest level of force used by officers

		N	Р	ercent (%)
Verbal command	4		0.7	
Pointing firearm	52		9.5	
Soft hand control	287		52.4	_
OC spray	26		4.7	
Hard hand control	123		22.5	
Baton	43		7.9	
Less lethal munition	11		2.0	
K-9	2		0.4	
Gunshot	0		0.0	

The numbers in table 2.6 represent the highest level of force used during the incident. The data showed that a majority of the force used by SFPD officers involved soft hand control or hard hand control. A firearm was pointed at an individual in 9.5 percent of the incidents, and a baton was used against 7.9 percent of the individuals. Verbal commands, OC spray, less lethal munitions, and K-9s were relatively rare types of force in the sample data. No individual was shot at in this random sample of use of force incidents.⁴²

Table 2.7 on page 33 presents the racial makeup of the use of force incidents across the different types of force. The table reveals no significant differences in the highest levels of force used across racial or ethnic groups. Soft hand controls were the most common use of force for both White individualss and African Americans; 11.3 percent of African Americans had a firearm pointed at them as the highest level of force applied, while White and Hispanic individuals were almost equal with firearms being pointed at them 8.8 and 8.9 percent of the time. Again, one must be cautious when interpreting such findings because this descriptive analysis did not account for factors that may explain any racial disparities observed.

One of the strongest predictors of police use of force is the level of individual resistance. Table 2.8 on page 34 provides a frequency distribution of the highest levels of resistance offered by individuals in the sample. The most common form of resistance was defensive. However, a sizable portion of the use of force incidents involved passive resistance or active aggression resistance. Verbal noncompliance was the highest level of resistance offered by 6 percent of individuals. Aggravated active aggression was the least common form of resistance offered by individuals.

More than 9 percent of incidents in the sample involved no resistance on the part of the individual. No large disparities in the levels of resistance offered by individuals across the racial and ethnic groups. However, 11.8 percent of African Americans and 9.3 percent of White individuals offered no resistance during the use of force incidents. A higher percentage of White individuals than of African Americans offered defensive resistance.

^{42.} Note that this does not mean there were no officer-involved shootings over this three-year period; rather, our random sample did not include any such incidents.

Table 2.7. Highest level of force used by officers by individual race or ethnicity

Level of force	White	African American	Hispanic	Other	Unknown	Total
Verbal command → Verbal command as percent of total UOF	2 1.0%	2 1.0%	0 0.0%	0 0.0%	0	4 0.7%
against individuals of each racial group						
Pointing firearm →	17	23	9	3	0	52
Pointing firearm as percent of total UOF against individuals of each racial group	8.8%	11.3%	8.9%	6.5%	0.0%	9.5%
Soft hand control \rightarrow	105	103	51	25	3	287
Soft hand control as percent of total UOF against individuals of each racial group	54.1%	50.7%	50.5%	54.4%	75.0%	52.4%
OC spray →	9	10	3	3	1	26
OC spray as percent of total UOF against individuals of each racial group	4.6%	4.9%	3.0%	6.5%	25.0%	4.7%
Hard hand control \rightarrow	45	44	24	10	0	123
Hard hand control as percent of total UOF against individuals of each racial group	23.2%	21.7%	23.8%	21.7%	0.0%	22.5%
Baton →	12	16	10	5	0	43
Baton as percent of total UOF against individuals of each racial group	6.2%	7.9%	9.9%	10.9%	0.0%	7.9%
Less lethal munition →	3	5	3	0	0	11
Less lethal munition as percent of total UOF against individuals of each racial group	1.6%	2.5%	3.0%	0.0%	0.0%	2.0%
K-9 →	1	0	1	0	0	2
K-9 as percent of total UOF against individuals of each racial group	0.5%	0.0%	1.0%	0.0%	0.0%	0.4%
Gunshot →	0	0	0	0	0	0
Gunshot as percent of total UOF against individuals of each racial group	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total →	194	203	101	46	4	548
Total UOF against individuals of each racial group	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

The team conducted a multinomial logistic analysis that regressed the highest level of force onto race or ethnicity and a variety of statistical control variables. Resistance by an individual had the largest impact on level of force used by the SFPD. For every one-unit increase on the resistance scale (which ranged from 0 to 5), individuals were 5.74 times more likely to have experienced high force relative to low force.⁴³ Similarly, the risk of being in the medium force category⁴⁴ compared to the low force category increased by a factor of 3.35 for every one-unit increase on the individual resistance scale. An important fact is that the results demonstrate that there were no racial or ethnic disparities in the severity of force experienced by individuals in this random sample. African American, Hispanic, and individuals of other races received similar levels of force as White individuals.

^{43.} See appendix D on page 270. High force is defined as hard hand control, baton use, less lethal projectiles, and K-9 bites. Low force is defined as verbal commands or pointing a firearm.

^{44.} See appendix D on page 270. Medium force is defined as soft hand control and OC spray.

An Assessment of the San Francisco Police Department

Table 2.8. Level of resistance by individual race or ethnicity

Level of resistance	White	African American	Hispanic	Other	Unknown	Total
No resistance → No resistance as percent of total resistance by individuals of each racial group	18	24	6	2	1	51
	9.3%	11.8%	5.9%	4.4%	25.0%	9.3%
Verbal noncompliance → Verbal noncompliance as percent of total resistance by individuals of each racial group	10 5.2%	14 6.9%	7 6.9%	2 4.4%	0 0.0%	33 6.0%
Passive → Passive resistance as percent of total resistance by individuals of each racial group	31	33	17	8	1	90
	16.0%	16.3%	16.8%	17.4%	25.0%	16.4%
Defensive → Defensive resistance as percent of total resistance by individuals of each racial group	91	80	51	24	2	248
	46.9%	39.4%	50.5%	52.2%	50.0%	45.3%
Active aggression → Active aggression as percent of total resistance by individuals of each racial group	39 20.1%	47 23.2%	17 16.8%	8 17.4%	0 0.0%	111 20.3%
Aggravated active aggression → Aggravated active aggression as percent of total resistance by individuals of each racial group	5	5	3	2	0	15
	2.6%	2.5%	3.0%	4.4%	0.0%	2.7%
Total → Total resistance by individuals of each racial group	194	203	101	46	4	548
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

None of the offense characteristics had statistically significant effects on the highest level of force, but several officer characteristics emerged as meaningful. Individuals in use of force incidents that involved all minority officers were 5.85 times more likely to have experienced the highest level of force compared to incidents involving all White officers. This suggests that among this sample of use of force incidents, groups of all minority officers were more likely to use higher amounts of force compared to incidents that involved all White officers. This was an interesting finding and worthy of further analysis. Given that minority officers are distributed fairly evenly throughout SFPD districts, it does not appear that district assignment of minority officers explains this finding. Minority officers are not disproportionately assigned to higher crime districts where higher levels of force might be expected.

Taken as a whole, the results demonstrate that there were no racial or ethnic disparities in the severity of force experienced by individuals in this random sample. African Americans, Hispanic individuals, and individuals of "other" races or ethnicities received similar levels of force as White individuals. Use of force

^{45.} This troubling finding is consistent with that from other studies that have examined factors predicting the use of deadly force by police (Ridgeway, "Officer Risk Factors," White, "Identifying Situational Predictors;" White, "Hitting the Target (Or Not);" Sorensen, Marquart, and Brock, "Factors Related to Killings of Felons by Police Officers;" Fyfe, "Who Shoots?;" Geller and Karales, "Shootings of and by Chicago Police").

incidents in parts of San Francisco with higher concentrations of Hispanic residents involved less severe force on average. Finally, lower levels of force were used against individuals when more SFPD officers were present during the incident.

Individual injuries

Out of the 548 use of force incidents analyzed in this report, 51.8 percent (N = 284) resulted in injury of some type. Complaints of pain or discomfort (17.2 percent) and scrapes (18.8 percent) were the most common types of injuries sustained by individuals in the use of force sample. In fact, these types of injuries accounted for 69.4 percent of the 284 incidents involving some type of injury. About 6 percent of all use of force incidents resulted in bruising or swelling or a laceration, respectively. Eight individuals sustained a broken or dislocated bone and two suffered internal bleeding. Overall, these results indicate that a significant majority of use of force incidents resulted in either no injury or only minor injuries to individuals. From a purely descriptive standpoint, African American, Hispanic, and individuals of other racial or ethnic groups were no more or less likely to be injured compared to their White counterparts.

The assessment team also conducted a logistic regression analysis predicting whether a member of the public was injured during an incident. Consistent with the aforementioned analyses, race or ethnicity was not significantly associated with being injured during a use of force incident. African American, Hispanic, and individuals of other racial or ethnic groups were no more or less likely to be injured compared to their White counterparts. However, an individual's resistance was highly correlated with injury. The likelihood of a person being injured during a use of force incident increased by 114 percent for every one-unit increase in the resistance scale. In addition, men were 68 percent less likely to be injured than women, and age was positively associated with the risk of injury.

None of the offense characteristics measured was associated with the risk of injury, but several officer characteristics were. Consistent with the findings on the severity of force used, use of force incidents involving all minority officers were 2.20 times more likely to result in injury compared to similarly situated incidents involving all White officers. None of the district-level characteristics was associated with the risk of injury to a member of the public.

The data collected by the SFPD in regard to use of force are inadequate. The SFPD should begin collecting use of force information in a manner that is linkable to its arrest data so that a multivariate frequency analysis can be conducted to determine whether minority individuals are more likely than White individuals to have force used against them during an arrest. This analysis should also more fully explore the effect that the race of an officer has on the outcome and frequency of force incidents.

An Assessment of the San Francisco Police Department

Summary of data analysis

This analysis used a sample of 548 use of force cases recorded by the SFPD over a three-year period (May 2013–May 2016) to investigate whether racial or ethnic minorities in San Francisco were subjected to greater (or more severe) levels of force compared to White individuals and whether minority individuals were more likely than White individuals to be injured during a use of force encounter with the police. Overall, African Americans constituted the largest racial group against whom force was used (37 percent) followed by White (35.4 percent) and Hispanic (18.4 percent) individuals. Persons of other races, including Asian, constituted 8.4 percent of the use of force sample. These percentages have a margin of error of 3–4 points at a confidence level of 95 percent. While it is tempting to compare these percentages to the census populations of these groups in San Francisco, such comparisons should not be made because they do not take into account the nature of the underlying offenses associated with the use of force incidents or the levels of resistance offered by the individuals, among other important factors. Unfortunately and because of limitations in the manner in which use of force and arrest data were collected by the SFPD, the team was unable to perform a multivariate frequency analysis, which would have shed light on whether minority individuals were subjected to force more often than White individuals during an arrest.

The results do indicate, however, that minority individuals were not subjected to higher or more severe levels of force than White individuals. This is an important finding and suggests that higher levels of force are not being applied in a racially disproportionate manner by the SFPD. Instead, the level of individual resistance was by far the strongest predictor of the severity of force used by the police across the use of force sample. However, the presence of all minority officers (compared to all White officers) during a use of force event was associated with an increase in the severity of force used. Although a plausible explanation for this finding is that a greater concentration of minority officers may be assigned to higher crime districts where force may be used at higher levels, this does not appear to be the case. Minority officers are, in fact, distributed fairly evenly throughout SFPD districts and are not disproportionately assigned to higher crime districts. This finding regarding higher force levels and the presence of minority officers warrants further examination and analysis in the future.

In addition, officers did not disproportionately use greater force relative to individual resistance against minority individuals when compared to White individuals. This mirrored the severity analysis and reinforces that compared to White individuals, SFPD officers did not use higher levels of force against minorities (African Americans and Hispanic individuals) relative to the resistance offered by those individuals. Again, though, when force was used by only minority officers (singularly or in groups), more force relative to individual resistance was evident when compared to force used by only White officers.

Finally, minority individuals were not injured at the hands of the police more often than White individuals. Rather, the presence of only minority officers was the strongest predictor of individual injury followed by the level of individual resistance. As noted, the consistent finding of increased force and individual injury when only minority officers were present requires further examination in future use of force analyses.

Findings and recommendations

Findings follow the flow of the narrative within the chapter.

Finding 1

The majority of deadly use of force incidents by the SFPD involved persons of color.

Nine out of the 11 deadly use of force incidents from May 1, 2013, to May 31, 2016, involved persons of color.

Recommendation 1.1

The SFPD must commit to reviewing and understanding the reasons for the disparate use of deadly force. Specifically, SFPD needs to

- partner with a research institution to evaluate the circumstances that give rise to deadly force, particularly those circumstances involving persons of color;
- develop and enhance relationships in those communities most impacted by deadly officer-involved shootings and monitor trends in calls for service and community complaints to ensure appropriate police interaction occurs as a matter of routine police engagement;
- provide ongoing training for officers throughout the department on how to assess and engage in encounters
 involving conflict with a potential for use of force with a goal of minimizing the level of force needed to
 successfully and safely resolve such incidents.

Finding 2

The SFPD has closed only one deadly use of force incident investigation for the time frame 2013 to 2015.

The SFPD has been involved in nine deadly use of force incidents during the time frame of review for this assessment, 2013–2015. All but one remains open, pending a decision by the district attorney on whether the officers' actions were lawful. It is unacceptable for officer-involved shooting investigations to remain open for years.

Recommendation 2.1

The SFPD must work with the City and County of San Francisco to develop a process that provides for timely, transparent, and factual outcomes for officer-involved shooting incidents.

An Assessment of the San Francisco Police Department

Finding 3

The SFPD and the Police Commission collaboratively worked with community stakeholders to update Department General Order 5.01 – Use of Force policy.

Department General Order 5.01 was last revised in 1995. The draft revision, dated June 22, 2016, reflects policy enhancements that progressive police departments across the country have implemented, including incorporating recommendations from the *Final Report of the President's Task Force on 21st Century Policing*. However, because of collective bargaining practices, the policy has not yet been implemented by the Police Commission as of the date of this report.

Recommendation 3.1

The Police Commission, SFPD leadership, and elected officials should work quickly and proactively to ensure that the department is ready to issue these use of force policies and procedures to all department employees immediately following the collective bargaining meet-and-confer process. The process should not be drawn out, because the goal should be immediate implementation once it has been completed.

Recommendation 3.2

The SFPD should work with the Police Commission to obtain input from the stakeholder groups and conduct an after-action review of the meet-and-confer process to identify ways to improve input and expedite the process in the future for other policy development.

Finding 4

The Use of Force Log captures insufficient information about use of force incidents.

The SFPD does not have a separate use of force report for personnel to complete after a use of force incident. Rather, the specific articulable facts leading to the force incident are documented in the narrative of a regular incident report form and a paper use of force log, making it difficult to collect accurate and complete data or analyze aggregate use of force data. In addition, it requires staff to manually log the information into the Early Intervention System.

Recommendation 4.1

The SFPD needs to create an electronic use of force reporting system so that data can be captured in real time.

Recommendation 4.2

In developing an electronic reporting system, the SFPD must review current practice regarding reporting use of force, including reporting on level of resistance by the individual, level and escalation of control tactics used by the officer, and sequencing of the individual's resistance and control by the officer.

Recommendation 4.3

In the interim, the SFPD should implement the use of force report that is under development within the Early Intervention System Unit and require that it be completed for every use of force incident. The assessment team identified this report to be a good start to a robust reporting system for use of force incidents in the SFPD. The SFPD should eliminate the Use of Force Log (SFPD 128 (Rev. 03/16)).

Recommendation 4.4

To facilitate the implementation of recommendation 4.3, a training bulletin describing the form, its purpose, and how to accurately complete it should accompany the form introduction. The bulletin should be implemented within 90 days of the issuance of this report.

Recommendation 4.5

The SFPD should continue the manual entry of use of force data until the electronic use of force report is operational. To ensure consistency and accuracy in the data, this entry should be conducted in a single unit rather than in multiple units.

Recommendation 4.6

The SFPD should audit use of force data on a quarterly basis and hold supervisors accountable for ongoing deficiencies.

Recommendation 4.7

The SFPD should assign the Training and Education Division to synthesize the issues emerging from the use of force reports and create announcements for roll call on emerging trends. The announcements can include scenarios from incidents that were troubling or complicated in some way and encourage officers to discuss with one another in advance how they would communicate and approach such situations.

Finding 5

The SFPD does not consistently document the types of force used by officers.

Out of a sample of more than 500 reported incidents of use of force, only five had documented the type of use of force on the Use of Force Log. Department Bulletin 14-111 – Documenting Use of Force, drafted April 4, 2014, requires officers to document the type and amount of force used, including the use of impact weapons, with supervisors responsible for ensuring compliance with the policy. However, through 2015, the team found that force data remained incomplete. The overall lack of consistent data collection is indicative of limited oversight of force reporting.

Recommendation 5.1

The SFPD needs to develop and train to a consistent reporting policy for use of force.

An Assessment of the San Francisco Police Department

Recommendation 5.2

The SFPD needs to hold supervisors and officers accountable for failure to properly document use of force incidents.

Finding 6

The SFPD has not developed comprehensive formal training specifically related to use of force practices.

A number of training issues on emerging operational practices in the SFPD and those highlighted in the *Final Report of the President's Task Force of 21st Century Policing*, such as de-escalation, have not been adequately addressed.

Recommendation 6.1

The Training and Education Division should adopt and implement a formal Learning Needs Assessment model that identifies and prioritizes training needs and should subsequently design and present them in the most effective and efficient ways possible.

Recommendation 6.2

To support policies mandated through recent Department Bulletins, as well as to ensure implementation of best practices and policies outlined in the Final Report of the President's Task Force of 21st Century Policing, the SFPD's Training and Education Division should prepare training on the following topics at minimum:

- Enhanced de-escalation
- Sanctity of life
- Enhanced service-oriented interactions with homeless individuals
- Improved dispatch protocols for cases requiring Crisis Intervention Team response

Recommendation 6.3

SFPD training records should be fully automated and training data easily accessible.

Finding 7

SFPD officers have not been trained on operational field use of the mandated 36-inch baton.

Department Bulletin 16-071, which was published on April 30, 2016, requires all officers to carry a 36-inch baton as part of their daily uniform requirements. The assessment team was concerned that the Training Academy staff did not have advance knowledge of the baton policy change. During the team's visit, Training Academy staff members were drafting training guidelines for use of the 36-inch baton after the policy had already been issued. There must be good communication before and following the publication of orders that affect daily activities or provide for a change in organizational focus. This would allow for smoother implementation and ensure that appropriate training is available, particularly for key orders.

Recommendation 7.1

The SFPD must develop a policy on the use of the 36-inch baton for the use of interacting with individuals with edged weapons. The policy should also dictate the proper handling of the baton, and the policy should dictate when it is appropriate to use a two-hand stance and when a one-hand approach is needed.

Recommendation 7.2

The SFPD must develop training on the use of the 36-inch baton for the use of interacting with individuals with edged weapons. Once developed, the training should be deployed to all officers.

Recommendation 7.3

The SFPD should prohibit the use of the 36-inch baton until all officers are properly trained in its intended field use.

Finding 8

SFPD supervisors are not required to respond to the scene of all use of force incidents and are not required to fully document their actions.

Supervisors are not appropriately tasked in relation to use of force incidents. Supervisors are required to respond to the scene for use of force incidents only when injuries are reported injuries and are not required to document their actions in the incident report. Furthermore, during the review period officers and supervisors continued to inconsistently complete use of force reporting forms.

Recommendation 8.1

The SFPD should immediately require supervisors to respond to events in which officers use force instruments or cause injury regardless of whether there is a complaint of injury by the individual. This will allow the department greater oversight of its use of force.

Recommendation 8.2

Supervisors should be held accountable for ensuring accurate and complete entry for all use of force data reporting.

Recommendation 8.3

Supervisors should be required to document their actions regarding the investigation of the use of force incident within the incident report. As recommended in this section (recommendation 3.2), a stand-alone use of force report should be developed and, when completed, should contain a section for supervisory actions relative to the incident and signature.

An Assessment of the San Francisco Police Department

Finding 9

The SFPD is inconsistent in providing timely notifications to all external oversight partners following an officer-involved shooting.

Members of the SFPD acknowledged that there are occasionally notification delays because of administrative issues and the time it takes to notify required parties of an incident. Regardless of the reason, delayed notification to key partners means that those partners are not present at the earliest stages of an officer-involved shooting investigation. Notifying external oversight partners (including the district attorney and Office of Citizen Complaints [OCC]) promptly allows for timely arrival on the scene and facilitates effective and transparent external oversight of officer-involved shooting investigations.

Recommendation 9.1

The SFPD should work with the Department of Emergency Management to provide it with primary responsibility for timely notification to all stakeholders on the call-out list used immediately after an officer-involved shooting incident.

Recommendation 9.2

Until the Department of Emergency Management protocol is established, when activating the protocols for notification following an officer-involved shooting incident the Operations Center should notify representatives of IAD, the District Attorney's Office, and OCC with no lag time occurring in any of the notifications. The Operations Center log for notifications should be included as part of the investigation report case file to accurately and fully depict notifications.

Recommendation 9.3

All notified responders should be required to notify the Department of Emergency Management of the time of their arrival. This will create a comprehensive permanent record of the time of notifications and responses of the units to the scene.

Recommendation 9.4

The SFPD should explore the option for timely electronic notification to all oversight partners.

Finding 10

There is a lack of coordination and collaboration for responding to and investigating an officer-involved shooting.

The SFPD's investigative protocols are comparable to those followed by other professional major city police departments. However, IAD staff members, along with some of SFPD's partners such as members of the District Attorney's Office and the OCC assigned to respond to such incidents, are not as integrated.

Lack of collaboration and cooperation in investigating officer-involved shooting incidents can undermine procedural justice and transparency for the department. The SFPD needs to develop protocols and memoranda of agreement to ensure the highest level of cooperation and oversight into the investigation of officer-involved shooting incidents. Joint training protocols ensuring all parties are appropriately trained and working to the highest professional standards should become a matter of routine practice. These protocol agreements and practices will become more important as OCC assumes its responsibility to independently investigate SFPD officer-involved shooting incidents. The team will monitor the implementation of the new law during the CRI-TA implementation phase.

Recommendation 10.1

The SFPD should establish a formal protocol to ensure that a representative of the Homicide Detail provides OCC and District Attorney's Office investigators a timely briefing about the facts of the case and to make arrangements for a formal walk-through or gain investigative access to the incident scene as soon as possible. The highest-ranking officer on the scene should be responsible for ensuring compliance with this recommendation.

Recommendation 10.2

The SFPD should work with its accountability partners the OCC and the District Attorney's Office in officer-involved shootings to develop a formal training program in which representatives of the District Attorney's Office, SFPD Homicide Detail, and the OCC engage in regular training regarding best practices for investigating such cases. This training should be developed and implemented within 120 days of the issuance of this report.

Finding 11

The Firearm Discharge Review Board is limited in scope and fails to identify policy, training, or other tactical considerations.

The FDRB is a good practice but has devolved to essentially determining whether the shooting officer's actions were consistent with policy. However, several other layers of authority also conduct this determination. The FDRB is better served following its policy mandate to ensure that the department is continually reviewing its training, policy, and procedures as they relate to officer-involved shooting incidents.

Recommendation 11.1

The SFPD should update the Department General Order 3.10 – Firearm Discharge Review Board to require written evaluation of policy, training, and tactical considerations of discharge incidents, specifically identifying whether the incident was influenced by a failure of policy, training, or tactics and should include recommendations for addressing any issues identified.

An Assessment of the San Francisco Police Department

Recommendation 11.2

The SFPD should update existing programs and develop training to address policy gaps and lessons learned. The Training and Education Division should work with the FDRB and Homicide Detail to create a presentation to inform department personnel about key issues that contribute for officer discharge incidents and to help mitigate the need for firearm discharge incidents.

Recommendation 11.3

The SFPD should update the DGO to ensure that the FDRB is staffed with a Training and Education Division representative as an advisory member to ensure an appropriate focus on development of responsive training protocols.

Recommendation 11.4

Officer-involved shooting events need to be reviewed in a more timely fashion as they relate to policy, training, and procedures. The FDRB should review incidents at the conclusion of the IAD investigation rather than waiting for the district attorney's letter of declination for charging of an officer-involved shooting incident, which can take up to two years.

Finding 12

The SFPD has significantly expanded its Crisis Intervention Team (CIT) training program; however, the SFPD does not have a strong operations protocol for CIT response.

Crisis Intervention Team training instructs officers how to effectively manage behavioral crisis situations in the field. Since February 2015, all recruits complete the 40-hour Crisis Intervention Team training before they leave the Academy. As of March 2016, 593 members—27 percent of the department—have received crisis intervention training.

Although there is a policy that supervisors are to be requested at the scene of an incident wherein a member of the public in mental health crisis is armed, more must be in place to address such situations. The team learned that CIT-trained officers are not pre-identified to facilitate their assignment to calls related to persons in mental health crisis. However, given the data issues facing the SFPD, the ability to clearly track and confirm policy adherence for identifying CIT-trained officers remains an issue.

Recommendation 12.1

The SFPD should work with the Department of Emergency Management to ensure sound CIT protocols, namely the following:

- Ensure that dispatchers are notified at the beginning of each shift which units have CIT-trained officers assigned so they are appropriately dispatched to calls for persons with mental health disabilities.
- Develop protocols to ensure that mental health crisis calls for service are answered by intake personnel at the Department of Emergency Management and the information is appropriately relayed to field personnel.

Recommendation 12.2

The SFPD should ensure an appropriate distribution of CIT-trained personnel across all shifts in all districts.

Recommendation 12.3

Newly promoted supervisors should also receive CIT training as part of their training for their new assignments.

Finding 13

The SFPD engages with the community following an officer-involved shooting incident through a town hall meeting in the community where the event occurred.

The town hall meetings following an officer-involved shooting in the relevant neighborhood is a promising practice.

Recommendation 13.1

The practice of hosting a town hall meeting in the community shortly after the incident should continue with a focus on releasing only known facts.

Finding 14

The SFPD does not have a strategy to engage with the broader community following a fatal officer-involved shooting until its conclusion.

The SFPD does not keep as active an engagement during the investigative process, and consideration should be given to publishing findings once an investigation is completed to ensure community closure.

Recommendation 14.1

The SFPD should develop an ongoing communication strategy for officer-involved shootings.

Recommendation 14.2

The SFPD should ensure that media outreach is immediate and that information conveyed is succinct and accurate

Recommendation 14.3

The SFPD should use social media as a tool to relay critical and relevant information during the progression of the investigation.

Finding 15

The SFPD does not adequately educate the public and the media on issues related to use of force and officer-involved shootings.

An Assessment of the San Francisco Police Department

Recommendation 15.1

The SFPD needs to create outreach materials related to educating the public and the media on use of force and officer-involved shooting investigations and protocols. These materials should be disseminated widely through the various community engagement events and district station meetings.

Recommendation 15.2

The SFPD should host town hall presentations to educate the public and the media on use of force and officer-involved shooting investigations and protocols.

Finding 16

Currently, SFPD officers are not authorized to carry electronic control weapons (ECW, i.e., Tasers).

These tools are less-lethal weapons that are meant to help control persons who are acting aggressively. Many police agencies use these tools and report that they have helped reduce injury to officers and community members and lead to fewer officer-involved shootings. Promising practices suggest that the use of ECWs can result in less use of force.

Recommendation 16.1

Working with all key stakeholders and community members, the SFPD and the Police Commission should make an informed decision based on expectations, sentiment, and information from top experts in the country.

Recommendation 16.2

The City and County of San Francisco should strongly consider deploying ECWs.

Finding 17

Currently, the SFPD authorizes personnel to use the carotid restraint technique.

This technique poses a significant risk in the community and is not a routinely adopted force option in many law enforcement agencies. Contemporary policing discussions regarding use of force suggest that police agencies should carefully weigh any perceived benefit of the use of carotid restraint against potential harm. It is challenging to maintain the appropriate leverage and placement in close-encounter struggles, thereby increasing the risk on an unintended, harmful outcome. ⁴⁷ The department's pending draft order on use of force would eliminate the use of the carotid restraint.

Recommendation 17.1

The SFPD should immediately prohibit the carotid restraint technique as a use of force option.

^{46.} PERF, Electronic Control Weapon Guidelines.

^{47.} AELE, "Use-of-Force Tactics."

Finding 18

The SFPD does not adequately investigate officer use of force.

At present, the level of investigations in the SFPD is not sufficient as it relates to officer use of force. There is minimal documentation of witnesses, no separate or summarized interview of witnesses, no routine collection of photographic evidence, and minimal analysis of the event from an evidentiary standpoint. If a supervisor does not respond, then it falls to the officer who used force to complete the investigation, which is unacceptable.

Recommendation 18.1

The SFPD needs to develop a policy for investigation standards and response for all officer use of force.

Recommendation 18.2

The SFPD should create an on-scene checklist for use of force incidents. 48

Recommendation 18.3

The SFPD needs to develop a protocol for proper development and handling of officer statements.

Finding 19

The SFPD does not maintain complete and consistent officer-involved shooting files.

The SFPD maintains two separate officer-involved shooting files, one with the Homicide Detail and one with IAD. The files are incomplete with no consistent report structure. The team encountered a lack of consistency as to the investigations as well. The fact that some investigative evidence is digital while other evidence is still in paper format may contribute to this inconsistency.

Because Homicide Detail and IAD do not share protocols or standards for investigations of officer-involved shooting incidents, there is likelihood that evidence will not be properly identified or assessed, particularly with dual investigative approaches. Photos, crime scene logs, and video collection were referenced in many reports. However, these items were inventoried elsewhere without copies in the investigative files.

Investigative files did not contain preliminary finding reports or draft reports—even files that were years old. Within Homicide Detail, many files contained an initial summary report but did not document basic records of who was called to attend the scene or who was on the scene.

Recommendation 19.1

The SFPD needs to develop a standard officer-involved shooting protocol within 90 days of the release of this report.

48.	IACP,	Officer-i	Involved	d Shootings

An Assessment of the San Francisco Police Department

Recommendation 19.2

The SFPD needs to create a template for all officer-involved shooting files. This template should detail report structure and handling of evidence. SFPD should refer to Officer-Involved Shootings: A Guide for Law Enforcement Leaders.⁴⁹

Recommendation 19.3

The SFPD should ensure that all officer-involved shooting investigations are appropriately reviewed by all levels of supervision.

Finding 20

The SFPD does not capture sufficient data on arrest and use of force incidents to support strong scientific analysis.

Because of limitations in the manner in which use of force and arrest data were collected by the SFPD, assessment team members were unable to perform a multivariate frequency analysis, which would have shed light on whether individuals who are members of racial minorities were subjected to force more often than White individuals during arrests.

Recommendation 20.1

The SFPD needs to develop reliable electronic in-custody arrest data. It needs to ensure that these arrest data accurately reflect the incident number from the event, and the number should be cross-referenced on both the booking card and the use of force reporting form.

Recommendation 20.2

The SFPD needs to audit arrest data and use of force data monthly to ensure proper recording of use of force incidents related to arrest incidents. An audit of these data should occur immediately upon publication of this report and monthly thereafter.

Recommendation 20.3

The SFPD needs to advocate for better coordination with the San Francisco Sheriff's Department to ensure that the recording of SFPD arrest data is accurate and corresponds with SFPD incident report and arrest data.

Recommendation 20.4

The SFPD should identify a research partner to further refine its use of force data collection and to explore the data findings of this report to identify appropriate data for measurement and to determine causal factors.

^{49.} IACP, Officer-Involved Shootings.

Finding 21

Community members' race or ethnicity was not significantly associated with the severity of force used or injury arising from an officer's use of force.

Recommendation 21.1

The SFPD should continue to collect and analyze use of force data to identify patterns and trends over time consistent with recommendations in finding 20.

Finding 22

When only minority officers were involved in a use of force incident, the severity of force used and the injuries sustained by community members increased.

Recommendation 22.1

The SFPD needs to improve data collection on use of force so that further analysis can be conducted to better understand this finding.

Finding 23

The SFPD allows members to shoot at moving vehicles under certain circumstances pursuant to Department General Order 5.02 – Use of Firearms.

SFPD policy provides for a variety of exceptions that allow officers to shoot at a moving vehicle, which effectively nullifies the general statement that officers are prohibited from discharging their firearm at the operator or occupant of a moving vehicle. The department's pending draft order on use of force allows shooting at vehicles when there is an immediate threat of death or injury by means other than the vehicle.

Recommendation 23.1

The SFPD should immediately implement this provision of the draft policy.

Recommendation 23.2

The FDRB should be tasked with review of all prior officer-involved shooting and discharge incidents in which firearms are discharged at a moving vehicle to

- evaluate and identify commonalities with recommendations for policy and training as a result of the review;
- oversee training and policy development aimed at eliminating the need for such actions;
- report to the Police Commission about the outcomes of the review and the actions taken to overcome those situations that contribute to such incidents.

3. Bias

San Francisco Police Department (SFPD) members of all ranks are responsible for ensuring a procedurally just organization, one that is free from the negative effects of biased policing. The SFPD's vision statement reads, in part, "San Francisco has an international reputation for its commitment to human values: compassion, fairness, diversity, human rights, and justice. These values must be at the forefront of [the] SFPD as it fulfills its public safety mission." ⁵⁰

Procedural justice can be external to an agency or internal. External procedural justice focuses on the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public's trust of the police. ⁵¹ By contrast, internal procedural justice involves the relationship between officers and their superiors. Studies indicate that officers who "complain that their superiors do not listen to them, do not explain their policies and are not concerned about the issues that matters to officers are less likely to follow department rules on the street, and less willing to cooperate with their superiors in the department's efforts to manage social order."⁵²

A commitment to fair and impartial policing starts with how the SFPD recruits and hires, continues through all facets of training, and is reinforced through policies and accountability for acting in accordance with the values and standards of the department. Furthermore, impartial policing requires proactive effort by all SFPD members to identify and eliminate the negative impact of implicit bias in their interactions with the San Francisco community and with their fellow employees.

Methodology used to assess this objective

The assessment team conducted a mixed methodology review of data to determine whether bias influences the policing practices of the SFPD. First, the team conducted a document review of policies, procedures, and training curriculum related to bias. As part of the document review, team members examined how community complaints regarding potential bias are addressed. Team members evaluated the SFPD's practices and organizational approach to addressing bias and conducted analyses of the SFPD's arrests, traffic stops, uses of force, and pedestrian encounters to identify trends or patterns of bias.

In addition to the document review, the assessment team conducted a variety of interviews with staff from the Office of Citizen Complaints (OCC), the Police Commission, partner governmental agencies, and elected officials. Team members also conducted interviews and focus group sessions with SFPD personnel at all levels including recruits, line officers, supervisors, and command staff. The team also met with a variety of and community organizations and community members throughout San Francisco.

Third, members of the assessment team participated in ride-alongs and foot patrols to observe officers during their routine interactions with community members.

^{50.} City and County of San Francisco, "The San Francisco Police Department Vision Statement."

^{51.} President's Task Force on 21st Century Policing, Final Report.

^{52.} PERF, Legitimacy and Procedural Justice.

Fourth, the assessment team conducted a rigorous scientific analysis of quantitative data predicated upon known factors that reflect potential bias in policing decisions to determine if they indicate disparate practices in the SFPD. Team members requested numerous data sets, including data on stops, arrests, officer characteristics, reported crime, traffic collision, and deployment and U.S. Census results.

Anti-bias policies and practices

The SFPD addresses intolerance for bias in its value statement and a written policy regarding anti-bias requirements for officers. The guiding policy on bias is Department General Order (DGO) 5.17 – Policy Prohibiting Biased Policing, revised May 2011. The SFPD defines biased policing as the use, to any extent or degree, of actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity in determining whether to initiate any law enforcement action in the absence of a specific suspect description.⁵³ DGO 5.17 states that the SFPD maintains a commitment to treat all people with dignity, fairness, and respect as a guiding principle. It also recognizes that to maintain community trust, members of the department must carry out their duties in a manner free from bias and strive to eliminate any perception of policing that appears biased.⁵⁴

Public complaints about biased policing are addressed pursuant to DGO 2.04 – Citizen Complaints Against Officers, issued July 1994, which outlines the procedures the SFPD is to follow when receiving, investigating, and processing community complaints against officers. If a complaint is received at an SFPD location, the supervisor is to prepare a Citizen Complaint Form (SFPD/OCC 293), route the original complaint form to OCC, and forward a copy to the commanding officer. ⁵⁵ OCC is tasked with conducting investigations into officers accused of bias-based policing by members of the public.

Improving practices and policies

The SFPD has demonstrated a willingness to advance practices aimed at reducing bias behavior. In particular, the SFPD has established policies and training around bias in policing with the goal of identifying, reducing, and holding accountable those who engage in biased policing. However, the SFPD's efforts in setting rules, while a promising start, remain in developmental stages and have had little measurable impact.

Most of the SFPD's efforts to eliminate bias in policing do not seem to take into sufficient consideration past recommendations for improvement or garner the necessary organizational vision. A 2007 reportrecommended stronger community engagement and ongoing department-wide training. ⁵⁶ It also identified strategies for leadership to help overcome bias and bring transparency, including the following:

- Examine patterns in arrest and other enforcement action for potential disparities.
- Provide informal training through frank discussions at the command level regarding racially biased policing.

^{53.} San Francisco Police Department, *Department General Order 5.17 — Policy Prohibiting Biased Policing*.

^{54.} San Francisco Police Department, *Department General Order 5.17 — Policy Prohibiting Biased Policing*.

^{55.} San Francisco Police Department, Department General Order 2.04 — Citizen Complaints Against Officers.

^{56.} Fridell, Fair and Impartial Policing.

An Assessment of the San Francisco Police Department

- Conduct ongoing review of how police are deployed and the outcome of such deployments to ensure that police personnel are working where they are needed coupled with strong community policing practices to safeguard against being seen as an occupying force.
- Hold officers to account for explicitly biased actions and build a cultural intolerance of bias.
- Engage communities to help co-produce public safety, help reduce community mistrust, and expand officers' perceptions of all the communities in San Francisco.⁵⁷

The recommendations arising out of this report have not been significantly advanced. These recommendations, drafted in 2007, remain valid and are supported by the findings of the present assessment. As part of the Collaborative Reform Initiative for Technical Assistance (CRI-TA) implementation phase, the team will monitor the work underway to address and reduce the potential for biased policing as well as those efforts associated with the recommendations contained herein.

Training

Eliminating bias in policing decisions requires policy support through appropriate training and development of officers. Training is the primary mechanism to ensure officers are aware of the potential for implicit bias and its impact on their policing decisions and the communities they serve. An effective training program should be multidimensional and include recruit training, Continuing Professional Training, and remedial training. Education and training to address police bias and racially discriminatory tactics are key tools in ensuring a procedurally just policing approach that goes beyond accountability. Education and training should be part of a routine and ongoing organizational focus such as that provided through roll-call training and informally through day-to-day supervision.

The SFPD provides 136 hours of training to recruits related to bias in policing through a range of training modules, including the following:

- Racial profiling, hate crimes, and cultural competency
- Equal Employment Opportunity and discrimination
- Community group interaction, including homeless and transgender community groups
- Youth interaction
- Procedural justice
- Body-worn camera policy and operation

Recruit training on bias has two tracks: One focuses on use of force theory and the second focuses on biased policing. The SFPD's training in both of these tracks exceeds that required by the California Commission on Peace Officer Standards and Training (POST).

For Continuing Professional Training, there is a range of mandated training modules for bias. POST requires that officers complete 24 or more hours during every two-year cycle, of which two hours must be focused on biased policing. As it relates specifically to racial profiling, once the mandatory recruit training module on Racial and Cultural Diversity Training: Racial Profiling is completed, officers must refresh their training

^{57.} Fridell, Fair and Impartial Policing.

every five years, pursuant to legislative mandate.⁵⁸ Currently pending legislation would require POST to develop guidelines and training for officers to conduct training within their own agencies to address procedural justice and implicit bias beginning in June 2017.⁵⁹

The SFPD has also collaborated with City and County of San Francisco Human Resources (City HR) to develop and implement anti-bias training for all members as part of training delivered through the City and County of San Francisco's anti-bias program.

Addressing bias through institutionalized training

The SFPD's willingness to address bias in policing through training has been positive, and in general the organization has demonstrated a willingness to explore the issue. However, its operational approach and execution of the training has been disjointed. The SFPD has not significantly institutionalized training on bias or ensured that it is a part of an overall strategy aimed at reducing bias.

Recognizing that the issue of bias was a key factor in the state of police-community relations in San Francisco, the assessment team identified early on the importance of department-wide training on bias in policing. Beginning in March 2016, the Office of Community Oriented Policing Services (COPS Office) worked with the SFPD to provide technical assistance for the training of trainers in Fair and Impartial Policing. The training program is a comprehensive initiative aimed at helping officers identify and understand the role of bias in their decision making, as well as its impact on communities. The COPS Office assumed all costs associated with providing the nationally recognized training program.

Numerous conversations and planning occurred between the team, SFPD command, and other SFPD members in which priorities and goals were established for the training session. Despite stated support for the program and the hard work of personnel assigned to coordinate the training session, the execution of the program fell short. The team encountered bureaucracy issues related to ownership of the training and scheduling that impeded selection of the site and personnel who would attend. Although the class was scheduled months in advance, the SFPD was still calling officers to attend the training the weekend before the event.

The team observed the training and noted the class was engaged and participatory. However, during the first day of the training, it became apparent that a significant number of attendees did not realize they were there to learn how to be trainers; rather, they thought they were being trained on the subject. At the conclusion of the training, comments on some of the evaluation forms, which praised the training program and suggested it be provided to others in the SFPD, revealed a lack of understanding of their reason for attending the training. Furthermore, at least three of the class members anticipated retirement within the next 12 months. As such, their value to providing ongoing training in the SFPD is limited at best.

^{58.} Commission on POST, "Basic Course Training Requirements."

^{59.} California Legislature, AB-2626 Commission On Peace Officer Standards and Training. At the time this report, this bill is in committee and held under submission.

An Assessment of the San Francisco Police Department

Independent of the COPS Office–sponsored training-of-trainers session, the SFPD has explored other training avenues. For example, two officers attended a training-of-trainers session in the Fair and Impartial Policing program before the training was offered to the SFPD in July 2016. The goal of attending Oakland's training-of-trainers session was for these individuals to assist in developing training for SFPD members. However, this assistance did not progress in any identifiable manner.

Another example of an organizational disconnect as it relates to bias training occurred early in the assessment phase when the SFPD announced publicly that bias training was going to be provided for all SFPD personnel before the year's end. When assessment team members questioned what this training was and where it would be delivered, personnel within the Professional Standards and Principled Policing Bureau as well as the Training Academy did not have sufficient information or knowledge to respond. It remains unclear what training this announcement referenced.

During this assessment, the COPS Office sponsored the Command and Community Training for Fair and Impartial Policing. Eleven SFPD command and 12 community members attended. The assessment team observed that participants were engaged, and robust discussion occurred regarding bias and its impact on perceptions by both SFPD command and community partners. Team members noted that during breaks good dialogue and interaction ensued among police and community members, something that does not always occur at police trainings. It is the team's belief that reinstituting the Chief's Advisory Forum, as recommended in chapter 4, would be a good mechanism for developing SFPD's bias-free policing strategy, based in part upon this training.

The SFPD is working with City HR as it creates its bias training for the whole of city government. This program was not fully developed as of the submission of this assessment report. It was encouraging to note that the person from City HR responsible for the training development attended the training-of-trainers session provided by the COPS Office and has been in discussions with the Training Academy on how to incorporate the SFPD into the citywide training approach.

Although the SFPD has provided or developed a variety of programs, there has not been a consistent, measured approach to the goals and objectives of training. The assessment team is concerned that bias training is not part of an overall strategic plan and has not fully taken root in the SFPD. A review of SFPD training records indicates that other than recruit training, just over half of the department's officers and sergeants have received the training entitled Bias Based Policing: Remaining Fair and Impartial during the time period June 2015 to June 2016. The future development of an organization-wide curriculum and training delivery plan will be observed as part of the CRI-TA implementation phase.

As outlined in greater detail in chapter 4, there are emerging pockets of good practice in addressing bias within the SFPD. However, the team found that the department has been slow to fully enact training and clear protocols to mitigate bias in police practices.

The SFPD has been stalled in progressing toward a comprehensive strategy to address bias. For example, the Not On My Watch program was introduced to help create an internal and external message that bias is not tolerated in the SFPD. Consistent with other bias initiatives undertaken by the SFPD, the program is not robust or fully embraced, and SFPD leadership has not driven participation in or visibility around the program. The team was told many officers have not pledged, and assessment team members observed little evidence of the program's vitality during interviews and ride-alongs.

Responding to community complaints and concerns over police bias

Biased policing is misconduct and can significantly impact police-community relations. Therefore, a robust accountability system is central to ensuring procedural justice and earning community trust. Behaviors that reflect explicit bias or those that do not adjust despite training and correction should be met with discipline. This report addresses officer misconduct investigations in more detail in chapter 5, but for purposes of clarity, the key components of the discipline process are briefly outlined here.

As identified earlier in this chapter, both the SFPD and OCC have authority and jurisdiction to investigate complaints of bias. As a result, sometimes there are areas of overlapping jurisdiction, but the organizations do not share protocols or policies. The negative impact of the lack of protocols was revealed during a criminal investigation into a police officer during the texting scandal. Internal Affairs Division (IAD) retained the investigation because its nexus was a criminal investigation. However, OCC told assessment team members that it was never informed of the bias investigation until it became a matter of public record in the media. The team is concerned that there are no de-confliction practices in place between OCC and IAD for these types of situations. Because there are no shared protocols and minimal communication between OCC and the SFPD, either agency could retain authority for the noncriminal aspect of the investigation. The need for protocols between the SFPD and OCC is also covered in chapter 5.

SFPD DGO 5.17 – Policy Prohibiting Biased Policing explicitly prohibits biased policing. However, the team did not find any meaningful accountability arising out of the policy. During the period from January 1, 2013, to December 31, 2015, there has not been a sustained complaint of bias against any SFPD officer. OCC reported anecdotally that complaints of biased encounters initiated against police officers almost always involve minorities. The assessment team recognizes the challenge of such cases because they are often perception-based and difficult to establish under an evidence-based approach. However, law enforcement agencies have the ability to identify bias and discipline officers for misconduct related to biased behavior. The SFPD's lack of accountability measures to identify evidence of bias—or their inability to issue discipline to officers for biased behaviors—reinforces the perception that police officers are not held accountable and undermines police-community relations.

^{60.} City and County of San Francisco, "SFPD Confronts Prejudice."

The role of leadership

Counteracting bias and biased policing relies heavily on the presence and predictability of accountability. The powers authorized to police officers require that law enforcement organizations hold officers to account for acting legally and in accordance with procedural justice. The community must be able to trust that those with the powers of arrest and the ability to use force will do so impartially and within the law.

To date, the SFPD has had a mixed record regarding its institutional approach to rooting out and reducing biased behavior within the department. For example, the department's response—on two separate occasions—to racist, sexist, homophobic, and transphobic texts among a large group of officers was merely to investigate the incident and discipline the officers who were directly involved. Given the nature of the officers' open and flagrant behavior, the SFPD should have considered that this may be an institutionalized problem and taken steps to address the behavior from an organizational perspective. It is not enough to investigate complaints of bias in a vacuum without clearly denouncing the behavior and openly recognizing its impact on the larger group of officers who do not hold such views and its effect on the San Francisco community.

However, discipline is but one component of ensuring organizational integrity, particularly as it relates to matters of bias in policing. Ensuring a bias-free organization is ultimately a function of leadership. It is up to the chief to establish, develop, and direct the SFPD in developing cultural competency and procedurally just policing practices. The team did not observe conscious organizational focus on avoiding bias during its ride-alongs and interviews. In particular, the department has not developed any routine roll-call training to address biased behavior, performance reviews are not completed, and there are no easily accessible data relative to performance or complaints.

Along with the chief's leadership, effective organizational accountability requires a framework that establishes responsibilities and consequences. Supervisors play a critical role in addressing the impact of bias in a policing organization because they are responsible for observing officers' behaviors and for mentoring and correcting inappropriate actions. In effective organizational accountability systems, supervisors invoke discipline and corrective action ranging from coaching and employee improvement plans through termination of employment and criminal charges, as appropriate, to abate biased conduct. Preemptive and corrective action through Continuing Professional Training, roll-call training, supervisory oversight, audits of department messaging platforms, and command engagement around the issue of bias are ways to advance a cultural imperative beyond the discipline of individuals.

^{61.} Kelling, Wasserman, and Williams, Police Accountability and Community Policing.

Steps to mitigate bias

Auditing communications for bias

The SFPD does not employ a routine, ongoing institutional audit or review of practices regarding biased policing practices. The team was unable to find any evidence of reviews of department-issued computers or electronic devices to identify or limit biased language, and the department confirmed that there has been no ongoing audit of communication systems.

The texting scandals involving SFPD officers revealed that at least some officers are comfortable having explicitly biased conversations through electronic means. Officers would not have used such hateful and intolerant language if it were culturally unacceptable.

Given that no internal audits followed the texting scandals, the team recommended early in the assessment phase that the SFPD conduct an audit of its electronic systems to ensure bias-free communications. SFPD leadership stated it was going to engage in an audit of department-owned communications systems to begin assessing for bias.

However, the SFPD has not significantly advanced this process. In interviews, SFPD members who were tasked with advancing the audit did not display appropriate understanding of the importance of such an audit. Members were more focused on explaining why such an audit was not a good idea. In fact, some members tasked with building the infrastructure for the audit indicated that the audit was not technically feasible, despite publicly available technology and promising practices that have been developed to conduct such an audit. This type of disconnect between policy and action is unacceptable. The SFPD must be willing to become more transparent and accountable to the public it serves. Ensuring that communications equipment used by officers, which is paid for with public funds, is not used to transmit biased statements is a step toward developing the public's trust and reassuring them that the SFPD is an organization committed to transparency, accountability, and procedurally just policing practices.

Beyond communications, the team identified a level of ambivalence on behalf of the SFPD in developing a robust data-led approach to mitigate and root out bias. Ongoing review of diversity data, traffic stop data patterns, public complaints, and enforcement actions with a lens for biased or disparate treatment is the hallmark of good management. The team was informed that data collection practices for complaints limit the department's ability to collect and analyze data. The department has not conducted a routine analysis of complaint data to identify trends in complaints and other policing activity that would assist in identifying interactions or behaviors that could be construed as biased.

Improved data collection, technological advances like body-worn cameras, and data audits can position the SFPD and the community to take action when SFPD officers fall short of the standards and goals set for them. The absence of technology and robust data collection practices including in-car cameras, global positioning satellite (GPS) tracking modalities, and body-worn cameras contributes to the lack of evidence needed to ensure proper behavior and to prove or disprove complaints of bias against members of the SFPD.

An Assessment of the San Francisco Police Department

On June 1, 2016, the Police Commission approved DGO 10.11 – Body-Worn Cameras. The SFPD is currently pilot testing body-worn camera technology and is poised to implement it citywide. The Administration Bureau is in charge of the rollout. DGO 10.11 contains guidelines for when an officer should turn on the equipment, including pedestrian and vehicle stops, which often give rise to complaints of bias. The policy demonstrates good practice in requiring the Risk Management Office to conduct periodic audits for members' compliance with the policy. However, the policy is missing a clear statement of accountability for failure to record. The assessment team will evaluate the progress of the body-worn camera program and how the SFPD audits the adherence to the DGO as part of the CRI-TA implementation phase.

Addressing institutional practices

Actions undertaken by the SFPD to date to address bias in institutional practice have been tepid when they need to be a cultural imperative. True focus on community impact arising out of the actions of the department and its members needs to become part of the rubric of the department's daily decision-making process.

External procedural justice encompasses fair and impartial policing, which requires an understanding and acknowledging of human biases both explicit and implicit.⁶³ To advance police-community relations, the SFPD must acknowledge bias and its implication for and impact on certain communities. In particular, the SFPD must examine external procedural justice: the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public's trust of the police.⁶⁴

In areas where biased policing is at issue, adherence to existing policies is necessary to ensure the SFPD acts with procedural justice. SFPD policy does not allow non-uniformed officers to conduct vehicle stops unless "witnessing an aggravated situation requiring immediate action to protect life or property." Nonetheless, the assessment team was consistently informed by community members, members of OCC, and SFPD officers that non-uniformed officers conduct traffic stops. Community members felt these officers engaged in biased policing in that many of these stops involved individuals who are African American or Hispanic. Interviews with SFPD members revealed that non-uniformed officers do engage in stops outside the constraints of policy. It is a sign of a lack of institutional accountability when practices violate policy and are not addressed with corrective action or when policies that do not align with organizational needs are not modified.

The team conducted a review of incidents in which non-uniformed officers made traffic stops and the reasons for these violations of policy. Adherence to policy does not appear to be an organizational priority because uniform status is not a field on the form used to document vehicle stops. Particularly where the community believes the actions are rooted in bias, institutional practices that do not reinforce policy or fail to document policy nonconformity contribute to mistrust between the community and police.

^{62.} San Francisco Police Department, *Department General Order 10.11 – Body Worn Cameras*.

^{63.} President's Task Force on 21st Century Policing, Final Report.

^{64.} President's Task Force on 21st Century Policing, Final Report.

^{65.} San Francisco Police Department, Department General Order 5.08 — Non-Uniformed Officers.

Repeatedly, assessment team members observed a lack of awareness among SFPD officers of the impact that bias and the perception that it exists have upon the communities of San Francisco. For example, during the assessment, the San Francisco Police Officer's Association (POA) printed a picture in its journal that parodied the protests surrounding the issue of race and police shootings. ⁶⁶ This publication contributed to significant community discussion on how the SFPD does not understand the issues facing members of the community. SFPD leadership was silent on the issue despite the uproar. The challenge for the SFPD is that unlike most other law enforcement agencies, in San Francisco all of the officers through the rank of captain are represented by a single collective bargaining agent, the POA. Therefore, regardless of the reality, in the view of the community, the actions by the POA are understood to represent the beliefs of the organization.

The role of the POA is to advocate for its membership, and the role of SFPD leadership is to ensure the department engages in procedurally just policing practices. Where the actions of the POA do not comport with the beliefs of SFPD leadership, they should be vocal in their reasons for not supporting the POA actions, particularly in the area of community relations and perceptions of bias.

Numerous comments were made to assessment team members by member from all ranks within the SFPD that protesters were not from San Francisco, intimating that the San Francisco community understands its officers are well-intentioned. Such comments disregard the real frustration of the communities of San Francisco as observed and heard by team members during the assessment phase. Given this disconnect, SFPD leadership must actively engage with the community to address this police-community divide, particularly as it relates to perceptions of bias.

The impact of biased policing in San Francisco

The City and County of San Francisco has an international reputation for its commitment to progressive human values: compassion, fairness, diversity, human rights, civil activism, and justice.⁶⁷ However, there also exists a long-held and deep-seated belief in segments of San Francisco's communities, especially poor communities of color and people experiencing homelessness, that there is bias in the way the SFPD engages with disenfranchised communities.

Incidents of explicit bias have impacted the community's trust and confidence in the SFPD. The assessment team heard from community members about their belief and experience that the SFPD's treatment of individuals is biased and that communities are disconnected from policing practices and decisions. In addition, team members heard the community's concern over what it perceived as biased policing practices in its neighborhoods.

At community meetings and in interviews with community members, the assessment team was told that the SFPD officers regularly profile young people and stop them without adequate cause. Several teens gave specific examples of biased behavior. Community members reported that SFPD personnel made disparaging comments directed at the homeless population as well as about people with mental illness

^{66.} POA Journal, "Journal End Point."

^{67.} City and County of San Francisco, "The San Francisco Police Department Vision Statement."

An Assessment of the San Francisco Police Department

and sometimes unnecessarily seized belongings such as tents, clothing, and vehicles. A number of community members expressed a belief that SFPD officers exercise disproportionate arrest authority over people with mental illness, people who use drugs, and people experiencing homelessness.

Although there was substantial commentary on the SFPD's use of force and other authority during these sessions, it was apparent to the assessment team that many members of the San Francisco community had another clear message: Treat people of color with respect and dignity.

As with the national discourse on the issue, biased policing has long been a concern in San Francisco. More than a decade ago, in 2005, the SFPD discovered a series of videos posted online by department officers that depicted racist, sexist, homophobic, and transphobic views. ⁶⁸ The discovery of these "Bayview videos" ultimately resulted in the suspension of 20 officers. ⁶⁹ Shortly thereafter, in a 2006 investigative report by a local media outlet, it was reported that the proportion of arrests of African-American individuals compared to individuals of other racial groups was higher in San Francisco than in other cities, including Oakland, Los Angeles, and Sacramento, which had larger populations of African Americans. ⁷⁰

This disparity was validated shortly thereafter, in 2006, when the mayor, police chief, and Police Commission contracted for a scientific review of bias in the SFPD. The outcome of that review, published in 2007, found that "San Francisco is relatively high in the rate at which the police department arrests African Americans." In the intervening years, community members have continued to voice concerns on the issue of bias, especially regarding what they perceive to be the SFPD's targeted policing of specific populations, seemingly without significant resolution.⁷²

The assessment team believes that the behaviors that reflect implicit bias can be identified, changed, and eliminated through training, awareness, accountability, leadership, and cultural transformation in the SFPD. The department must not tolerate bias. Officers who continue to act with bias and officers who manifest explicit bias must be disciplined or terminated. Discipline must be swift, appropriate, and consistent if it is to be of value in addressing biased behavior, particularly that of explicit bias.

Overall, the assessment team felt that a number of officers throughout the SFPD demonstrated an understanding of diversity and bias. Those officers were able to speak to team members with nuance about ethnic and racial diversity and displayed a level of comfort with the LGBTQ community that is sometimes absent among law enforcement officers.

Many SFPD members were able to apply these understandings in their policing practices. On multiple occasions, the assessment team observed officers engaging groups of homeless persons who were sitting or lying on the sidewalk obstructing the right of way, technically a legal violation, in a compassionate and procedurally just manner. Specifically, the officers exited their vehicles, approached the subjects on foot, and informed them in a professional manner that they could not obstruct the sidewalk. The officers waited

^{68.} Van Derbeken, Gordon, and Byrne, "Video Scandal Rocks S.F. Police."

^{69.} Van Derbeken, Gordon, and Byrne, "Video Scandal Rocks S.F. Police."

^{70.} Sward, "High Black Arrest Rate."

^{71.} Fridell, Fair and Impartial Policing.

^{72.} City and County of San Francisco Human Rights Commission, Community Concerns of Surveillance.

patiently while the subjects moved, engaged them in conversation, and asked several individuals if they needed assistance. These officers demonstrated procedural justice in that they exercised discretion while also offering assistance.

However, the assessment team also observed the use of biased language, which is particularly salient to the SFPD's relationship with the community. Often, the SFPD is the primary responder to calls for service involving individuals who use drugs, are experiencing homelessness, or have mental health disabilities. While most SFPD officers did not identify particular behavioral patterns among racial groups that may generate bias, many held beliefs about individuals based upon socioeconomic status or whether they were under the influence of drugs, were experiencing homelessness, or had mental health disabilities. During interviews and focus groups with the team, SFPD officers demonstrated implicit bias through their word choice and language use.

Disparities in stop, arrest, and search data between ethnic or racial groups in the city and county of San Francisco persist. The assessment team's analyses of the SFPD's traffic stop data reveal disparities related to the SFPD's issuance of warnings, citations, arrests, and searches based upon racial and ethnic categories. The SFPD's data demonstrate that African-American drivers are more likely to be warned, arrested, and searched than White drivers, and Hispanic drivers are more likely to arrested and searched than White drivers, as reflected in table 3.5 on page 74.

While data alone do not prove bias, issues of explicit and implicit bias continue to challenge the SFPD. A small percentage of SFPD officers demonstrate clear indications of explicit bias, as evidenced in the two separate text messaging scandals from 2012 and 2015 where multiple SFPD officers used racist and homophobic language as a matter of routine discussion. For some community members, the texting scandals revived concerns over the 2005 Bayview video scandal. These texting scandals confirm that explicit bias exists, at least among some members of the SFPD.

During ride-along observations and in interviews, the assessment team witnessed some SFPD personnel demonstrate implicit or institutionalized bias in their actions regarding the decision to question African-American youth and their method of questioning as well as through statements and word choice during interviews.

Local government also seeks answers as to whether there is bias in policing. After the shooting incident involving Mario Woods, an African-American man, Mayor Edwin M. Lee acknowledged:

"In the past few weeks, our city has grappled with a crisis all too common in so many other American cities—the dissolution of trust between communities of color and law enforcement—following the death of a young African-American man shot and killed by police officers. We want to throw our doors open, inviting transparency and accountability. We seek answers, not just to the facts

of Mr. Wood's case, but also answers about how as a police department and a city we can build deeper, stronger trust between law enforcement and the communities they're sworn to protect."73

The Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement, which San Francisco's district attorney convened in early 2015, determined that the SFPD needs to pay greater attention to issues of bias against people of color as a matter of public engagement and internally with its own officers.74

Furthermore, San Francisco community members continue to protest and register formal complaints against police bias. The number of community complaints and investigations into SFPD personnel for bias demonstrates a perception that SFPD members engage in biased behavior. As reported in the OCC Annual Reports for 2013, 2014, and 2015 and demonstrated in table 3.1, OCC received 219 bias-related allegations in that three-year period, and none of them were sustained.75 While bias is often an issue of perception, data collection matters as well. In this case, OCC has several intake categories that could lend themselves to bias, including complaints about racially and sexually derogatory comments or behavior. Intake protocols should ensure that complainants are properly interviewed about bias, as many of the aforementioned categories could conceivably involve bias, as could other behaviors not predicated upon racial or sexual comments.

Table 3.1. OCC complaints alleging biased policing

	2013		2014		2015
Racial bias	52	74		74	
Gender bias	4	2		3	_
Racial and gender bias	5	3		2	
Total	61	79	•	79	

Source: OCC, The Office of Citizen Complaints 2013 Annual Report; OCC, The Office of Citizen Complaints 2014 Annual Report; OCC, The Office of Citizen Complaints 2015 Annual Report.

Most concerning is that the community believes there is bias in the fact that persons of color have been overrepresented in fatal officer-involved shooting incidents. For the period of January 2014 through July 2016, SFPD officers were involved in 11 fatal officer-involved shooting incidents, the majority of which involved minorities, some of whom were homeless or had mental health issues.

Finally, despite the ongoing public interest in biased policing in the SFPD, there has been little response by the department. As discussed further in this chapter, while there has been a commitment to engage in training there has been minimal internal action to root out and address bias and its perception.

Taken as a whole, these factors led the assessment team to conclude there is bias in the SFPD that is demonstrated in the activities of its officers and, at times, the organization. Implicit biases are human

^{73.} Barba, Sabatini, and Lamb, "Mayor Ed Lee Requests Federal Investigation;" Lee, Letter to U.S. Attorney General.

^{74.} Cordell, Reynoso, and Tevrizian, Report of the Blue Ribbon Panel.

^{75.} OCC, The Office of Citizen Complaints 2013 Annual Report; OCC, The Office of Citizen Complaints 2014 Annual Report; OCC, The Office of Citizen Complaints 2015 Annual Report.

behaviors that have been learned and subconsciously assimilated. However, there is no evidence that explicit bias is widespread. On the contrary, the team observed a law enforcement agency that for the most part showed genuine compassion, caring, and professionalism toward the people of San Francisco.

SFPD stop data

Across the United States, law enforcement agencies are collecting more data and generating greater awareness in their policing practices around procedural justice. The SFPD is no different from any other agency in this regard and has undertaken collection of traffic stop data since 2001. The SFPD is distinct in comparison to other law enforcement agencies in terms of how it maintains accountability controls over data collection and how it analyzes data to inform policing practices and training.

Pursuant to California Penal Code 849(c), an arrest is to be deemed a detention, and a record of release is required if an officer releases a person from an arrest made without an arrest warrant. ⁷⁶ To meet this requirement, SFPD issues a Certificate of Release 849(b) form. According to the SFPD Field Training Manual, an 849(b) form is issued when a person is moved a substantial distance, detained a significant amount of time, or physically restrained or taken to a police facility and then subsequently released without further law enforcement action. ⁷⁷ In addition, the manual states that if an officer has doubts about whether to issue this form, the officer shall always issue one. ⁷⁸ An 849(b) form is not to be issued when an individual is briefly detained or moved a short distance for safety, convenience, or privacy. ⁷⁹ As such, this form is not used for routine pedestrian encounters.

In addition, the SFPD's data collection practices are governed by additional local and state regulations. In September 2015, the San Francisco Board of Supervisors passed Ordinance #166-15, which established Administrative Code 96A requiring data collection for all "encounters" and regular analysis and reporting of data. ⁸⁰ An encounter is defined as a detention or traffic stop in which an officer initiates activity based solely upon the officer's observations and does not include dispatch assignments or requests from members of the public. If officers conduct a vehicle stop and have reasonable suspicion to detain, then they are required to collect data including the race or ethnicity, age, and sex of the driver and all passengers.

Officers must also document the reason for the encounter; the individual's behavior that led to it; whether a search occurred; and the stop type, the disposition of the encounter, and the star and unit numbers of any officers involved. The SFPD provided its first quarterly report as required under Administrative Code

^{76.} San Francisco Police Department, *Peace Officer Field Training Manual*.

^{77.} San Francisco Police Department, Peace Officer Field Training Manual.

^{78.} San Francisco Police Department, Peace Officer Field Training Manual.

^{79.} San Francisco Police Department, Peace Officer Field Training Manual.

^{80.} City and County of San Francisco Board of Supervisors, *Ordinance No. 166–15*.

An Assessment of the San Francisco Police Department

96A on July 26, 2016.⁸¹ In October 2015, the California State Legislature passed the Racial and Identity Profiling Act of 2015, which requires law enforcement agencies in California to begin collecting and reporting annually certain specified information on all stops of individuals made by their officers.

SFPD data collection practices around bias issues

Nationally, policies and data collection practices that measure police encounters with members of the public are directly related to concerns over biased policing. These data in themselves are neither proof of bias nor justification of proper practice. However, data can help illuminate trends in activities or officer behavior that serve as indicators of potential bias that should be reviewed, monitored, and corrected. The SFPD requires data collection on traffic stops pursuant to Department Bulletin 14-059, issued March 3, 2014. The SFPD uses the E-585 traffic stop incident report to record all vehicle stops, including those that result in citations made by SFPD officers, for the following categories:

- Moving violations, including those involving bicycles and pedestrians
- Municipal Police Code (MPC) violations
- Penal Code violations
- Mechanical or nonmoving violations
- Driving Under the Influence (DUI) investigations
- Traffic collisions
- Assistance to motorists
- Criminal alerts and wanted persons (including Be On the Lookout/All Points Bulletins/warrants)

When officers make a stop for one of these circumstances, they are required to complete the E-585 traffic stop incident report. Required data fields on E-585 traffic stop incident reports are listed in table 3.2 on page 66.

Bicycle stops are eligible for recording on E-585 traffic stop incident reports, but SFPD officers documented so few bicycle stops they were essentially a nonrepresented sample.⁸² Interviews with SFPD officers confirmed that encounters with cyclists are not normally recorded on E-585 traffic stop incident reports. Officers may also use a Field Interview (FI) card, as approved in Department Bulletin 15-150 – Field Interview Cards. Pursuant to policy:

"Any time an officer conducts a consensual encounter or detains a suspect, and an incident report is not required, an FI card should be filled out for each subject. This is particularly important when officers encounter multiple subjects together, i.e., several gang members in a car during a traffic stop." 83

^{81.} San Francisco Police Department Crime Analysis Unit, Administrative Code 96A.3 2016 Quarter 1 Use of Force Report.

^{82.} See appendix E on page 292.

^{83.} San Francisco Police Department, Field Interview Cards.

Pedestrian stops

The SFPD does not routinely collect pedestrian stop data. FI cards capture certain information about a person who is stopped in a pedestrian stop, but the use of this card is deemed to be discretionary by officers rather than required, and therefore the FI card is not used systematically. The Gang Task Force appears to make the most frequent use of the FI card to document stops of suspected gang members. The assessment team learned that the Gang Task Force's investigations are generally centered on gangs according to racial backgrounds because that is how most gangs in San Francisco are aligned. The team was advised that access to the database that holds FI information is not available for general policing purposes or routinely populated, which also discourages its use. The FI card does not appear to be a source of good data given its limited and sporadic use.

Table 3.2 provides a comparison of data the SFPD currently collects and data the Racial and Identity Profiling Act of 2015 requires for annual reporting. As noted earlier, Administrative Code 96A will expand the local City and County of San Francisco collection practices for encounters—including traffic stops—that are not dispatched or requested by a member of the public.

Table 3.2. Current and future data collected by the SFPD

SFPD required data for FI cards	SFPD required data for	SFPD required data for	Racial and Identity Profil-
	E-585 traffic stop inci-	849(b) Certificate of Re-	ing Act of 2015 re-
	dent reports	lease Form	quirements
 Name AKA-Moniker Race Country of origin Sex Birthdate Height Weight Hair Eyes Hair style Driver's license or identification number Social security number SFNO Complexion Clothing Beard, mustache, glasses, tattoos, peculiarities Home address Home phone Work address or school/grade Gang Location of interview All vehicle information Vehicle peculiarities Additional information or associates Investigative category Circumstance of Fl stop Officer and star number Return card to Fl number 	 Date and time of stop District of stop Location of stop (address or intersection) Officer Star number Race of driver Sex of driver Age of driver Reason for stop Whether a search was conducted Type of search conducted (consent, without consent, incident to arrest, inventory, probation or parole condition) Result of search (negative or positive result) Result of stop (custody arrest, citation, warning, incident report, no further action) 	 Date and time of stop Releasing Agency Name of driver Officer name, title, unit and star number 	 Date, time, and location of stop Reason for stop Result of the stop, (no action taken, warning, citation, property seizure, arrest) Nature of the warning or citation violation provided Offense charged if an arrest was made Perceived race, ethnicity, gender, and age of the person stopped Whether a consent search was requested and whether consent was granted Whether a search was conducted, basis for the search, and type of contraband or evidence recovered Whether property was seized and the basis for seizure

As table 3.2 reflects, the SFPD meets most of the requirements for data collection for stops of persons required by the Racial and Identity Profiling Act of 2015. However, the SFPD can improve upon its data collection protocol by adding more detail to the E-585 traffic stop incident report to meet state requirements. For example, if the result of the stop was an arrest, the E-585 traffic stop incident report should include data on the arresting offense charge. Instead of simply listing whether a citation or warning was issued, the SFPD should document its nature. Similarly, the SFPD reports on the results of a search (negative or positive result), but going forward the department should detail the basis for the search, if any property was seized, and the basis for that seizure. In addition, the SFPD should require demographic

information on Certificate of Release 849(b) forms, analyze the data from 849(b) forms and FI cards, and issue a certificate of detention to anyone detained and released in accordance with California Penal Code 849(c).⁸⁴

It is clear that the SFPD has the capacity to capture good data with the E-585 traffic stop incident reports. However, its policy and practices on collecting data during stops and for stops other than vehicle stops could be improved. In particular, the assessment team has concern over the policy and practice supporting the use of the FI card. The policy does not identify for what purposes a FI card should be completed. This lack of specificity can result in inconsistent practices and recording. Furthermore, the policy does not address the duration of retention of such data or who can access the information and for what purposes. These are significant gaps in an information-collection system, especially one that is not predicated upon articulable criminal activity.

What data should be collected?

Determining what data police agencies should collect is often based on balancing two competing interests: collecting enough information for meaningful analyses while not overburdening officers or inadvertently encouraging officer disengagement. ⁸⁶ Initially, the most important consideration for data collection is to determine in which situations data should be gathered. Law enforcement personnel interact with the public in a variety of situations. Therefore, specifying the instances in which data are to be recorded is central to ensuring accurate and complete data collection.

The first decision is whether to collect data on traffic stops, pedestrian stops, or both. The purpose of collecting information on stops is that these actions are often officer-initiated (i.e., not the result of a member of the public's request for service). The potential for bias is greatest where discretion is greatest, and high discretion stops can also result in the perception by community members or other stakeholders that the stop was motivated by an individual's race, ethnicity, or other characteristic. Given the concern of possible officer bias, many agencies specify that data collection efforts be restricted to officer-initiated stops. As a result, for example, encounters with individuals during traffic accidents would not be recorded. It is also important to note that data must be collected on all stops of interest, regardless of the disposition; in other words, regardless of the resulting law enforcement action taken by officers. Finally, agencies must decide if information will be collected on vehicles' passengers or pedestrians' associates.

Given community concerns of possible racial or ethnic bias by SFPD officers, the assessment team recommends that the SFPD continue to collect data on all traffic stops and that it begin collecting data on all pedestrian stops, even though state legislation does not require annual reporting of such data until April 2019. For data clarity and analysis purposes, the team also recommends that stops of persons riding

^{84.} Cal. Pen. Code § 849(c), http://codes.findlaw.com/ca/penal-code/pen-sect-849.html.

^{85.} San Francisco Police Department, Field Interview Cards.

^{86.} Fridell et al. Racially Biased Policing; Ramirez, McDevitt, and Farrell, A Resource Guide on Racial Profiling Data Collection Systems.

nonmotorized conveyances (e.g., bicycles, skateboards, scooters) be captured as pedestrian stops. Appendix F beginning on page 343 contains the team's recommended items for data collection of the SFPD's traffic and pedestrian (including nonmotorized conveyance) stops.

Assessing the SFPD's stop data

The assessment team sought to assess the decision-making practices of SFPD officers over a three-year period, May 1, 2013, to May 1, 2016. In particular, two decision points were examined. First, the team assessed whether there were any racial or ethnic disparities in the composition of the initiation of a traffic stop by an officer. The second area of interest was the actions taken by an officer once a traffic stop had been initiated. These include the issuance of a warning or citation, an arrest of the individual, or a search of the individual or vehicle. The full context of the data used, the research theory, and the analysis used to inform this section are contained in appendix E beginning on page 292. In addition, appendix F beginning on page 343 provides specific recommendations to improve data collection in the SFPD.

These two decision points were examined using a variety of analytic methods, and data to inform these analyses were drawn from a range of sources including the E-585 traffic stop incident reports completed by the SFPD. The data on all SFPD officers who initiated traffic stops during the study period, such as officer characteristics, were provided by the SFPD. Finally, the 2010 American Community Survey, compiled by the U.S. Census Bureau, provided contextual information such as district characteristics.

Stop data

SFPD officers are required to complete an E-585 traffic stop incident report each time they make a self-initiated traffic stop. Officers capture demographic information on the driver involved in the stop including gender, race or ethnicity, and age. The reason for the stop and the resolution of the stop, including whether it resulted in a warning, citation, arrest, or search, is also captured. Finally, the SFPD district where the stop took place is recorded on the form. The data are entered on the officer's mobile computer in his or her vehicle or on a hand-held device in the case of motorcycle officers assigned to the Traffic Unit.

White drivers constituted a plurality (37.7 percent) of the stops, with male drivers accounting for nearly three-quarters (71.8 percent) of the stops. The average age of drivers stopped by the SFPD was 39 years. The majority of stops were initiated because of moving (68.3 percent) or non-moving (30.5 percent) violations. These stops most frequently resulted in a traffic citation (72.6 percent), with searches occurring in approximately 3.9 percent of all stops and arrests occurring in less than 1 percent of all stops (0.8 percent). Finally, Southern (18.4 percent) and Taraval Districts (12.6 percent) represented the most active locations. See the Patrol District Map in appendix B on page 263.

The team studied data describing the demographic characteristics of the officers involved in the traffic stops across the three-year period. On average, 50.4 percent of traffic stops were conducted by a White officer, 9.5 percent by an African-American officer, 17.4 percent by an Asian officer, and 15.3 percent by an officer of Hispanic ethnicity. Approximately 93 percent of all traffic stops were conducted by a male officer

with an average age of 39.7 years and 9.9 years of experience in law enforcement. A majority of the traffic stops (93.1 percent) were initiated by an officer assigned to patrol. Almost three-quarters of stops (72.9 percent) were conducted by an officer assigned as a "district officer" and 24.2 percent by a "traffic officer."

City characteristics

San Francisco's population of 824,834 residents is composed of 49.3 percent White, 5.8 percent African American, 33.7 percent Asian, and 11.2 percent residents from another racial group. Approximately 15 percent of the population self-identified as Hispanic. As with any other major city, these numbers swell during the day for working commuters and as a result of tourism.

These population characteristics vary across the 10 police districts. The largest district (Taraval) had 159,647 people, whereas the smallest district (Tenderloin) had 23,941 residents. With respect to racial composition, Park district had the highest percentage of White residents (71.2 percent). In comparison, Bayview had the highest percentage of African-American residents (20.1 percent). Taraval district had the highest percentage of Asian residents (48.8 percent), while Mission had the largest proportion of Hispanic residents (30.1 percent). Approximately 10 percent of the residents are between the ages of 15 and 29 (See table E.3 on page 296 in appendix E). Like that of many large cities, the population of San Francisco swells during the workday and during sporting events, festivals, and other special events. The traffic stop benchmarks discussed in the following sections do not depend upon and are not affected by such changes in the residential population of the city.

Collision data benchmark

The initial question to be addressed was whether African-American, Hispanic, and Asian drivers were more likely to be stopped compared to White drivers or drivers of other races.

The assessment team's first benchmarking method used traffic collision data for comparison to SFPD traffic stop data. The team used information about drivers in two-vehicle collisions to estimate the driving or atrisk (violating) populations in a given area. In order to benchmark the racial composition of at-fault and not-at-fault drivers involved in two-vehicle crashes against the racial composition of traffic stops made by the SFPD, team members obtained 36 months of San Francisco traffic collision data reported to the California Highway Patrol by either California Highway Patrol or the SFPD.⁸⁷ These data involved more than 10,000 two-vehicle crashes that occurred from January 1, 2013, through December 31, 2015. Traffic crash data were compared to police stop data both citywide and by police district. Not-at-fault drivers served as an estimate of the driving population in the city, while at-fault drivers served as an estimate for those who violate traffic laws. If SFPD officers disproportionately stop minority drivers, a higher percentage of minority stops would be expected compared to the percentage of minority drivers involved in traffic collisions.

^{87.} Both law enforcement agencies have jurisdiction to investigate traffic collisions in the city of San Francisco, and both report their collision data to the California Highway Patrol.

Veil of darkness benchmark

The second benchmarking approach compares the racial composition of stops made under conditions where police reasonably could identify the race of the driver before the stop against the racial composition of stops where the police might be unable to determine the race of the driver before initiating the stop. In 2006, Grogger and Ridgeway pioneered this approach, which they labeled the "behind the veil of darkness" method for identifying racial disparities in police traffic stop practices. The method makes use of natural changes in lighting as well as Daylight Saving Time, which occur over the course of a year.

Following Grogger and Ridgeway's "behind the veil of darkness" approach, the team examined stops that took place during the "intertwilight" hours (roughly from 5:00 p.m. to 9:30 p.m.) to determine whether a greater proportion of those stops made before sunset involved minority drivers than stops made following the end of civil twilight when full darkness sets in. If racial profiling is occurring, one would expect to see a higher percentage of minority stops during the day when an officer could more readily identify race or ethnicity before making a stop.

Distribution of stops by driver race

Table 3.3 provides the distribution of traffic stops conducted by the SFPD across the three-year observation period by driver race. In total, there were 331,829 traffic stops conducted during this time period. About 14.8 percent of the stops involved African-American drivers, whereas 37.7 percent involved White drivers. Nearly 18 percent of the stops were conducted on an Asian driver and 13 percent involved a Hispanic driver. Although it appears that a higher percentage of African-American residents (14.8 percent) were stopped compared to their representation in the city population (5.8 percent), it is critical to understand that this does not necessarily imply that racial profiling exists in SFPD stops.

A comparison of the racial composition of stops to the residential census population is naïve to variation in the racial distribution of African-American drivers on the road and officers in locations with higher crime rates, among other factors. The assessment team reports these figures merely to describe the racial distribution of traffic stops made by the SFPD and to set the stage for the benchmarking analyses that follow.

Table 3.3. Distribution of stops by driver race

Driver race	Number of stops (N)	Percent of stops (%)
African American (non-Hispanic)	49,133	14.8
White (non-Hispanic)	124,898	37.7
Hispanic*	43,079	13.0
Asian	59,018	17.8
Other	55,523	16.7
Missing	178	<0.1
Total	331,829	100

^{*} Includes Hispanic individuals of any race

^{88.} Grogger and Ridgeway, "Testing for Racial Profiling."

Next the team examined the same racial breakdown of traffic stops but this time across each of the 10 police districts (see table 3.4). Not surprisingly, there is variation across the districts with respect to the percentage of traffic stops in each racial or ethnic category. While 14.8 percent of all traffic stops citywide were of African-American drivers, more than 42 percent of such stops in Bayview involved African-American drivers. Conversely, only 5.2 percent of stops in Richmond involved African-American drivers.

Table 3.4. Distribution of stops by driver race by SFPD district*

District	Percent of African- American stops	Percent of White stops	Percent of His- panic [†] stops	Percent of Asian stops	Percent of other stops
Bayview (N =34,298)	42.4%	18.7%	17.3%	13.8%	8.0%
Central (N = 31,701)	11.3%	38.1%	9.6%	17.2%	23.8%
Ingleside (N = $33,521$)	11.7%	29.1%	26.4%	21.4%	11.3%
Mission (N = $28,457$)	15.5%	39.6%	24.8%	9.0%	11.1%
Northern (N = 28,078)	13.3%	48.3%	9.4%	14.4%	14.6%
Park (N = 22,196)	9.2%	54.2%	8.5%	16.1%	12.1%
Richmond (N = $32,917$)	5.2%	38.5%	5.4%	19.5%	31.3%
Southern (N = 60,819)	12.6%	41.0%	11.4%	13.4%	21.7%
Taraval (N = 41,895)	6.0%	39.1%	7.4%	35.3%	12.1%
Tenderloin (N = $17,196$)	28.8%	32.5%	10.6%	12.0%	16.1%

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

These analyses provide a snapshot of the distribution of traffic stops across districts and racial and ethnic groups. It is important to note, however, that these statistics reveal little about whether race is a contributing factor in officers' decisions to conduct traffic stops or whether drivers of certain racial or ethnic groups are stopped disproportionately to their estimated representation in the driving or violating populations.

Traffic collision benchmarking

Results from the analyses using traffic-collison benchmarking indicates that citywide, African-American drivers were 24 percent more likely to be stopped by the police than their estimated representation in the driving population, and they were 9 percent more likely to be stopped given their estimated representation among potential traffic violators. There was considerable variation across police districts in the likelihood that African Americans would be stopped disproportionately to the traffic crash estimates. The greatest disparities between stops and the estimated driving population of African Americans occurred in the Bayview and Mission districts, which contain the highest (22.2 percent) and lowest (2.7) proportion of African-American residents, respectively, in the city. The Tenderloin district, which contains the second-highest proportion (10.5 percent) of African-American residents in San Francisco, also showed evidence of significant disparity for stops of African-American drivers relative to their estimated proportions in the driving and potential violating populations.

The findings for Hispanic drivers were diametrically opposed to the findings for African-American drivers. Citywide, Hispanic drivers were 20 percent less likely to be stopped by the police than their estimated

[†] Includes Hispanics of any race.

An Assessment of the San Francisco Police Department

representation among drivers, and they were 37 percent less likely to be stopped given their estimated representation among potential traffic violators. Only in the Mission district were Hispanic driverss stopped more often than expected given their estimated driving population in the district. The findings for Asian drivers were similar to those for Hispanic drivers citywide.

The degree of overrepresentation of African-American drivers stopped in San Francisco compared to the estimated proportion of African-American drivers and potential traffic violators derived from the traffic collision data suggests that race may play a role in the initial stop decisions of SFPD officers. It is important to note that these findings do not prove racial bias by officers of the SFPD or by the agency as a whole. Certainly the SFPD's official policies, specifically DGO 5.17, explicitly prohibit the use of race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity as a basis for conducting stops or detentions. Moreover, analyses such as these cannot prove discriminatory motive or intent on the part of individual officers, nor can they prove the presence of implicit or explicit bias on the part of individuals.

Daytime versus nighttime stops

The second technique for examining possible racial disparities in the initial decision to make a traffic stop compared the racial composition of stops made by the SFPD during the daytime to those made at night. Citywide, the assessment team found no differences in the rate at which minority drivers were stopped during the day versus the night. By district, African-American drivers were more likely to be stopped during the day in four districts, two of which (Bayview and Mission) were districts where they also were overrepresented in stops according to the traffic collision benchmarks. At least with respect the Bayview and Mission districts, these two sets of findings are consistent and provide support for the hypothesis that race may play a role in the initial stop decision by officers in those districts.

In the Tenderloin district, African American drivers were actually less likely to be stopped during the day compared to White drivers, which is inconsistent with the traffic collision benchmark finding in the Tenderloin, where African American drivers were significantly overrepresented among stops. Also inconsistent were the findings for Hispanic drivers. Although Hispanic drivers were underrepresented in stops in most districts according to the traffic crash benchmarks, they were more likely to be stopped during daylight hours in the Bayview, Park, and Southern districts.

Post-stop data

The post-stop portion of the analysis was designed to explore the types of outcomes that stemmed from SFPD traffic stops. Specifically, the assessment team explored the following question: Do African-American, Hispanic, or Asian drivers receive disproportionate sanctions and other negative outcomes related to traffic stops?

The post-stop analysis followed a series of steps. First, the racial or ethnic group distribution was examined across all post-stop outcomes: no action, incident report, warning, citation, and in-custody arrest. Second, the distribution of search types (consent and high discretion) was explored across the racial or ethnic groups. These steps provided a snapshot of whether race or ethnicity is associated with any of the post-stop outcomes. The third stage of the post-stop analysis focused on hit rates—the percentage of searches

that resulted in found contraband—across the racial or ethnic groups. This analysis allowed an exploration of whether hit rates differed among driver races or ethnicities.

Post-stop analysis results

Table 3.5 on page 74 presents a cross-tabulation of driver race with five mutually exclusive stop outcomes: no action, incident report, warning, citation, or in-custody arrest. Among the 331,829 stops that occurred during the course of this three-year period, the most common outcome (72.6 percent) was a traffic citation. Officers issued warnings to roughly one in four drivers. Incident reports and in-custody arrests were far less frequent: Each outcome occurred in less than one percent of all stops, respectively.

In terms of race, the experience of White drivers closely approximated that of the sample as a whole: 73.2 percent of stopped White drivers received a citation, and 25.7 percent were dismissed with a warning. Less than 1 percent of White drivers were placed under arrest. Hispanic, Asian, and other of drivers also experienced outcomes fairly similar to the sample as a whole. The experience of African-American drivers, however, was quite different: 56.3 percent of African-American drivers received a citation, while 39.5 percent were issued a warning.

Thus, African-American drivers were less likely to be cited and more likely to be warned relative to each of the other racial or ethnic groups. African-American drivers also were more likely to be placed under arrest: 2 percent of all stops of African-American drivers resulted in an in-custody arrest, while 0.5 percent of stops involving White drivers resulted in an arrest. In fact, although far fewer stops were made of African-American drivers (49,123) than White drivers (124,854), more African-American drivers (963) were arrested than White drivers (669). Here again, the raw numbers suggest racial disparity in post-stop outcomes, but other relevant factors must be considered.

Warnings

The assessment team examined whether the stop resulted in a warning, citation, or arrest. The multivariate model examining the issuance of a warning indicates that across the city African-American drivers were 49 percent more likely to receive this outcome than White drivers when considering all other available factors. The results suggest that African-American drivers were approximately 49 percent more likely than White drivers to have been released with a warning. Hispanic drivers were no more or less likely to receive a warning than White drivers. Asian drivers and those from other racial or ethnic groups were less likely (by 30 percent and 40 percent, respectively) to be warned than White drivers. Of note, significant differences emerged with respect to officer race or ethnicity. African-American, Hispanic, and Asian officers were all significantly less likely than White officers to issue a warning to the driver.

^{89.} This data field is used where race is unknown.

Table 3.5. Driver race in post-stop outcomes (N = 331,692)*

Race or ethnicity	No action	Incident report	Warning	Citation	In-custody arrest	Total
White	233	520	32,087	91,345	669	124,854
Percent of White total →	.02%	.04%	25.7%	73.2%	0.5%	100.0%
African American	357	740	19,394	27,669	963	49,123
Percent of African-American total \rightarrow	0.7%	1.5%	39.5%	56.3%	2.0%	100.0%
Hispanic	143	968	12,247	29,230	479	43,067
Percent of Hispanic total →	0.3%	2.3%	28.4%	67.9%	1.1%	100.0%
Asian	85	174	11,559	46,981	207	59,006
Percent of Asian total \rightarrow	0.1%	0.3%	19.6%	79.6%	0.4%	100.0%
Other	76	349	9,438	45,427	217	55,507
Percent of Other total →	0.1%	0.6%	17.0%	81.8%	0.4%	100.0%
Missing	1	0	92	41	1	135
Percent of Missing total →	0.7%	0.0%	68.2%	30.4%	0.7%	100.0%
Total*	895	2,751	84,817	240,693	2,536	331,692
Percent of cumulative total →	0.3%	0.8%	25.6%	72.6%	0.8%	100.0%

^{*}The total for this table does not include 137 cases where outcome data were missing.

Citations

The team examined the relationship between driver race or ethnicity and whether the stop resulted in a citation. The most common traffic stop outcome, a citation, was issued in 72.6 percent of all officer-initiated stops. Results from the multivariate model indicate that African-American drivers were 39 percent less likely than White drivers to have been issued a citation, and Hispanic drivers were 9 percent less likely than White drivers to have been issued a citation. Asian drivers (43 percent) and those of other races or ethnicities (66 percent) were more likely to be issued a citation than White drivers. African-American (45 percent), Hispanic (11 percent), and Asian (35 percent) officers were more likely than White officers to issue a citation to any driver. The overall city pattern for citations was largely mirrored at the district level with some variability across the sub-areas.

Arrests

The data indicate that African-American and Hispanic drivers were significantly more likely than White drivers to be placed under arrest. More specifically, the odds ratios in the multivariate arrest model revealed that African-American drivers were more than twice as likely as White drivers to have been arrested, and Hispanic drivers were 43 percent more likely than White drivers to have been arrested. Asian drivers, on the other hand, were significantly less likely than White drivers to have been placed under arrest. Relative to stops of White drivers, stops of Asian and other drivers were 32 percent less likely to result in an in-custody arrest. The noticeable risk for African-American (and to a lesser extent, Hispanic) drivers to be arrested is a consistent theme in other studies.

Searches

The next step of the analysis focused on determining whether racial or ethnic disparity exists in officers' decisions to conduct searches. Searches conducted by the SFPD were categorized into three groups depending on the degree of discretion available to the officer. High discretion searches are those that were carried out without the consent of the driver. They are categorized as "high discretion" because they occur under conditions where the officer's decision to search is not constrained by law or policy beyond the need to establish probably cause for the search. In contrast, low discretion searches include searches incident to arrest, probation or parole-related searches, and vehicle inventories. Because officer discretion is constrained by law and policy in low discretion searches, this category was not subjected to analysis for racial disparity. Finally, consent searches are those in which the driver consented to the officer's request to conduct a search. Because SFPD data do not capture the rate at which motorists were asked for consent to search or the rate at which they refused, it is unknown whether the higher rates of consent searches among African-American and Hispanic drivers is the result of more requests by the police to search these groups or their greater likelihood to grant consent when asked. High discretion searches, on the other hand, are largely at the discretion of the officer. These searches are nonconsensual and do not include searches incident to arrest, probation or parole searches, or inventory searches, which are typically low discretion searches. As such, racial disparities among these high discretion searches are more informative about possible bias on the part of the police.

African-American drivers accounted for roughly 40 percent of all high discretion searches, whereas White and Hispanic drivers accounted for 22 percent and 19 percent respectively. Thus, officers used their discretion to conduct high discretion searches of African-American drivers more frequently than drivers of any other race. Relative to White drivers, African-American drivers were significantly more likely to be selected for high discretion searches upon being stopped. In fact, the odds of African-American drivers being searched without consent were nearly 200 percent higher than those of White drivers. Hispanic drivers were also significantly more likely than White drivers to be selected for high discretion searches, although the disparity was less extreme at 65 percent greater odds for Hispanic drivers compared to Whites.

In short, African-American and Hispanic drivers were more likely to be subjected to high discretion searches than White drivers, regardless of the district in which the traffic stop took place. Furthermore, the hit-rate analysis revealed that roughly 7 out of every 10 high discretion searches of White drivers yielded contraband, while 3 out of 10 high discretion searches of African-American drivers yielded contraband. African-American and Hispanic drivers were significantly less likely to have been found with contraband or evidence following a search. The odds that contraband or evidence was found were 70 percent lower for African-American drivers and 54 percent lower for Hispanic drivers than for White drivers who were searched without consent. In summary, the SFPD conducted high discretion searches on a far greater number of African-American drivers than drivers of any other race, and the hit-rates in these high discretion searches of African-American drivers were lower than in high discretion searches of all other drivers. High discretion search patterns of Hispanic drivers also suggest evidence of disparity on the part of the SFPD.

An Assessment of the San Francisco Police Department

African-American drivers also were involved in more than half of the 1,819 consent searches during this period. Compared to White drivers, African-American drivers were more than four times more likely to have been searched based on consent compared to White drivers. Hispanic drivers also were more than twice as likely as White drivers to be searched with consent; Asian drivers were 36 percent less likely than White drivers to have been subjected to a consent search. Also worthy of note is that African-American and Asian officers were 32 percent and 35 percent less likely, respectively, than White officers to have conducted a consent search of any driver. Search hit rates were fairly consistent among driver racial or ethnic groups, which suggests that contraband carry rates are fairly consistent across those who grant consent when asked. It is important to note that the assessment team cannot rule out the possibility that minority drivers may be more likely to grant consent than White drivers; therefore, the percentage of drivers from each racial group subjected to consent searches must be interpreted with caution.

Summary of data analysis

Analyses of the SFPD's traffic stop data reveal racial or ethnic disparities in stops, warnings, citations, arrests, searches, and contraband discovery. Citywide, African-American drivers were 24 percent more likely to be stopped by the police than their estimated representation in the driving population, and they were 9 percent more likely to be stopped than their estimated representation among potential traffic violators. Hispanic and Asian drivers, on the other hand, were considerably less likely to be stopped than their representation in the estimated driving and traffic violating populations in the city. African-American drivers were more likely to be warned, arrested, and searched (for both consent and high discretionary reasons) but less likely to be cited or found to be in possession of contraband than White drivers. Hispanic drivers were more likely to arrested and searched (for both consent and high discretionary reasons) but less likely to be cited or found to be in possession of contraband than White drivers. Finally, Asian drivers were more likely to be cited or found with contraband but less likely to warned, arrested, or searched based on consent than White drivers.

While these results indicate patterns of disparity, no definitive conclusions can be drawn regarding the underlying motivation for these outcomes including the possibility of racial or ethnic bias. Nonetheless, the patterns of disparity in post-stop outcomes are consistent with those found for the initial stop decision and warrant further monitoring, investigation, and analysis—possibly by drilling down to the officer or unit level using officer-to-officer comparison ("internal benchmarking") techniques as part of an early warning approach by the SFPD.

Building trust and legitimacy is the first pillar of the *Final Report of the President's Task Force on 21st Century Policing* and is the foundation for building strong police-community relationships. Bias in the actions of police officers erodes community trust and support. The SFPD as a whole exhibits a level of organizational understanding and awareness of bias and its implications for policing. Yet there are few demonstrable and measurable outcomes that assist in ensuring that biased policing is removed from the department's culture.

^{90.} President's Task Force on 21st Century Policing, Final Report.

The SFPD must address the issue of bias directly and make the cultural changes needed not only to create a procedurally just and fair organization but also to account for those officers who engage in biased behaviors. Training and accountability must function in tandem with institutional cultural change to make a sustainable difference. When the police act outside the law or contravene their own policies on a regular basis, their legitimacy and the public's trust is negatively impacted. The SFPD must develop an ongoing institutional vision that addresses bias as part of an overall strategic plan, one that is transparent and gives voice to the community.

Findings and recommendations

Findings follow the flow of the narrative within the chapter.

Finding 24

The SFPD did not conduct a comprehensive audit of official electronic communications, including department-issued e-mails, communications on mobile data terminals, and text messages on department-issued phones following the texting incidents.

The advice in the memo (found in appendix K on page 387) sent on May 5, 2016, has not been completed by the SFPD. The recommended audit is to ensure organizational integrity regarding the potential for bias in departmental electronic communications.

Recommendation 24.1

The SFPD should immediately implement the bias audit as recommended by the U.S. Department of Justice COPS Office on May 5, 2016 (see appendix K).

Recommendation 24.2

Upon completion of recommendation 24.1, the outcome should be presented to the Police Commission.

Recommendation 24.3

The SFPD should immediately establish a policy and practice for ongoing audit of electronic communication devices to determine whether they are being used to communicate bias.

Recommendation 24.4

The SFPD should implement a policy and a Department General Order stipulating that there is no right to privacy in any use of department-owned equipment or facilities.

Recommendation 24.5

The SFPD should require all members to acknowledge appropriate use standards for electronic communications. This should be a signed acknowledgement, retained in the personnel file of the member, and department personnel should receive an alert reminding them of appropriate use whenever they sign onto SFPD systems.

An Assessment of the San Francisco Police Department

Recommendation 24.6

The SFPD should report twice a year to the Police Commission on the outcome of these audits, including the number completed, the number and types of devices audited, the findings of the audit, and the personnel outcomes where biased language or other conduct violations are discovered.

Finding 25

The SFPD's General Orders prohibiting biased policing, discrimination, harassment, and retaliation are outdated and do not reflect current practices surrounding these key areas.

Recommendation 25.1

The SFPD should immediately update Department General Order 5.17 – Policy Prohibiting Biased Policing (effective May 4, 2011) and Department General Order 11.07 – Discrimination and Harassment (effective May 6, 2009) to reflect its current initiatives and align with best practices.

Recommendation 25.2

Upon meeting recommendation 25.1, SFPD leadership should release a roll-call video explaining the Department General Orders and reinforcing that a bias-free department is a priority.

Recommendation 25.3

The SFPD should develop and publish a comprehensive strategy to address bias. The strategy should create a framework for the SFPD to

- be informed by the preliminary action planning that was initiated during the command-level training in Fair and Impartial Policing, which addressed policy, recruitment, and hiring; training; leadership, supervision, and accountability; operations; measurement; and outreach to diverse communities;
- update policies prohibiting biased policing to include specific discipline outcomes for failure to follow policy;
- continue to expand recruitment and hiring from diverse communities (see recommendation 84.2);
- partner with the communities and stakeholders in San Francisco on anti-bias outreach (see recommendation 26.1);
- improve data collection and analysis to facilitate greater knowledge and transparency around policing practices in the SFPD;
- expand its focus on initiatives relating to anti-bias and fully implement existing programs as part of the
 overall bias strategy, including the existing Not on My Watch program aimed at engaging officers and the
 community on addressing issues of bias.

Recommendation 25.4

As part of its overall strategy, the SFPD should assess its needs for anti-bias programs across the organization, such as gender bias in sexual assault investigations.⁹¹

Finding 26

There is limited community input on the SFPD's actions regarding its anti-bias policies and practices.

Recommendation 26.1

The Chief's Advisory Forum should be re-invigorated and allow for diverse communities to have meaningful input into bias training, policies, and the SFPD's other anti-bias programming. The chief should ensure that marginalized communities are given a meaningful opportunity to be a part of the Advisory Forum.

Recommendation 26.2

The SFPD should more clearly describe its anti-bias policies and practices for reporting police misconduct and its commitment to ensuring that policing in San Francisco will be bias-free.

Recommendation 26.3

The SFPD should implement an immediate public education campaign on the policies and procedures for reporting misconduct as centered on anti-bias and the initiatives underway.

Recommendation 26.4

The SFPD should work with the Police Commission to convene a community focus group to obtain input on the policies and practices as they are being developed.

Finding 27

The SFPD is not addressing the anti-bias goals set forth through the Fair and Impartial Policing training-the-trainers session.

The SFPD is to be commended for participating in the development of "train the trainers" for Fair and Impartial Policing. However, this training opportunity now needs to be integrated into an organizational approach to developing training delivery across the SFPD. Robust and ongoing training that addresses explicit and implicit biases must be a top priority, not only for the chief of police, the command staff, and the Training and Education Division, but for every member of the department.

^{91.} PERF, Identifying and Preventing Gender Bias.

An Assessment of the San Francisco Police Department

Recommendation 27.1

The SFPD should develop a training plan based on a training needs assessment specific to the delivery of antibias training as part of an ongoing strategic approach to addressing bias in the SFPD.

Recommendation 27.2

The SFPD should begin anti-bias and cultural competency training of department members immediately and should not await the outcome of the training needs assessment. All officers should complete implicit bias training and cultural competency training, which should include the following topics:

- Implicit bias awareness and skills for promoting bias-free policing
- The definition of cultural competence
- Disparate treatment, prejudice, and related terms and their application in law enforcement
- The history of various cultures and underrepresented groups in society
- Self-assessment of cultural competency and strategies for enhancing one's proficiency in this area
- Culturally proficient leadership and law enforcement in communities⁹²

Recommendation 27.3

Training addressing explicit and implicit biases should employ teaching methodologies that implement interactive adult learning concepts rather than straight lecture-based training delivery.

Recommendation 27.4

To ensure first-line supervisors understand the key role they play in addressing bias, supervisor training should include coaching, mentoring, and direct engagement with problem officers.

Recommendation 27.5

All officers and supervisors should be fully trained on bias and cultural competency within 18 months of the release of this report.

Recommendation 27.6

The SFPD should measure the efficacy of such training through careful data collection and analysis practices, ideally in partnership with an academic researcher.

Recommendation 27.7

The SFPD should implement Force Options Training in a manner that reduces the impact of demographics on split-second use of force decisions and should ensure that in-service officers receive this training at least annually.

^{92.} Vialpando, "Community Engagement through Cultural Competency."

Finding 28

The SFPD's failure to fully and adequately address incidents of biased misconduct contributed to a perception of institutional bias in the department.

The SFPD responded to the racist, sexist, homophobic, and transphobic texts by a large group of officers by investigating the incident and disciplining the officers directly involved. However, given the nature of the officers' open and flagrant behavior, the SFPD should have taken action to ensure that this was not an institutionalized problem, including steps to address the behavior at the organizational level. Community perceptions that biased behaviors exist in the SFPD were exacerbated by the explicit bias demonstrated by SFPD officers in the texting scandals and the subsequent failure to take appropriate action.

Recommendation 28.1

The SFPD should investigate complaints of bias transparently and openly and recognize its potential impact upon the larger group of officers who do not hold such views and upon the affected communities of San Francisco. To address these concerns, the department should

- identify specific roles and responsibilities for supervision of officers regarding biased behavior;
- analyze E-585 traffic stop incident report data and enforcement actions with a lens for possible bias or disparate treatment and require supervisors to review these analyses;
- identify intervention mechanisms beyond discipline to deal with potentially biased behaviors.

Recommendation 28.2

The SFPD should provide for open, ongoing command engagement around the issue of bias, both internal and external to the department.

Recommendation 28.3

The SFPD should establish routine, ongoing roll-call training requirements for supervisors on key leadership issues, including their role in promoting fair and impartial policing.

Recommendation 28.4

The SFPD needs to engage in early identification of and intervention in behaviors that are indicative of bias through direct supervision, data review, and observation of officer activity.

Recommendation 28.5

The SFPD needs to train supervisors to recognize behaviors that are indicative of bias and intervene effectively.

Recommendation 28.6

The SFPD must address practices within the organization that reflect explicit biases and intervene with firm, timely disciplinary responses.

An Assessment of the San Francisco Police Department

Recommendation 28.7

The SFPD needs to encourage all personnel to report biased behavior to the appropriate officials.

Finding 29

Allegations of biased policing by community members have not been sustained against an officer in more than three years.

Recommendation 29.1

The SFPD and OCC should establish shared protocols for investigating bias that do not relying solely on witness statements, given that bias incidents are often reported as one-on-one occurrences.

Recommendation 29.2

The SFPD should ensure that supervisors are trained on bias investigations, including all of the following:

- How to identify biased police practices when reviewing investigatory stop, arrest, and use of force data
- How to respond to a complaint of biased police practices, including conducting a preliminary investigation
 of the complaint in order to preserve key evidence and potential witnesses
- How to evaluate complaints of improper pedestrian stops for potential biased police practices

Recommendation 29.3

The SFPD should work with the City and County of San Francisco to ensure quality bias investigation training to all oversight investigators.

Recommendation 29.4

SFPD leadership should explore the options for alternate dispute resolutions regarding bias complaints, including mediation.

This is an opportunity to bring police and community members together to foster an improved understanding of police practices and community perceptions. Because bias complaints are rooted in perception and often difficult to sustain, mediation provides for a timelier, more transparent, and potentially more procedurally just resolution for the community member who lodged the complaint.

Finding 30

The weight of the evidence indicates that African-American drivers were disproportionately stopped compared to their representation in the driving population.

Citywide, African-American drivers were 24 percent more likely to be stopped by the police than their estimated representation in the driving population, and they were 9 percent more likely to be stopped given their estimated representation among potential traffic violators.

Recommendation 30.1

The SFPD should develop a plan to conduct further review and analysis of traffic stop data to identify the reasons and potential solutions for the traffic stop data disparities. The plan should be developed within 180 days of the issuance of this report.

Recommendation 30.2

Upon completion of recommendation 30.1, the SFPD should implement the plan to review and analyze traffic stop data to identify the reasons and potential solutions for the traffic stop data disparities.

Recommendation 30.3

The SFPD should provide supervisors with the results of timely data analyses regarding the E-585 traffic stop incident report activity of their officers that allow them to identify and proactively intervene when outlier officers are identified.

Recommendation 30.4

Until the data are electronic, supervisors should be provided with monthly paper reports regarding the E-585 traffic stop incident report activity of officers under their command.

Recommendation 30.5

SFPD supervisors must be trained (pursuant to recommendation 27.1) to review and assess E-585 traffic stop incident report data for disparate outcomes, particularly in relation to peer groups within the unit.

Recommendation 30.6

The SFPD should implement the data collection recommendations regarding improving traffic stop data provided in appendix F. The timing of the implementation needs to be identified in the technology plan.

Finding 31

African-American and Hispanic drivers were disproportionately searched and arrested compared to White drivers. In addition, African-American drivers were more likely to be warned and less likely to be ticketed than White drivers.

The racial disparity in traffic stops and post-stop outcomes appears to be large and statistically significant.

Recommendation 31.1

The SFPD needs to analyze the data and look for trends and patterns over time to reduce the racial and ethnic disparities in post-stop outcomes.

An Assessment of the San Francisco Police Department

Finding 32

Not only are African-American and Hispanic drivers disproportionately searched following traffic stops but they are also less likely to be found with contraband than White drivers.

Recommendation 32.1

As stated in finding 31, the SFPD should complete recommendations 31.1.

Recommendation 32.2

The SFPD needs better training on the Fourth Amendment and applicable state laws on search and seizure.

Finding 33

The current E-585 traffic stop incident report does not collect sufficient or appropriate information to allow for a robust analysis of possible bias by SFPD officers.

Recommendation 33.1

The SFPD should implement the data collection recommendations in appendix F to allow for better information and analysis of stop data.

Finding 34

The SFPD does not routinely collect or analyze data on stops involving pedestrian and nonmotorized conveyances.

Recommendation 34.1

The SFPD should prioritize the collection, analysis, and reporting of all nonconsensual stop data, including pedestrian and nonmotorized conveyances.

Recommendation 34.2

The SFPD should mandate the collection of stop report data on any stop or detention of a pedestrian or person riding a nonmotorized conveyance, such as a bicycle, skateboard, or scooter. This should begin immediately and not wait until AB 953 requires such action in April 2019.

Recommendation 34.3

The SFPD should consider expanding the functionality of the E-585 traffic stop incident report data collection system to include data collection for all pedestrian and nonmotorized conveyances.

Finding 35

The SFPD does not have sufficient systems, tools, or resources needed to integrate and develop the appropriate data required to support a modern, professional police department.

Many of the department's technology and information sharing systems are outdated and not integrated and do not support ready access for analysis to inform management decisions. Progressive police supervision requires timely access to accurate information regarding officer activity, traffic and pedestrian stops, use of force, and resident complaints to help analyze officers' actions and trends. The SFPD must conduct an assessment across the whole organization and determine how to prioritize the implementation of IT solutions for key management and operational practices.

Recommendation 35.1

The SFPD should adopt new policies and procedures for collecting traffic and pedestrian stop data, public complaints, and enforcement actions. Information for these events should be recorded accurately.

Recommendation 35.2

The SFPD should analyze its existing technology capacity and develop a strategic plan for how data are identified, collected, and used to advance sound management practices.

Recommendation 35.3

SFPD leadership should make a concerted effort to focus on data collection and to create systems and analysis protocols that will inform supervisors where incidents of potential bias or disparate treatment occur or where patterns in officer behavior exist that warrant further examination or monitoring.

Recommendation 35.4

The SFPD should continue participating in the White House Police Data Initiative and seek to expand its data collection and reporting consistent with those recommendations and the goals of the initiative.

Finding 36

The SFPD does not have an organizational performance approach to evaluating the impact of policies, practices, and procedures aimed at reducing bias within the department.

Recommendation 36.1

The SFPD should develop an audit practice to evaluate the impact on the department of the implementation of new training programs.

Recommendation 36.2

The SFPD should incorporate ongoing review and audit of anti-bias programs into a quarterly report that includes promising practices and lessons learned.

An Assessment of the San Francisco Police Department

Recommendation 36.3

The SFPD should review all of its policies, procedures, manuals, training curricula, forms, and other materials to eliminate the use of archaic or biased language. For example, the SFPD should review the use of the word "citizen" in policies and forms, such as the Citizen Complaint Form (SFPD/OCC 293). This assessment should be completed within 120 days of the issuance of this report.

Finding 37

The policy for the use of Field Interview cards fails to outline sufficient guidance on when they should be completed.

Recommendation 37.1

The SFPD should establish policy that specifically governs when and how Field Interview cards are completed. This should be accomplished within 180 days of the issuance of this report.

Recommendation 37.2

The SFPD needs to reassess its use, storage, and collection of Field Interview cards to ensure data retention and collection are in accord with legal requirements. Annual audit of Field Interview cards should be part of the data retention practices.

4. Community Policing Practices

Community policing in San Francisco

San Francisco has many diverse communities within its borders, each with distinct challenges and unique needs of the police. Socioeconomic issues are key factors shaping the demands on policing services (see appendix B beginning on page 257 for more on the background of San Francisco). Neighborhoods and community groups with economic levels below the poverty line, such as the homeless community, tend to experience higher levels of violence than more prosperous neighborhoods and community groups.⁹³ In addition, the homeless community often relies on police as the first point of contact for government services. In contrast, other neighborhoods and community members have minimal contact with San Francisco Police Department (SFPD) officers.

Developing strong partnerships with San Francisco's communities is one of the SFPD's stated goals.⁹⁴ The department identifies partnerships as a means to develop mutual trust and understanding with the communities it serves. It recognizes that trust and understanding are critical to achieving the common goals of resolving problems and providing an overall sense of safety and security.⁹⁵

In practice, most community engagement in San Francisco happens at the district level, with captains taking the lead on community policing issues. The SFPD's Professional Standards and Principled Policing Bureau, established in February 2016, oversees the delivery of community policing services citywide. The Bureau's Youth and Community Engagement Unit provides for a variety of programs throughout the city.

Methodology used to assess this objective

In order to evaluate the SFPD's community policing philosophy and initiatives, the assessment team conducted a review of the SFPD's policies, procedures, and operational manuals related to community policing; reviewed internal practices in support of community policing; examined department-related memos and newsletters; and reviewed training curricula for community policing principles.

The assessment team conducted numerous interviews and focus groups with SFPD members from various ranks and units as well as community members and other community stakeholders. The team probed the perceptions of community members and stakeholders; the practices of officers and command staff; the overall understanding among SFPD sworn members of the department's community policing strategy; and how the department's goals, concepts, and strategy are implemented and evaluated.

Interviews focused on the SFPD's community policing philosophy and how it has been implemented in the field from the perspectives of both the department and the community. The assessment team conducted interviews to determine the process and subsequent reporting of community policing data and how that data are used to inform practices. In addition, the team attended department roll calls to

^{93.} San Francisco Mayor's Office, Youth Violence Prevention Initiative.

^{94.} San Francisco Police Department, Community Policing and Problem Solving Manual.

^{95.} San Francisco Police Department, Community Policing and Problem Solving Manual.

observe how community policing strategy is put into action, participated in ride-alongs and foot patrols to observe how patrol officers interact with community members, and attended community meetings at the district and city levels to observe how the SFPD presents the department to community members and solicits community input.

The team sought to analyze data regarding measured outcomes on community policing but discovered that the available data for assessing community policing practices and outcomes are limited. The SFPD has a community policing tracking instrument, namely Form 509. However, the team learned that the SFPD does not routinely use the form, which includes information about meetings, attendance, and service requests. No other process is used currently that consistently tracks community policing activities across the SFPD or within the communities of San Francisco. No ongoing citywide survey practice occurs for community policing. Further, the status of the overall data collection and analysis practices in San Francisco did not allow the team to identify and effectively extract components specific to community policing from the overall aggregated data.

SFPD policies and processes related to community policing

The SFPD's vision and practices related to community policing have changed over the years, as have the priorities of San Francisco communities. Community policing has been part of the organizational message since at least 1989, when the SFPD unveiled its community police officer program and emphasized that "organizational change will not happen overnight. It will take 7 to 10 years of leadership commitment." 96

In 2006, the SFPD, in conjunction with the Office of the Mayor, issued a report entitled *San Francisco Community Policing: A Report on Current Efforts*. This report identified the community policing strategies in the department and at each district station at the time.⁹⁷ However, this document has not been updated since its initial publication and no longer fully reflects the state of community policing in San Francisco.

In its Review and Response to the Final Report of the President's Task Force on 21st Century Policing, the SFPD noted, "The San Francisco Police Department has embraced this [community policing] philosophy as a strategy since the mid-1990s, and renewed that commitment in 2011 by, with significant community input, establishing Community Policing as Department Policy (DGO 1.08)."98 In the report, the SFPD adds, "[W]e are committed to review and revitalize strategies currently in use by this department and introduce and/or implement other strategies that will enhance our interactions within the community we serve."99 The department committed to implementing all of the President's Task Force's 38 recommendations related to law enforcement and six recommendations related to government agencies.¹⁰⁰

However, the SFPD could not produce a department-wide strategy, formal plan, or measurement of performance for community policing in response to the team's requests.

^{96.} San Francisco Police Department, Community Policing and Problem Solving Manual.

^{97.} San Francisco Police Department, San Francisco Community Policing.

^{98.} San Francisco Police Department, *Review and Response of the Final Report of The President's Task Force*.

^{99.} San Francisco Police Department, *Review and Response of the Final Report of The President's Task Force.*

^{100.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

In the absence of a strategic plan, the SFPD's community policing practices are guided by two documents: the department manual *Community Policing and Problem Solving*, revised January 2007, and Department General Order (DGO) 1.08 – Community Policing, issued September 28, 2011. The former outlines the larger vision and responsibilities of officers, sergeants, lieutenants, and captains, while the latter provides the policy guidance on community policing.

Community Policing and Problem Solving contains the SFPD's vision for community policing:

The San Francisco Police Department envisions working in conjunction with members of all communities to reduce the incidence of crime through prevention, education, and apprehension of those responsible for crimes. The police/community partnership will create an enhanced sense of safety and security through cooperative efforts to identify activity which leads to crime. The prompt and timely coordination of governmental and community based services to sustain order maintenance is essential to the process. Long term planning and district-based initiatives designed to deliver the resources and services to communities will be the result of a partnership based on respect, commitment, and trust. ¹⁰¹

According to the manual, "The Department strives to maintain the trust of San Francisco community members by actively engaging with the neighborhood it serves." The manual identifies the SFPD's perspective on community policing, defines the roles of SFPD members, and establishes basic guidelines for community policing. As it is the department's only published manual on community policing, it remains the SFPD's guiding document. However, the assessment team found that it was not routinely followed as a program document.

DGO 1.08 – Community Policing defines community policing as "a philosophy and organizational strategy in which the police work collaboratively with community members, community-based organizations, other city agencies, and others, in order to reduce violent crime, create safer communities, and enhance the health and vibrancy of neighborhoods in San Francisco." ¹⁰⁴ DGO 1.08 further directs district captains and lieutenants to ensure an assignment of officers to steady beats on a daily basis, regular attendance at community meetings, and regular staffing of foot beat patrols. ¹⁰⁵

^{101.} San Francisco Police Department, Community Policing and Problem Solving Manual.

^{102.} San Francisco Police Department, Community Policing and Problem Solving Manual.

^{103.} San Francisco Police Department, Community Policing and Problem Solving Manual.

^{104.} San Francisco Police Department, *Department General Order 1.08 — Community Policing*.

^{105.} San Francisco Police Department, Department General Order 1.08 — Community Policing.

Community policing hampered by lack of a strategic community policing plan

At present, the SFPD has a guiding vision for community policing in San Francisco but no plan for execution. As a result, SFPD leadership has not set specific goals, expectations, or other measures of community policing for department units and members. In short, there is little long-term planning and district-based development to reach a true co-produced policing partnership in the districts and communities of San Francisco.

Most of the SFPD's personnel described the department as guided by an overall philosophy and focus on community policing practices. The team consistently heard that the organization is "committed to community policing," and interviewees identified "working well with the community" as one of the department's strengths. However, absent a strategy, the SFPD's community policing activities represent only a collection of programs aimed at engaging with the community. Although the team observed positive interaction with police and community, these types of programs fulfill only one component of community policing.

The SFPD's community engagement and outreach programs demonstrate strong initiatives that could help the department advance community policing principles as an organization. Other good practices include district newsletters and district-based community engagement initiatives.

SFPD members acknowledged that the SFPD's Community Policing and Problem Solving manual is out of date and not an active reference source. The manual covers a range of community policing issues from the provision of training for officers to establishing working relationships and partnerships among police officers and community members. Updating the manual is a start to developing good protocols for community policing practices in the department. However, a strategic plan should drive protocol development as part of an overall approach and iterative process for developing police-community partnerships to co-produce public safety.

Strong leadership is needed to drive the community policing strategy for the SFPD. This must be more than a verbal commitment or individual, district-based programs; it must be part of a larger vision and strategic plan to advance the organization as a whole, and it must include strategies for all units within the department and not just those that are patrol-based.

Like all law enforcement agencies, the SFPD needs a strategic community policing plan to drive the department's engagement with the community. Such plans spur the development of focused partnerships working toward consistently identified needs that are attached to measurable outcomes. A strategic plan empowers senior command to establish clear and realistic parameters for the resource allocation necessary to reach their respective department's goals. A strategic community policing plan is also a tremendous platform for obtaining direction and buy-in from the community, because the SFPD, like all law enforcement agencies, fundamentally derives its authority from the communities it serves. With a community-informed and actionable strategic plan, the SFPD's community policing practices can focus on developing robust partnerships predicated on co-produced public safety.

Every unit in the SFPD must have a community policing plan that is measurable and also coordinates with, supports, and is accountable to the organizational strategic plan. Ensuring that the whole of the organization is actively engaged with the community supports community policing goals, develops a culture that is consistent with true police-community partnerships, and allows the department to more effectively respond to community needs.

The assessment team reviewed slide decks from CompStat, the SFPD's performance management system, but did not observe any community policing measurements as part of the review process. ¹⁰⁶ Interviews with department members confirmed that CompStat primarily focused on crime issues and did not delve deeply into the community engagement components of policing. The SFPD provides general guidance that community policing is a priority. However, district captains said they were responsible for developing their own priorities and initiatives for community policing but not formally reviewed or measured on their community policing strategies.

The Operations Bureau informed the assessment team that it recently conducted an informal review of community policing programs with the majority of the district captains. Although this review process allowed captains to share promising practices and discuss a structured approach to community policing, team members found it to be a missed opportunity because it did not result in formal planned strategies or specific actionable goals.

The assessment team determined that the SFPD does not consistently measure or review community policing within the organization. Furthermore, the community policing focus remains on district-level programs rather than a department-wide approach that engages the whole of the organization, including specialized and investigative units, in addressing community policing as a matter of strategic vision and operational priority.

District policing as the driver of the SFPD's community policing practices

Every aspect of the SFPD's organization and deployment of resources is related, in some way, to the community policing objective. Community policing is often focused on the district level to maximize day-to-day contact with residents within defined geographic regions. District captains lead the department's community policing efforts. The department supports localized community policing, noting that "the first step of forming partnerships is through community engagement, which begins at the district stations." ¹⁰⁷ Each of the department's 10 districts engages in the delivery of community policing services, and the SFPD grants autonomy to district captains to be creative in their decision making as to how to best engage the diverse populations within their districts.

Community policing plans, strategies, and engagement vary by district in the SFPD. The assessment team found evidence of some strong community policing practices at the district level under the guidance of district captains. For example, several captains appreciated the correlation between community policing

^{106.} The assessment team did not attend a live CompStat meeting during the assessment but only reviewed the slide decks.

^{107.} San Francisco Police Department, San Francisco Police Department 2014 Annual Report.

An Assessment of the San Francisco Police Department

and crime control and cultivated the community's role through community outreach, including the newsletters, meetings, and strong community police advisory boards (CPAB), as further discussed in the "Community stakeholders" section beginning on page 97. However, other district captains did not seem to make the critical connection between community policing and public safety, and some saw crime control as their primary focus area with community policing practices as a secondary, lesser area of concern.

One factor influencing these varying community policing practices in the SFPD's districts is disparate levels of training and policy guidance. Although the Training Academy provides continuing training in community engagement and community meetings, the assessment team did not speak to any captain who received formal training or guidance in the areas of community policing or community engagement. Those interviewed stated that they were unaware of any department directive or statement outlining the department's community policing strategy other than an emphasis on engagement with youth. In this environment, captains prioritized what they believed to be the issues facing the community.

In addition, partnerships vary within the communities of San Francisco with some individuals and groups more engaged than others. One district commander who was proud of the district's community activities was able to articulate and provide examples of how the captain engaged the business community in a crime-solving strategy that included awareness and reporting of criminal activities and information. Most captains identified their primary role as being visible in the community and listening to the concerns of residents. Few translated their actions into demonstrable, measurable community policing plans.

While the assessment team identified pockets of good practice and programs at the district level, it also uncovered opportunities for improvement. Some community meetings were the sole responsibility of the captain, and few, if any, had other officers in attendance. Community events, such as Coffee with a Cop, were treated as a checklist item in some districts. In one district, the Coffee with a Cop event was advertised and posted in the SFPD's headquarters building. When the team arrived to observe the event, no community members from the district were in attendance, and the officers from the Professional Standards and Principled Policing Bureau were the only SFPD members present. The team learned that the notice for the event was not advertised in the community but only posted internally in the SFPD.

Organizational efforts to build community trust

In February 2016, the SFPD established the Professional Standards and Principled Policing Bureau to oversee the use of force reforms and efforts taken to build community trust. ¹⁰⁸ As part of its citywide support function, the bureau is responsible for coordinating and assisting district captains with their community policing efforts. The Professional Standards and Principled Policing Bureau supports the Collaborative Reform Initiative for Technical Assistance (CRI-TA). The bureau has been beneficial to the assessment process in that it allows for a primary point of contact, coordinates information requests, and provides documents and information to CRI-TA team members. ¹⁰⁹

^{108.} Loftus and Suhr, Letter to the Honorable Edwin M. Lee.

^{109.} City and County of San Francisco, "Professional Standards and Principled Policing Bureau."

In addition, the Professional Standards and Principled Policing Bureau includes the Youth and Community Engagement Unit, and Media Relations Unit.

Community engagement and outreach programs

The Youth and Community Engagement Unit is charged with "establishing, building, and sustaining relationships within all the communities we serve"¹¹⁰ and "opening up lines of communication between the police and residents to better build rapport and trust."¹¹¹ It initiates ideas for events to engage the community, such as Coffee with a Cop or Bowling with Kids, and is responsible for coordinating and funding the events it sponsors. The unit is also a support function for districts, and its events are supplemental to district-planned events. However, district captains can plan and coordinate their own community events without requesting assistance from the unit.

The SFPD engages in many activities and programs that support community policing tenets. The department hosts a variety of youth-based programs, such as Blue at the Zoo, where kids and police can meet at the zoo, and bowling and swimming activities that bring youth in contact with police officers. The department facilitates several other ongoing programs aimed at community engagement, including the following:

- **Coffee with a Cop.** This program brings police officers and the community members they serve together over coffee to discuss issues and learn more about each other.¹¹²
- The Garden Project. This 10-week paid program, hosted by the SFPD, provides youth with land management training that ranges from designing and planting gardens to clearing fire trails in the Sierras. Students this year are eligible for one college credit by participating in a life skills education program at Skyline College.¹¹³
- San Francisco Police Activities League (SFPAL). Established in 1959, the SFPAL currently serves almost 5,000 youth annually, with the help of 800 civilian and police volunteer coaches and mentors, through a variety of sports and leadership activities such as football, judo, and the Sandlot and Law Enforcement Cadet programs.¹¹⁴
- San Francisco Safety Awareness for Everyone (SF SAFE). Established in 1976, this crime prevention and public safety program is a not-for-profit partner to the SFPD and provides a variety of services, including neighborhood watch, youth leadership trainings, personal safety classes, home and business security review trainings, a child safety program, bicycle registration and protection, and an "adopt a police car" program.¹¹⁵

^{110.} City and County of San Francisco, "Professional Standards and Principled Policing Bureau."

^{111.} City and County of San Francisco, "Professional Standards and Principled Policing Bureau."

^{112.} Coffee with a Cop, "Coffee with a Cop."

^{113.} City and County of San Francisco, "SFPD Kicks Off Summer of Engagement."

^{114.} San Francisco Police Activities League, "Programs."

^{115.} San Francisco SAFE, Inc. is an independent, not-for-profit corporation that acts as a crime prevention component of the SFPD and receives a significant portion of its funding from the department (San Francisco SAFE, "General Services;" San Francisco SAFE, "History and Mission").

An Assessment of the San Francisco Police Department

The overall goal of these programs is to promote mutual understanding and partnership based on positive police-community interaction. The SFPD does not have a strategic plan for community policing, so community outreach and engagement are driven by district-level priorities. As a result, community partnerships vary in their size and scope and reflect the level of that district's engagement rather than the department's stated prioritization of community policing.

Communications as key to advancing police-community relations

The Media Relations Unit is a component of community policing in that it is the public-facing information coordinator for the SFPD. Communication is a key issue in advancing police-community relations; in a digital, constantly connected world, messaging to the residents of San Francisco on public safety and community policing is an essential component of law enforcement operations. The unit is led by a sergeant and staffed by three public relations officers. It also serves as a central resource for the media, responds to media inquiries, and staffs the social media outreach for the department.

Department Bulletin 15-202, published September 28, 2015, established the position of Director of Community Engagement, with responsibilities for "developing and coordinating comprehensive community engagement strategies for the Department with an emphasis on building trust within our communities and youth engagement." ¹¹⁶ Assessment team members learned that this position has not been routinely engaged with the Media Relations Unit.

The Media Relations Unit coordinates media communications for the SFPD. The unit reaches out to news media outlets and consumers of information via daily updates on activities and newsworthy events involving the SFPD. (The unit also maintains the department's active Twitter account, which had over 67,000 followers as of the date of this report, and a Facebook page, which had over 43,000 likes as of the date of this report.) In addition, each district has a Twitter account. The information shared on the two social media platforms is similar and fairly well-balanced across items relating to crime and community. In a nod to transparency, the SFPD posts information when an officer is arrested, including the booking photo, which is evidence of a willingness to be more open to the public about police misconduct.

On the whole, the SFPD's website is fairly robust and informative and features a convenient search tool. The department has made recent strides in providing more information on the site to increase transparency around officer-involved shooting incidents and the reform activities of the organization. A link for community members helps them access the webpage for their specific police station, but these are standardized pages that only provide limited, basic information.

Districts generate their own methods of communication. Captains have call lists for certain types of events, and some districts use e-mail for fast-breaking issues. Many of the districts have an e-mail newsletter they send to community subscribers. Some newsletters are better structured than others, and some look more professional. They all report on key crime issues, but some provide analysis in addition to simply reporting the crime. Some of the newsletters also contain information on general community issues.

^{116.} San Francisco Police Department, *Director of Community Engagement*.

Park and Central districts publish informative and engaging newsletters. For example, the Park Station newsletter from August 12, 2016, provides information about a food drive and a transportation survey. It also covers a cold case and offers an award for new information. Similarly, the Central Police Station provides information to the community, including updates on key events and issues and attempts to familiarize the community with officers in the district. The Central Police Station newsletter includes police success stories as described in official SFPD press releases, while others highlight a resident of the month and an officer of the month. The officer of the month is selected not based on crime statistics, but on engagement with the community as well as other areas of performance. The team found these types of newsletters to be a good practice.

SFPD community policing efforts challenged by structural issues

The Professional Standards and Principled Policing Bureau has a key role in reform goals, including restoring community trust. However, the bureau has been slow to develop and does not have a clearly defined direction, mission, or goal. The team observed challenges in meeting basic staffing needs and addressing administrative issues, such as command structure, reporting, and responsibilities.

For the bureau to be effective in overseeing use of force reforms and coordinating the SFPD's efforts under CRI-TA, the department needs to define its community policing strategy and mission clearly and empower the bureau to lead its implementation aggressively. One challenge facing the Professional Standards and Principled Policing Bureau's development has been turnover in leadership. Since its inception, there have been leadership changes with the commanding officer, the deputy chief, and the unit commander (the captain). These command changes contributed to the bureau's inability to gain traction. In addition, the new command appointees come from different backgrounds and require time to become acquainted with the various programs, partners, and other activities of the bureau.

In addition to the challenge of leadership changes, the assessment team observed operational boundary issues as barriers to action plans, particularly as they relate to the training initiative for the fair and impartial policing training of trainers. Certain actions were not coordinated in a timely or effective manner because one bureau retained authority over training while the Professional Standards and Principled Policing Bureau retained CRI-TA coordination authority. For a bureau to coordinate and effect real cultural change in an organization, leadership must set standards and support the vision to achieve that change.

The assessment team notes that the Professional Standards and Principled Policing Bureau does not have the authority to address, coordinate, and resolve issues across the entire SFPD as they relate to reform initiatives.

SFPD officers need training that supports community policing

Finally, training that advances the concepts and tenets of community policing, procedural justice, and fair and impartial policing falls under the purview of the Training and Education Division, which includes the Training Academy. Basic Academy Training domains that cover community policing include cultural diversity and discrimination, leadership, diversity, policing in the community and the justice system,

An Assessment of the San Francisco Police Department

becoming an exemplary police officer, people with disabilities, and crisis intervention training. The captains' promotional orientation provides training on community engagement and community meetings.

It was repeatedly reported to the team that members of the SFPD are able to avail themselves of various types of training throughout their careers. However, it appears that formal training in the area of community policing is limited to that which is mandated by the California Commission on Peace Officer Standards and Training (POST).

Ensuring a guardian mindset through awards, appraisals, and promotions

The Final Report of the President's Task Force on 21st Century Policing recommended that law enforcement adopt a guardian mindset. This is not to say police should weaken their stance against individuals who seek to harm others but rather that law enforcement should strengthen its resolve to engage proper exercise of discretion and authority. Law enforcement agencies need to find ways to support and recognize proper exercise of power and authority with good community outcomes in addition to traditionally recognized acts of bravery and crime enforcement.

In San Francisco, some district newsletters recognize an officer of the month or cadet of the month. This is one promising way to advance a culture of guardianship, but it could be enhanced with more formal award opportunities. The team's review of the awards recognized by the SFPD did not identify an award for values such as community engagement, discretion under duress, de-escalation, or strategic problem solving. Rather, most of the prestigious awards focus on arrest, bravery, and degree of risk. During this assessment, significant public coverage unfolded over a potential active shooter situation in which the SFPD was able to talk the individual into surrendering without further harm to the individual or to others. The acts of bravery in these types of situations need to be valued as much as when officers engage their firearms.

In addition to acknowledging community policing practices through awards, successful community policing efforts should be directed and supported by organizational assessments and evaluations. The SFPD does not conduct routine performance assessments for its personnel. Without a robust evaluation process, the SFPD misses an opportunity to establish, measure, and document individual employees' goals for community policing efforts.

Evaluations provide an opportunity to reinforce normative organizational beliefs centered on procedural justice and fair and impartial policing, a key factor for developing strong police-community relationships. In addition, ongoing performance appraisals help develop an organizational learning framework and center the interaction among supervisors and officers on community policing goals. As well, regular evaluations provide officers with a platform to voice issues, which engenders a feeling of mutual respect between the officer and the agency. As a result of this forum, officers are more likely to bring respect into

^{117.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

^{118.} San Francisco Police Department, Department General Order 3.09 — Department Awards.

their interactions with residents.¹¹⁹ In other words, a positive engagement with supervisors can reinforce expected cultural beliefs and behavioral norms and can help develop internal procedural justice.¹²⁰ Officers who feel respected by their supervisors and peers are more likely to accept departmental policies, understand decisions, and comply with them.¹²¹ Therefore, the SFPD should employ regular, robust evaluations to ensure line officers and support staff members understand and appreciate that their performance and that of their superiors should include actions that lead to positive police-community interactions and improvements in the community's engagement, quality of life, and perception of safety.

Finally, the SFPD should supplement awards and robust evaluations with promotional practices that cultivate a guardian mindset. In particular, departmental leaders need to be selected and developed for all policing traits that the organization deems important, not just those that relate to arrest and other operational activities. A history of strong community engagement and service should rank, equally with that of high arrest and other enforcement activity, as secondary criteria in the SFPD's promotion selections because both contribute to the safety and vitality of San Francisco's communities.

Community stakeholders are at the heart of community policing

The core of community policing is partnership with the community. Although a variety of venues allow the public to voice their concerns regarding the SFPD's performance, the public's ability to partner effectively and work to solve systemic problems is limited in San Francisco. Community stakeholders in the city have a voice in policing decisions through a variety of means including personal interactions with police, as described earlier, as well as CPABs, community meetings, and partnerships with community organizations.

Community Police Advisory Boards

CPABs represent a good mechanism for community policing in San Francisco and should be leveraged further. CPABs are groups of residents and business representatives that vary in their makeup and number according to district needs. They are selected by each district's captain to assist in problem solving on crime and safety issues and to inform community policing activities. At the time of this report, only the Mission district did not have a CPAB. The goal is for board members to meet monthly and collaboratively solve issues specific to their community through working groups of both community members and officers. Each district approaches CPABs slightly differently, but CPABs play a vital role in the district's communication and problem-solving efforts. 122

Some districts' CPABs are more engaged than others. In the Tenderloin, for example, the CPAB reflects a high level of transparency, including a website with member biographies and current projects. In some districts, there is a team dynamic predicated on basic community policing principles of positive space and engagement. In others, however, CPAB activities are not robust.

^{119.} President's Task Force on 21st Century Policing, Final Report.

^{120.} President's Task Force on 21st Century Policing, Final Report.

^{121.} President's Task Force on 21st Century Policing, Final Report.

^{122.} Not On My Watch, "Community Advisory Boards."

An Assessment of the San Francisco Police Department

While the assessment team was not able to observe each district's CPAB in action during the assessment, the ones observed did seem to provide an active and engaged input into the district. One CPAB had a community walk and engaged residents who were outside. The CPABs appear to be a good practice; however, the CPABs could play a more active role in policing decisions and communicating the policing activities and goals to the larger community.

Community meetings

The team observed several community meetings led by district captains, and each meeting varied in nature. At one community meeting, the captain was accompanied by several members of his staff, a representative from the Crime Strategies Unit of the District Attorney's Office, a guest speaker, and a community liaison. At another, the captain brought no members from his staff and led the meeting alone, an example of varying levels of engagement in the districts.

For the most part, the team observed that SFPD members were in control of the meetings, essentially taking complaints from the community. The level of interactive problem solving was minimal at best. Coproduced policing envisions shared collaboration for policing decisions, with ownership by both the police and the community. As with CPABs, community meetings represent an opportunity for the SFPD to engage the community more as a partner, discuss issues collaboratively, and develop shared roles for action with the community.

Community-based partnerships

Most officers and supervisors, including SFPD leaders, identified community relationships as a key factor for the department's policing plans. However, the team saw avenues for the SFPD to be more strategic in its partnerships, especially in specific objective areas. Because community policing efforts vary from district to district and there is little, if any, oversight of the district captains' efforts in this area, the team observed several missed opportunities to engage stakeholders in developing co-produced policing strategies to advance public safety goals. For example, an advocacy group whose goal is in part to create safer streets for bicyclists and motorists felt that the SFPD had rebuffed its attempts at partnership. This appears to be a significant missed opportunity to leverage resources and address goals in light of the city's Vision Zero initiative, which aims to eliminate all traffic-related deaths and reduce severe and fatal injury to pedestrians, motorists, and cyclists by 2024.

Partnerships with groups centered on engaging youth are a priority for the SFPD, and as such they should be prioritized throughout all of the districts. Various programs work to develop youth interaction such as the Garden Project and the San Francisco PAL's Sandlot Program, and officers take youth on camping excursions and other trips. However, community programs could be leveraged to support the SFPD's community policing priorities.

Some community groups felt that the SFPD was not open to establishing new partnerships and is reluctant to take on more collaborations. Some groups also identified that they felt the SFPD had established partners and did not reach beyond those. Others identified that the SFPD was hesitant to engage with groups that were not fully supportive of the department. Assessment team members spoke

with one community-based organization that provides youth programs including job readiness, educational support, and life skill development for at-risk youth. Both the SFPD and the organization share the goal of assisting youth, especially in the area of youth employment. However, despite repeated requests, the SFPD has not engaged with the organization to date.

Protest activity is endemic in San Francisco, and the SFPD encounters a variety of activists and other groups by way of routine policing. The assessment team observed that individual officers had good personal contact with members of various activist groups by means of interaction at events and knowledge of the groups and their leaders. The team did not observe an organizational approach to engagement with such groups during the assessment.

These missed opportunities notwithstanding, the SFPD demonstrated some excellent examples of police-community partnerships. For example, during interviews with SFPD members, the assessment team was informed about a neighborhood project that partnered with the SFPD to provide leadership development opportunities for 30 young people. The youth broke into teams, and three teams were assigned to work directly with law enforcement officers. At the start, some of the young people were reluctant to work with the SFPD because they had a history of negative experiences with police officers. Nonetheless, they agreed to the partnership and began designing projects for the department. Projects focused on recruiting people of color to the department, using social media to inform the community, and improving community relations. Despite their prior negative interactions with law enforcement, by the end of the summer 81 percent of the youth said they would consider a career in law enforcement. More than 90 percent said they had a different impression of police after the program. This partnership is a good model for growing the department's community engagement work, particularly around youth engagement.

One key tool for community policing partnerships is the use of representative forums that meet with the chief of police on issues of concern and to solve problems around the issues. In the past, the SFPD had ten Chief's Forum groups: African American, Arab American, Asian Pacific Islander, Business, Hispanic, Interfaith, LGBT, Young Adults, Youth, and Youth Providers. Today only the Interfaith and LGBT forums continue. The department plans to re-introduce the forums that lapsed while remaining committed to continued participation in existing forums. 123 However, there was no evidence of work on reinvigorating these programs during the assessment phase.

SFPD community policing practices hinge upon public input

If the SFPD is to rebuild community trust, the department needs to be willing to openly engage the public to find out what the community thinks of its efforts. The team conducted a number of interviews in which SFPD members were asked, "How do you think the public views the SFPD?" and responses were mixed. Some officers, including the command ranks, felt that the public looks upon the department in a negative light, while others said they are looked upon favorably by the residents of their districts. However, there is no ongoing quantitative measure or mechanism for constructive input for all of the communities the

^{123.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

An Assessment of the San Francisco Police Department

department serves. The SFPD should be open to regular assessment from the community of the service it provides. An ongoing survey is a good start in identifying what the community wants from and how it feels about its police.

Homelessness as a unique challenge

San Francisco's large homeless population presents a unique challenge to the SFPD's delivery of community policing services. The assessment team learned that SFPD districts have varying levels of response to issues that involve the homeless population. In some, officers interviewed stated that more than 50 percent of their calls for service were related to the homeless population. On some of the ridealongs, the team observed that all of the calls for service related to the homeless population.

All SFPD officers the team questioned displayed knowledge of the issues of homelessness and its impact on policing within their communities. Some officers demonstrated a keen understanding of the dynamics and were fairly engaged in dealing with homeless persons. Others showed bias, perceiving the homeless as a policing problem rather than a service need and structuring their approach to the homeless as a criminal response. A recurring issue in San Francisco is how the police address the tents occupied by homeless individuals. On one hand, community members complain about the presence of the homeless and associated nuisance issues. On the other hand, advocates for the homeless community emphasize that actions against the property of homeless people occur because as individuals they do not have the standing or ability to protect their rights.

The laws in San Francisco sometimes facilitate the correlation between homelessness and criminality. One report produced by an advocacy group indicated that citations for quality of life issues, including sleeping, sitting, and begging, accounted for 70 percent of all quality of life citations from 2007 to 2013, the last year in which SFPD records were publicly recorded based upon categorization of "homeless." ¹²⁴ The SFPD does not have a data category that tracks its interactions with people experiencing homelessness consistently, which limits analysis for this area of police response including resource requirements, hot spot areas, and types of crime impacting or deriving from the community.

For its part, the SFPD has developed resources to assist the homeless including a website and a handout that identifies meal programs, shelters, and other sources of assistance. However, there were only eight shelters listed on the resources sheet, and two were for special populations: one for youth and the other for family. In addition, SFPD officers noted that shelter assistance is not always available given limited space and high demand, and the SFPD often cannot provide assistance during nighttime encounters because most service programs have limited hours. In effect, SFPD officers have limited service options to provide to the homeless individuals they encounter.

From a community policing perspective, some in the residential and business communities find the homeless populations to be a chronic problem based on health and crime concerns. Homeless individuals, meanwhile, are concerned with day-to-day shelter, health, and safety. While this review assesses the actions of the SFPD, the issues surrounding the homeless populations of San Francisco do not accrue to

^{124.} Coalition on Homelessness, "Punishing the Poorest."

the police alone. The SFPD has limited tools to address homeless assistance, but it remains the primary institutional response to the homeless population's needs and those of the community as a result of its around-the-clock response capability. Strategic planning should be conducted with all of the SFPD's institutional partners to clearly define roles, responsibilities, and goals in addressing this issue. Doing so will help ensure more consistent and coordinated responses to community issues surrounding homelessness.

The SFPD's successes and challenges in providing police services at the community level

Not surprisingly, individual SFPD members demonstrated a mixed understanding of community policing and how these practices should be carried out in their respective districts to best serve the department and the community. While patrol officers and officers in special units had a relatively limited understanding of the formal definition and concept of community policing, they were able to articulate the general expectations of their respective captains and supervisors on engaging community members. Most officers interviewed identified a need to be involved with the community, and many identified a level of acceptance of diverse communities that impressed members of the team.

For community policing to be effective, front-line officers must feel confident that they can make decisions at their level within the department's articulated community policing framework and thereby have ownership of and responsibility for their role in these efforts. Therefore, empowering autonomy and discretion within a framework requires an articulated strategy with goals and objectives at all levels of the organization. In San Francisco, the absence of established goals, coupled with a lack of analysis of how officers are being used, makes it challenging to properly assess whether officers are deployed to support community policing and achieving the best possible outcomes.

As identified in the *Final Report of the President's Task Force on 21st Century Policing*, getting to know the community at the agency level as well as on a personal basis can help establish an environment of coproduced policing rather than policing being imposed upon residents.¹²⁵ The assessment team identified examples of general patterns and practices that aligned with community policing and observed that most officers supported the concept in principle. For example, the team observed a foot patrol officer in a business district who interacted with numerous business owners of different nationalities, all of whom were familiar with the officer. The officer understood the important role of building positive relationships between police and the community they serve. The business owners enjoyed the tangible SFPD contact that a foot patrol officer provides.

In a separate incident, the assessment team observed appropriate use of discretion during a traffic stop of an individual who did not have a valid driver's license. Knowing that this individual was trying to get to work and did not have the funds to bail out of jail, the officers chose not to arrest him. Rather, they had him park the vehicle and gave him a warning. The next day, the subject waved at them and thanked them for not arresting him. The individual is taking the actions needed to correct his driving status, public order

^{125.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

An Assessment of the San Francisco Police Department

was maintained, and the officers now have an ally in the community. Community policing supports law enforcement's obligation to reduce crime in a procedurally just manner while protecting the rights of all people. 126

One challenge facing law enforcement officers is that individuals in communities most plagued by crime tend to rely on the police the most but often mistrust officers because of past experiences and perceptions of police action. For example, the team observed incidents where SFPD officers detained and questioned young African-American men on the street. Although the actions of the officers would be considered within the boundaries of the law, their response—in one case, multiple officers and another squad on backup—their authoritative tone and approach and failure to pause and fully assess the situation put them in a position of leaving these individuals feeling harassed for no apparent reason.

Police interaction with the community can be positive, as identified in the examples of foot patrol or use of discretion to park a car. It can also result in perceptions of inappropriate police action based on a failure to communicate the reasons for the interaction. Encounters where community members feel inappropriately targeted build wariness and mistrust of the police. As one of the participants at a community listening session stated, "We need more community policing. Instead of cars patrolling, they [the police] should be walking and talking with us, the youth. They see us as criminals, but I'm trying to go to college, and I'm tired of me going to stores. I'm getting stopped. Police officers come up to us and say, 'You have to be respectful.'" This sentiment was echoed in many other community encounters with the assessment team. The police may have the legal right and support for the stop, but taking an approach that engages individuals and provides explanations for police actions generates legitimacy and understanding.

Although the assessment team witnessed several examples of community policing practices initiated by patrol officers, in general community members felt a lack of a connection with the police. According to one community resident and business district leader, "The San Francisco Police Department needs to be more community-centric." When asked to define "community-centric," the interviewee explained, "Cops need to be out of the cars and on foot meeting people. The community is craving this."

In community listening sessions, the assessment team heard multiple times over multiple sessions that the police do not engage the African-American or Hispanic communities with respect and that men of color, young and old, were consistently subjected to negative police scrutiny, stops, frisking, and questioning. As one participant stated, "Bring us to the table. You cannot do this without us. They [police] must be held accountable before any trust can ever be re-instilled to those who have been sworn to protect and serve." There is strong desire among the community to be a partner in policing decisions.

^{126.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

Findings and recommendations

Findings follow the flow of the narrative within the chapter.

Finding 38

There is a strong perception among community members that the SFPD is not committed to the principles of procedural justice.

The assessment team heard from community members who expressed concerns over being treated unfairly, not being given a voice, or not being able to participate in policing decisions that affect the community.

Recommendation 38.1

The SFPD needs to expand its outreach to its communities in a manner designed to demonstrate its commitment to procedural justice.

Recommendation 38.2

SFPD leadership should take an active and direct role in community engagement at the neighborhood level.

Recommendation 38.3

The SFPD should engage community members in the implementation of the recommendations in this report.

Finding 39

The SFPD does not have a department-wide strategic plan that articulates a mission and identifies the goals and objectives necessary to deliver overall policing services.

Recommendation 39.1

The SFPD needs to develop a comprehensive organizational strategic plan with supporting plans for the key reform areas identified within this report specifically directed at community policing, bias, and maintaining diversity within the department.

Recommendation 39.2

SFPD leadership should lead, mentor, and champion a community-based strategic planning initiative.

An Assessment of the San Francisco Police Department

Recommendation 39.3

The SFPD should establish a Strategic Planning Steering Committee composed of representatives from the community and various sections of the department within 90 days of the issuance of this report. This committee should collaborate to develop policies and strategies for policing communities and neighborhoods disproportionately affected by crime and for deploying resources that aim to reduce crime by improving relationships and increasing community engagement.¹²⁷

Recommendation 39.4

A training needs analysis must be conducted to support the training requirements recommended in this assessment. The SFPD must conduct an analysis of the needs across the organization, identify the benchmark for training, and develop a prioritized training plan based on the needs analysis. This will require solid support from the Office of the Chief of Police and the command staff if it is to succeed in strengthening the content, quality, and timeliness of the department's training. This should be completed within nine months of the issuance of this report.

Recommendation 39.5

A technology needs analysis must be conducted on how to address the technology gaps identified in this assessment. Organizational needs should be identified, and a structured plan supported by budget forecasting should be in place to address the development of the IT enterprise for the SFPD. Existing systems should be integrated to ensure full value of the data already in place in the SFPD and that IT systems and practices remain up to date.

The SFPD must analyze and expound its information technology capabilities that provide the right management information to drive key decisions on officer misconduct and overall employee performance.

Recommendation 39.6

The SFPD must conduct a gap analysis comparing the current state of the department's information gathering, analyzing, and sharing assets and capabilities with the established modern best practices. This should be completed within six months of the issuance of this report.

Recommendation 39.7

The SFPD must conduct a portfolio management assessment to identify opportunities for consolidating platform and product offerings, providing enterprise solutions across the organization instead of silos or one-off product sets. This should be completed within six months of the issuance of this report.

^{127.} President's Task Force on 21st Century Policing, Final Report.

Recommendation 39.8

The SFPD must create a five-year technology initiative roadmap to facilitate migrating current platforms to the modern state architecture. This should be completed within 12 months of the issuance of this report.

Recommendation 39.9

The SFPD must establish clear life-cycle management policies and procedures for enterprise application maintenance, support, and replacement strategies for sustaining improved data collection, analysis, and dissemination technologies. This should be completed within 12 months of the issuance of this report.

Finding 40

The SFPD does not formalize community engagement in support of community policing practices.

The SFPD does not have a comprehensive, strategic community policing plan that focuses priorities, resources, programs, and activities for the department. Community policing involves partnerships, problem solving, and organizational transformation. In order to be a true community policing department, the SFPD needs to ensure the entire department is following the tenets of community policing systematically and strategically.

The SFPD needs to bring the community to the table in order to establish comprehensive community policing resources, programs, and activities.

Recommendation 40.1

As part of the Strategic Plan (recommendation 39.1), the SFPD should develop a strategic community policing plan that identifies goals, objectives, and measurable outcomes for all units.

Recommendation 40.2

As part of recommendation 39.3, the SFPD should direct the Strategic Planning Steering Committee to develop a strategic plan within six months of the issuance of this report that clearly defines the following:

- The department's vision, mission, and values statements. Once these statements are in place, the committee should establish agency-wide objectives and individual goals as the guiding principles that codify the SFPD's collective beliefs.
- The department's strategic framework for the planning process. This framework will ensure that the process results in a plan that supports the coordination of priorities and objectives across individuals, work groups, and key operating divisions.
- The department's strategy to engage the community, obtain community input, and develop support for the plan and its success.

An Assessment of the San Francisco Police Department

- The department's strategy to drive the plan down to the officer level by creating objectives that allow for individual goals that contribute to the overall plan.
- The department's measurement processes for individual performance and participation towards accomplishing departmental goals.

Recommendation 40.3

As part of its plan, the SFPD should consider the role of the beat and its place within its priorities. Prioritizing beataligned policing would require some realignment of dispatch priorities and directed patrol.

Recommendation 40.4

The SFPD should evaluate whether implementation of foot patrol and bicycle patrol would bridge the trust gap and effectively solve crime problems in San Francisco's communities.

Recommendation 40.5

The SFPD should develop specific measurable goals for community policing engagement within six months of the issuance of this report and ensure these measurements are incorporated into the department's CompStat processes.

Recommendation 40.6

The SFPD should develop and implement a community policing practices review and development process within 90 days of the issuance of this report so SFPD units can collaborate regarding community policing efforts.

Recommendation 40.7

The SFPD should develop strategic partnerships on key community issues such as homelessness and organizational transparency to work in a collaborative environment to problem solve and develop co-produced plans to address the issues.

Recommendation 40.8

The SFPD should publish and post its annual review of progress toward the community policing goals and objectives.

Finding 41

The SFPD's community policing order Department General Order 1.08 – Community Policing (effective 9/28/11) and its Community Policing and Problem Solving manual are out of date and no longer relevant.

These overarching directives do not sufficiently reflect the vision, plan, or goals of the SFPD with regard to community policing. They need to be updated and maintained as living documents that guide the community policing activities of the organization.

Recommendation 41.1

The SFPD should work with the newly convened Strategic Planning Steering Committee (recommendation 40.2) to draft a new community policing and problem solving manual for SFPD members within 12 months of the issuance of this report

Recommendation 41.2

The SFPD should work with the Police Commission to draft a new community policing order that reflects the priorities, goals, and actions of the department.

Finding 42

The SFPD conducts community policing in silos but does not ensure community policing is systematically occurring across the department.

Without an overall strategy, the SFPD's community policing activities represent only a collection of programs aimed at engaging with the community. Some SFPD district captains are creatively engaging the community and identifying promising practices; however, by not systematically identifying these practices they are working in silos. Every unit in the SFPD must have a community policing plan that is measurable and also coordinates with, supports, and is accountable to the organizational strategic plan. Ensuring that the whole of the organization is actively engaged with the community supports community policing goals, develops a culture that is consistent with true police-community partnerships, and allows the department to more effectively respond to community needs.

Recommendation 42.1

The SFPD should continue to grant district captains the authority to serve the diverse populations represented in their districts within the tenets of community policing. However, the department needs to provide structure and support to these initiatives in accordance with the proposed strategic community policing plan.

Recommendation 42.2

The SFPD should create an overall structure to manage the department's approach to community policing driven by a committee of senior leaders and district captains.

An Assessment of the San Francisco Police Department

Recommendation 42.3

The SFPD should recognize those district captains engaged in best practices and use them as peer trainers for other captains.

Recommendation 42.4

The SFPD should provide information technology support to districts to help develop newsletters that are easily populated and more professional in appearance. Creating a uniform newsletter architecture and consistent format that allows for easy data and content uploading would create efficiencies and help develop a greater sense of community.

Finding 43

The SFPD engages in a range of successful activities, programs, and community partnerships that support community policing tenets, particularly those coordinated through the Youth and Community Engagement Unit.

The SFPD partners on a variety of projects and is to be commended. As the department expands its work with the local communities, it must continue to ensure cultural sensitivity to projects it is implementing and when seeking to partner with additional members of the community. Public perception and community customs need to be at the forefront of the decision process.

Recommendation 43.1

The SFPD should continue to actively support the programs aimed at community engagement, including Coffee with a Cop, the San Francisco Police Activities League, San Francisco Safety Awareness for Everyone, and The Garden Project.

Recommendation 43.2

The SFPD should expand its partnership with and further support neighborhood organizations that work to provide art, sports, educational, and leadership development opportunities for young people in the community.

Recommendation 43.3

The SFPD should consider reinvigorating its community police academy program to educate the community about the department's policing practices. The training should range from basic police orientation to ride-alongs with district police officers.

Recommendation 43.4

The SFPD needs to reach out to members of activist groups and those groups who are not fully supportive of the department to seek to develop areas of mutual concern and work towards trust building and resolution of shared issues.

Finding 44

The Professional Standards and Principled Policing Bureau's mission, role, and responsibilities as they relate to community policing are not clearly defined or implemented.

In the absence of structured goals and objectives, the Professional Standards and Principled Policing Bureau has little influence in guiding the community policing-related activities.

Recommendation 44.1

The chief of police should give the deputy chief of Professional Standards and Principled Policing Bureau the responsibility of advancing community policing throughout the entire department and the communities of San Francisco.

Recommendation 44.2

The chief of police should empower the deputy chief of the Professional Standards and Principled Policing Bureau to create a strategy and plan to implement, with urgency, the Final Report of the President's Task Force on 21st Century Task Force recommendations contained in Pillar Four¹²⁸ and the recommendations in the CRI-TA assessment.

Recommendation 44.3

The SFPD should adequately resource the Professional Standards and Principled Policing Bureau to reflect the diversity of the community it serves and the officers of the SFPD in order to effectively coordinate community policing efforts throughout the city.

Recommendation 44.4

The SFPD, through the Principle Policing and Professional Standards Bureau, should engage and support all units by facilitating quarterly meetings among supervisors and managers to discuss cross-organizational goals and community policing plans and outcomes. These meetings should be supported by routine electronic engagement through a shared platform for sharing information.

Finding 45

The SFPD is not focused on community policing efforts across the entire department.

Recommendation 45.1

The SFPD should expand community policing programs throughout the entire agency and ensure each unit has a written strategic plan embracing community policing and measurable goals and progress, regardless of the unit's specialty.

^{128.} President's Task Force on 21st Century Policing Final Report.

An Assessment of the San Francisco Police Department

Recommendation 45.2

SFPD leadership should provide short video messages on the importance of the entire agency understanding and embracing community policing.

Recommendation 45.3

The SFPD should consider mandating annual community policing training to the entire agency.

Finding 46

The SFPD does not collect data around community policing nor measure success within community policing functions and programs.

Recommendation 46.1

The SFPD needs to prioritize data collection practices measuring community policing and should consider reinstituting Form 509 or other such instruments to allow for consistency in data collection and reporting.

Recommendation 46.2

The SFPD should regularly assess existing community engagement programs to ensure effectiveness in a framework predicated upon sound measurement practices. Assessments should include input from participants and trusted community partners.

Recommendation 46.3

The SFPD should establish formal mechanisms to measure and support information sharing and the development of shared good practice among SFPD members, particularly district captains.

Recommendation 46.4

The SFPD should create a feedback mechanism for community engagement events to determine efficacy, replicability, and depth of relationship with community partners. A community survey could be one feedback mechanism.

Recommendation 46.5

The SFPD should publish and post any community survey results.

Finding 47

The SFPD does not consistently seek out feedback or engage in ongoing communication with the community relative to its policing practices and how the community perceives its services.

The Bay Area is home to several academic institutions, and a partnership arrangement should be considered not only for the community survey but also as a means to measure overall progress of the department's reform efforts. Such an arrangement would allow for ongoing transparent evaluation of the reforms that have been publicly promised to the residents of San Francisco.

Recommendation 47.1

The department should conduct periodic surveys to measure whether the SFPD is providing fair and impartial treatment to all residents and to identify gaps in service (see recommendation 46.5).

Recommendation 47.2

The department should create easy points of access for community feedback and input, such as providing "community feedback" or "talk to your captain" links on its website and social media pages.

Recommendation 47.3

The role of the Director of Community Engagement should be aligned with organizational communication and outreach to enhance overall messaging and community awareness of the SFPD's community policing initiatives and ongoing programs.

Finding 48

The SFPD needs to develop a robust, broad-based community forum for input on policing priorities across all communities.

Recommendation 48.1

The chief's community forum groups—African American, Arab American, Asian Pacific Islander, Business, Hispanic, Interfaith, LGBT, Young Adults, Youth, and Youth Providers—need to be re-established and structured to engage in problem solving and action regarding issues affecting the groups they represent.

Recommendation 48.2

The department needs to develop an annual reporting and measurement process of the issues raised at the forum and the progress made by the group in resolving them.

An Assessment of the San Francisco Police Department

Finding 49

Many in the SFPD lack an understanding of current and emerging community policing practices such as procedural justice.

Recommendation 49.1

The SFPD should ensure that all department personnel, including civilians, undergo training in community policing as well as customer service and engagement.

Recommendation 49.2

Consideration should be given to using Field Training Officers to help develop and deliver training in the field regarding key community policing concepts as a way to augment and expand the training currently provided at the Training Academy.

Recommendation 49.3

The SFPD's training needs to expand beyond traditional community policing and include the foundation and concepts of procedural justice as related concepts.

Finding 50

The SFPD does not require agency personnel to read the Final Report of the President's Task Force on 21st Century Policing.

Recommendation 50.1

The SFPD should require all agency personnel to read the Final Report of the President's Task Force on 21st Century Policing.

Recommendation 50.2

The SFPD should encourage supervisors and captains to continue conversations on the Final Report of the President's Task Force on 21st Century Policing through roll calls, in-service training, and community meetings.

Finding 51

Training curricula do not address the complex emerging community issues in the current law enforcement environment.

Recommendation 51.1

The SFPD should provide procedural justice and explicit and implicit bias training to all department personnel including civilian staff. This training should become a permanent part of the Academy's curriculum and should be reviewed with each officer during the department's annual officer training sessions.

Recommendation 51.2

The SFPD should engage in peer-to-peer training exchanges for exposure to other departments' training curricula to identify areas for potential improvement. Areas of focus should include de-escalation training, use of force training with a focus on the sanctity of life, impartial policing, and procedural justice.

Finding 52

The SFPD has not fully engaged with all institutional and community partners to coordinate service provision to the homeless community.

Significant amounts of SFPD resources are directed at responding to issues involving the homeless community. The SFPD needs to assess and ensure that these resources are being used to their greatest value.

Recommendation 52.1

The SFPD should review and strategically align resources to support the Homeless Outreach Teams, which are currently providing service to the homeless community.

Recommendation 52.2

The SFPD should engage with the City and County of San Francisco to conduct joint strategic planning with all of its appropriate federal, state, and local partners to clearly define roles, responsibilities, and goals in continuing to address the issue of homelessness and ensure a more consistent and coordinated response to the needs of this growing segment of the city's population.

Recommendation 52.3

The SFPD should engage in data collection and analysis to measure the effectiveness of strategies aimed at all community policing issues, particularly its response to the homeless community. The analysis should be part of an ongoing review and publication and reflect the commitment to greater transparency and community engagement.

Finding 53

The SFPD does not incorporate the tenets of community policing in its evaluation of employee performance.

The President's Task Force on 21st Century Policing has recommended that law enforcement culture adopt a "guardian" mindset, which means strengthening the department's resolve to engage proper exercise of discretion and authority.¹²⁹

^{129.} San Francisco Police Department, Review and Response of the Final Report of The President's Task Force.

An Assessment of the San Francisco Police Department

Recommendation 53.1

Performance evaluations should include officers' behaviors and efforts to meet the SFPD's community policing goals of community engagement, positive police-community interaction, and problem resolution. Establishing consistent performance evaluations is covered under recommendation 79.1.

Finding 54

The SFPD does not have multi-levels of awards and recognition that reward organizational values and goals, such as community engagement and recognition, discretion under duress, and strategic problem solving.

Rewarding behaviors and actions that reflect the values of a guardian mindset is one way to institutionalize the department's community policing goals.

Recommendation 54.1

The SFPD should support and recognize proper exercise of power and authority with good community outcomes in addition to traditionally recognized acts of bravery.

Recommendation 54.2

The SFPD should implement department-wide recognition for an officer of the month as one way to begin to advance a culture of guardianship and reward good community policing practices.

5. Accountability

Accountability in San Francisco

Accountability is about creating a culture where doing the right thing is the norm. A culture of accountability develops officers who act in accordance with the San Francisco Police Department's (SFPD) vision and goals and hold themselves to account for policing excellence. The mission statement of the SFPD reflects this vision of accountability, noting, "Professionalism requires impeccable conduct, careful protection of all citizens' rights, and the maintenance of high levels of accountability from all members of the Department." 130

San Francisco has a well-structured system for police accountability. There are three lead agencies that have statutory responsibility for police accountability within San Francisco:

- 1. The SFPD is responsible for all matters relating to officer conduct, department management, and policy guidance.
- 2. The Office of Citizen Complaints (OCC) is tasked with investigation into complaints from the community against police officers and into officer-involved shooting incidents.
- 3. The Police Commission has authority over the policies and discipline of the SFPD.

Each has a distinct role in the overall system of accountability directed at police officers, and each operates to its own responsibilities, as depicted in figure 5.1. However, better coordination among these agencies is needed to improve the processes of accountability in San Francisco.

Figure 5.1. Accountability responsibilities

Office of Citizen Complaints (OCC) Responsible for the investigation of citizen complaints SFPD Responsible for the internal investigation of complaints and sustained complaints from OCC Police Commission Responsible for conducting disciplinary hearings, imposing discipline, and hearing officer appeals

Independent of the police discipline process, legal accountability arises out of the criminal activity of police officers and rests with the City and County of San Francisco District Attorney's Office. The District Attorney's Office has charging authority over criminal conduct of police officers and also investigates officer-involved shooting incidents.

^{130.} City and County of San Francisco, "Police Department: Mission Statement."

An Assessment of the San Francisco Police Department

During community listening sessions, residents of San Francisco were loud, vocal, and consistent in their opinion, perceptions, and beliefs that the officers and leadership of the SFPD act in accordance with their own interests and not those of the community. Community members told many stories of disparate policing practices, of families in pain as a result of inappropriate police action, and of individuals left without recourse because of improper policing decisions. Most expressed frustration with a lack of knowledge regarding what is happening with their complaints as well as a belief that nothing is happening. The absence of transparency in the discipline system results in a frustrated community that believes its issues and concerns regarding police misconduct are not being heard or addressed.

However, the SFPD is to be given credit for taking the critical first steps in seeking Collaborative Reform Initiative for Technical Assistance (CRI-TA). By virtue of this assessment, the SFPD will have appropriate guidelines to create robust accountability practices. The execution of these guidelines will be monitored during the CRI-TA implementation phase. The SFPD has been a partner to the process and has demonstrated its commitment to ensuring the department becomes a world-class police organization.

Integrity, fairness, and service are the hallmarks of policing. As individuals, many of the men and women of the SFPD serve with honor every day and strive to ensure the public safety of the people they serve. However, community concerns persist, and the SFPD faces a challenge in maintaining public confidence amid ongoing scandals and public interest in the department's use of force incidents in recent years. SFPD leadership must be willing to hold its officers to account and ensure transparency in discipline practices, policies, and decisions on policing. Moreover, the SFPD needs to embody the element of its mission statement that strives to eliminate any "question or suspicion among the citizenry regarding Department ethics" ¹³¹ throughout the organization.

This assessment will make findings and recommendations specific to the SFPD since neither OCC nor the Police Commission is under CRI-TA review.

Methodology used to assess this objective

The assessment team reviewed the SFPD's policies and procedures related to the intake, investigation, and disposition of complaints and the interconnected policies and procedures of the Police Commission and OCC. Team members also reviewed the SFPD's policies and procedures related to its early intervention program and officer misconduct as well as directives regarding professional behavior for assessing transparency of policies and practices, fairness, and impartiality.

Assessment team members interviewed SFPD members from all levels and areas of the agency and individuals and organizations who play a role in ensuring the SFPD's accountability including OCC, the Police Commission, the District Attorney's Office, the Public Defender's Office, the Board of Supervisors, the San Francisco Police Officers Association (POA), other police employee groups, and community members and stakeholders

^{131.} City and County of San Francisco, "Police Department: Mission Statement."

In addition, the assessment team conducted qualitative reviews of SFPD complaint investigation files for 2013, 2014, and 2015 that were in the possession of the SFPD. Team members assessed overall investigative quality of these files using a random sampling methodology as compared to good practice benchmarks.

The assessment team targeted its review to 10 percent of the overall case files for each year, prioritizing the review of the 2015 files. Once the saturation point¹³² was reached, the team validated its conclusions against case files from 2014 and 2013.¹³³ A sample of the case files was also subject to an in-depth review for overall quality, transparency, comprehension, and clarity in the investigation and its processes, again providing for a numbered rating of the investigation.

Complaint and discipline policies and processes

The policies of SFPD direct its internal complaint investigations, findings, and discipline practices. SFPD policies also inform the investigative practices and findings for OCC, the civilian investigative agency tasked with investigating public complaints of misconduct against on-duty SFPD officers.

The SFPD identifies the *Supervisory Investigations Manual* as providing the standards for an investigation into employee misconduct that does not fall under OCC's jurisdiction. The Department General Orders (DGO) that apply are DGO 1.06 – Duties of Superior Officers, which outlines the steps supervisors are to follow when conducting a disciplinary investigation, and DGO 2.08 – Peace Officer's Rights, which states the rights of officers under investigation. The actual investigative process and standards are not codified in a DGO but instead are prompted by a template for investigation on SFPD Report SFPD-68 (03/89). No DGO outlines the procedures and responsibilities for the investigation into internal misconduct complaints. Furthermore, there is no specific Internal Affairs Division (IAD) manual or official protocol that specifically guides and directs the conduct of investigations by IAD.

Strong partnerships for police accountability reflect an agency committed to excellence in policing. During this assessment, team members observed ongoing and protracted communications issues involving the institutional partners to the accountability process, including OCC and the District Attorney's Office, even at high levels of leadership. The lack of trust among partners was visible and demonstrated in public statements, which has significant impact on police accountability in San Francisco. The SFPD needs to provide leadership to ensure that the process for holding itself and its officers to account is transparent, robust, fair, and impartial across the full spectrum of the accountability system.

^{132.} Saturation occurs at the point at which there is enough information to replicate the study findings and no additional new information has been attained.

^{133.} Fusch and Ness, "Are We There Yet?"

An Assessment of the San Francisco Police Department

Internal core accountability processes

Three key processes drive internal accountability for the SFPD: (1) directives, including policies, procedures, and protocols; (2) investigation of internal complaints; and (3) early warning and evaluation systems. The assessment team reviewed the SFPD's policies and procedures that guide employees; assessed how the department investigates internal complaints of poor employee behavior or performance; and examined the department's early warning systems and performance evaluations (individual and agency) to determine whether the SFPD holds officers accountable for appropriate behavior and performance.

For the period 2013–2015, the SFPD's IAD received a total of 1,156 complaints. The intake for complaint distribution for 2013–2015 is as shown in table 5.1.

Table 5.1 SFPD IAD complaint distribution, 2013-2015 (N = 1,156)

Type of complaint	N
Citizen-initiated	90
OCC-sustained	190
Department-initiated	831
Officer-involved firearm discharge	20
Officer-involved shooting	25
Total	1,156

Source: Data obtained by assessment team from SFPD IAD June 17, 2016

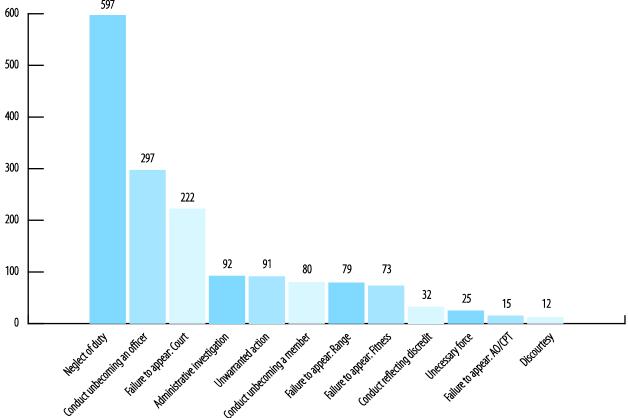
The SFPD's intake of complaints varies from that of OCC. First, it includes OCC-sustained complaints, as the SFPD must review the OCC investigation and determine whether to accept the disciplinary recommendations. Second, the SFPD received 90 public-initiated complaints during this timeframe, some of which could account for off-duty conduct. However, at 831 complaints, department-initiated complaints accounted for the majority of IAD's complaint intake.

The SFPD's IAD is responsible for conducting internal disciplinary investigations and managing the disciplinary process. IAD is structured between Internal Affairs Criminal Unit (IA Criminal) and Internal Affairs Administrative Unit (IA Administrative), with each unit headed by a lieutenant. Generally, IA Criminal investigates serious misconduct and criminal investigations of SFPD officers. IA Administrative conducts investigations into all other internal misconduct complaints. Both units are staffed by sergeants who are responsible for conducting misconduct investigations into officers. The sergeants are assisted by support personnel, including the department's legal counsel. IAD also has an Officer-Involved Shooting Team that investigates officer-involved shootings and presents its findings to the Firearm Discharge Review Board (FDRB).

The IAD investigative process flow is identified in the following steps:

- 1. Intake
- 2. Assignment to IA Administrative, IA Criminal, or unit supervisor
- 3. Investigation by IA Administrative or IA Criminal
- 4. Internal Affairs lieutenant's review of findings
- 5. If not sustained, the complaint flows through the IA Administrative process for case closure
- 6. If sustained, IA Administrative lieutenant reviews the investigation and forwards through the chain-of-command, ultimately to the police chief
- 7. The police chief administers discipline up to 10 days' suspension
- 8. Recommendations for suspensions over 10 days are scheduled before the Police Commission for hearing and decision

Figure 5.2. SFPD top 12 complaint type totals, 2013–2015



A complaint can have multiple types of allegations, resulting in a larger number of allegations than complaints received and reported.

Source: Data obtained by assessment team from SFPD IAD June 17, 2016

An Assessment of the San Francisco Police Department

As reflected in figure 5.2 on page 119, the majority of the complaints received by IAD were for Neglect of Duty. Conduct Unbecoming an Officer was the next most frequent complaint, followed by Failure to Appear: Court. There were 25 complaints of unnecessary force.

Unit level investigations

In cases where the alleged misconduct arises from a procedural matter or is minor as determined by IAD intake, the complaint is forwarded to the assigned officers' unit for investigation. The team supports this process because forwarding less serious complaints to the assigned officers' unit is a good practice. By creating responsibility for overseeing and investigating lower levels of misconduct, first-line supervisors become aware of complaints of misconduct. This knowledge not only allows them to hold their officers to account but also alerts them to opportunities to coach and lead employees to help develop appropriate conduct. Once the unit has completed its field investigation, the complaint is sent back to IAD. IAD processes the investigation and then forwards it through the IAD chain of command for review.

At each step in the process, legal counsel is available to assist in advising investigators with respect to law, policy, or procedural matters and to assist in preparing findings, notification, and scheduling of discipline.

Internal Affairs intake processes

The complaint and discipline process is not public focused; however, the number of complaints about officer conduct in public interactions require greater attention and action from the SFPD. Attention must be paid to the conditions that give rise to community complaints. The very act of registering a complaint indicates of a lack of understanding, a failure to communicate, or a missed opportunity to address the issue at the time of the encounter, especially in cases where the officer's conduct is found to be proper. The assessment team did not learn of any ongoing review of complaints and their origination as a means to be proactive and provide intervention, learning, or policy opportunities to minimize their recurrence, either internally or as a matter of public education and outreach.

As for the intake process, the SFPD provides minimal focus on ensuring that the complainant be kept informed during the progress of the investigation other than to inform him or her that OCC will undertake the investigation. The *Supervisory Investigations Manual* directs the investigations of supervisors as they relate to complaint investigations. ¹³⁴ However, the manual focuses on documenting the process rather than ensuring that the complainant's needs are addressed.

The manual does not advise the supervisor about appropriate actions or responsibilities regarding a member of the public lodging a complaint other than to (1) allow the party to complete the form if present or, if on the phone, re-read the complaint to confirm its accuracy and (2) inform the party that the complaint will be forwarded to OCC. ¹³⁵ This lack of direction represents a missed opportunity to increase transparency. The intake of a complaint is an appropriate time to provide complainants with an

^{134.} San Francisco Police Department, Supervisory Investigations Manual.

^{135.} San Francisco Police Department, Supervisory Investigations Manual.

information sheet advising them of their rights and what to expect from the process. Furthermore, providing an OCC complaint number rather than just the phone number for OCC at the time of filing would allow complainants to track the progression of investigations from their initiation.

The assessment team heard many comments on the community's frustration with the process and lack of transparency. The team notes that this frustration is directed toward the SFPD, and insofar as the conduct of its employees is the source of complaint, the SFPD should work with OCC to develop ways to increase transparency during the investigation and closing of the complaint.

Internal Affairs' need for standard operating procedures

Standard operating procedures support effective practices. At present, however, the SFPD's IAD does not have a comprehensive standard operating procedures manual despite its unique work at the intersection of criminal and administrative law. Rather, IAD relies upon departmental orders, which direct the intake of public complaints; the *Bureau of Inspectors Investigations Manual*, ¹³⁶ which outlines procedures for criminal investigations; and the *Supervisory Investigations Manual*, which directs the investigations of the IAD supervisor. However, none of these directives speaks directly to the work of IAD, which investigates highly technical issues distinct from those addressed in these manuals.

In meeting with members of IAD, the assessment team learned that there was a lack of clarity as to roles within IA Criminal and IA Administrative, and unit members often felt that they did not have sufficient direction. Members of IAD acknowledged that they seldom meet to discuss investigations or common issues like how to develop an effective database for case management and archival purposes. They also referenced a lack of administrative and technical resources, especially data systems, as impediments to the effective and efficient performance of their duties.

In IAD, the assignment of cases is not subject to a standard, specific protocol. This lack of policy for assigning cases coupled with a lack of standardized investigative practices, roles, and responsibilities creates challenges for strong accountability practices. Assessment team members found that the cases IAD assigned back to the SFPD's operational units were generally lower level, which is appropriate. However, absent protocols, field assignments are subject to variance, and therefore so is the overall focus and quality of the investigative process. If the structures for the assignment and investigation of cases are not clear and known, it is much more likely that community members will continue to have reason to question the transparency and fairness of investigations.

Early Intervention Systems

Early Intervention Systems (EIS) are another way that contemporary police agencies use data to improve individual and organizational effectiveness. The SFPD's EIS focuses on improving employee performance pursuant to DGO 3.19 – Early Intervention System. The parameters for the SFPD's EIS Unit and its function

^{136.} San Francisco Police Department, Bureau of Inspectors Investigations Manual.

An Assessment of the San Francisco Police Department

as a component of the Legal Unit are also outlined in this directive. When factors indicate that an SFPD officer may be exhibiting patterns of improper behavior or performance, the EIS Unit sends an alert along with any relevant data and documents to the involved employee's captain for review.

The EIS Unit is staffed by a sergeant and three nonsworn full-time personnel (two analysts and one police service aide). However, EIS Unit staff members also perform tasks and roles unrelated to early intervention. Persons performing EIS duties assist the Legal Unit in handling open records requests, including requests for body-worn camera—related data. As the SFPD begins the expansion of its body-worn camera program, management responsibilities for this data and the accompanying public requests will grow significantly. Absent a specific staffing plan, this increased demand for efforts unrelated to EIS will directly impact members of the EIS Unit.

Typically, the captain assigns the task of reviewing the information and developing an opinion to the Performance Improvement Plan (PIP) sergeant. The PIP sergeant then sends his or her assessment to the EIS Unit indicating whether or not the employee is demonstrating patterns of at-risk behavior. The assessment team was informed that when patterns of at-risk behavior exist, the PIP sergeant works with the EIS Unit and others to identify and implement a remediation program for the employee.

Employee engagement is essential to facilitating successful remediation. Therefore, the process includes meeting with the employee to discuss the supervisor's observations in an attempt to engage the officer in the remediation process. In addition, the process includes input and representation from important internal and external partners, including members of senior executive staff (two deputy chiefs and the captains of Risk Management and Behavioral Science), who aid in the process of developing a remediation plan.

Overall, the structure and philosophy of early intervention system in the SFPD are consistent with national police practices.

Moreover, the team found the intent for the EIS program—providing "non-disciplinary intervention, whenever possible, to assist our members in their professional development in order to provide the highest level of service and satisfaction to the public"—to be appropriate and consistent with best practices. ¹³⁷

The SFPD faces challenges, however, in implementation of the program. Technology was a significant barrier to organizational development and reach. Important data sets, such as Use of Force Logs and other data, are neither collected nor stored in an accessible digital format. Instead, the SFPD's Use of Force Logs are handwritten. Therefore, a review of the logs requires that the paper document be disseminated and routed to department units with administrative responsibility for review. The logs are often not forwarded for weeks, generating a significant lag in the timely entry of such data.

^{137.} San Francisco Police Department, *Department General Order 3.18 — Performance Improvement Program*.

EIS is supported by PIP, but that system is also paper-based. Each employee has a binder that follows the officer through assignments. These binders are essentially the officer's personnel file and are physically stored on site in the unit of assignment. ¹³⁸ If all of the data involving an officer are stored in a locked file cabinet on site, there is significant issue with the SFPD's ability to assess, identify, and proactively address performance issues on a consistent, regular basis. Furthermore, there is minimal organizational access to such information to be able to analyze and conduct assessments from a human resources and accountability perspective.

The EIS sergeant converts the paper Use of Force Logs to electronic format by ensuring that the data are manually entered into the SFPD's system that houses EIS and IAD tracking data. This process of manually entering data is time consuming and creates the potential for error in the data. In addition, manual data entry takes time and attention away from the process of analyzing data and identifying trends in employee conduct. Promising practices in the field of early intervention ensure that leadership energy and focus is on analyzing data and identifying trends rather than data entry. Therefore, in most contemporary police agencies this process is entirely electronic.

Good work is being done within the EIS Unit, including expansion of the factors through development of a new reporting form and data collected for reporting use of force by officers. The EIS sergeant informed the assessment team of the project underway to update and improve the collection of use of force data. EIS Unit staff members are currently entering data as of the beginning of 2016 to update the database to inform the analysis and institutional response to officer-involved shootings. These efforts are further discussed in chapter 2. Until these efforts are complete, the paper-driven process remains time consuming and requires a significant amount of administration to be effective. To this end, EIS staffing is insufficient. One sergeant is responsible for overseeing and ensuring that EIS entries are up to date, forwarded, and completed by the SFPD's units.

Table 5.2. 2015 EIS alerts by type

EIS alert	N	Percentage
Officer-involved shooting	20	7%
Officer-involved discharge	7	2%
Three or more UOF incidents within 3 months	71	23%
Three or more OCC complaints within 6 months	22	7%
Any five or more indicators within 6 months	85	28%
Four or more OCC complaints within 12 months	3	1%
Any six or more indicators within 12 months	99	32%
Total	307	100%

Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

^{138.} San Francisco Police Department, *Department General Order 3.18 — Performance Improvement Program*.

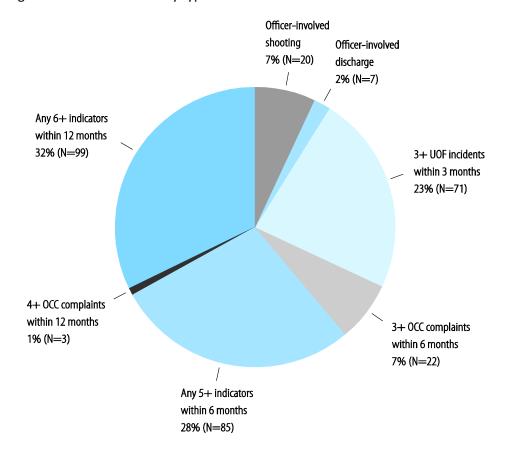
An Assessment of the San Francisco Police Department

EIS alerts

Pursuant to DGO, the following are reportable EIS events:

- Five or more EIS indicators within a six-month period
- Three or more public complaints within a six-month period
- Six or more EIS indicators within one year
- Four public complaints within one year
- Three or more documented uses of force within a three-month period
- Involvement as a principal in an officer-involved shooting or discharge

Figure 5.3. 2015 EIS alerts by type



Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

Pursuant to the EIS Panel's 2015 report, there has been a decreasing trend in EIS alerts arising from reportable events:

- 2013 443 EIS alerts
- 2014 378 EIS alerts
- 2015 307 EIS alerts

Most EIS alerts concluded in training and mentoring as their outcome. As demonstrated in table 5.2 on page 123 and figure 5.3, for all of 2015 there were 307 total EIS alerts. Use of force alerts were most likely to be reported as multiple indicators, with officers having more than one alert; and 156 members had more than one alert. 139

The EIS Unit and the member's supervisor are to conduct an initial review of all members who exceed EIS thresholds. As written, DGO 3.19 – Early Intervention Program assumes that supervisors will not find a pattern of behavior:

"Supervisors may conclude that a pattern of at-risk behavior does not exist and forward their finding to the EIS Unit through their commanding officer. The EIS Unit may concur that a pattern of at-risk behavior does not exist and that corrective action is not necessary. Conversely, the EIS Unit may not concur with the supervisor's finding that a pattern of at-risk behavior does not exist; the EIS Unit will electronically return the name(s) of the member(s) to the respective commanding officer, who shall ensure that the member's supervisor engages in a performance review and, if appropriate, initiate intervention with the member "140"

In effect, SFPD policy presumes a finding by supervisors that at-risk behavior does not exist as there is no direction on how to identify indicators of at-risk behavior. For the period January 1, 2013, through December 31, 2015, out of the total population only 19 employees were recommended for EIS monitoring. ¹⁴¹ The data reveal that 17 out of the 19 EIS indicator events were closed within the month they were initiated. The remaining two were not identified as active, but team members were informed that these two were likely in some form of command review. This is concerning to the team because it does not appear to support an active and robust EIS program if no one is engaged in it and action is ended in the same month that the EIS alert is initiated.

EIS indicators

On a quarterly basis, a report is forwarded to all unit commanders identifying indicator events for EIS, which they are to review to determine whether subsequent action is needed. These are not EIS threshold activities but are for all activities that fall within the EIS behavior alerts. In other words, these reports are meant to inform supervisors so trends can be identified before the officer's activity results in an EIS alert. The data are reported on a quarterly basis and combined in a variety of informative charts, including unit and officers. Indicators occur at a higher frequency than alerts, as they include single events rather than the multiples required for an EIS alert. For all of 2015, there were 2,485 EIS indicators reported, as compared to 307 alerts.

^{139.} San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

^{140.} San Francisco Police Department, *Department General Order 3.19 — Early Intervention System*.

^{141.} Data obtained by the assessment team from the SFPD EIS Unit June 22, 2016.

An Assessment of the San Francisco Police Department

Table 5.3a Indicators by quarter and year, 2013-2015

	Year	Q1	Q2	Q3	Q4	Total	
2013		734	800	800	706	3040	
2014		710	728	646	739	2823	
2015		683	611	574	617	2485	

Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

Table 5.3b Members by quarter and year, 2013-2015

	Year	Quarter	Sworn members
2013	1st	2174	
2013	2nd	2115	
2013	3rd	2149	
2013	4th	2158	
2014	1st	2108	
2014	2nd	2102	
2014	3rd	2139	
2014	4th	2158	
2015	1st	2141	
2015	2nd	2146	
2015	3rd	2239	
2015	4th	2235	

Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

Table 5.3c Indicators per member by quarter and year, 2013-2015 (N)

	0	1	2	3	4	5	6	7	8+	Members with one or more indicators
Q1 2013	1641	381	111	34	6	1				533
Q1 2014	1625	322	115	32	11	2			1	483
Q1 2015	1649	347	112	25	7				1	492
Q2 2013	1569	372	117	45	5	4	2	1		546
Q2 2014	1584	368	112	26	5	6			1	518
Q2 2015	1686	343	88	24	5					460
Q3 2013	1589	400	107	35	11	5	2			560
Q3 2014	1662	356	84	28	7	2				477
Q3 2015	1798	331	92	13	5					441
Q4 2013	1650	364	100	35	8	1				508
Q4 2014	1641	371	89	42	12	2	1			517
Q4 2015	1787	333	80	23	7	4		1		448

Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

Table 5.3d Indicators per member by quarter and year, 2013-2015 (percentage)

	0	1	2	3	4	5	6	7	8+	Members with one or more indicators
Q1 2013	75%	18%	5%	2%	0%	0%	0%	0%	0%	25%
Q1 2014	77%	15%	5%	2%	1%	0%	0%	0%	0%	23%
Q1 2015	77%	16%	5%	1%	0%	0%	0%	0%	0%	23%
Q2 2013	74%	18%	6%	2%	0%	0%	0%	0%	0%	26%
Q2 2014	75%	18%	5%	1%	0%	0%	0%	0%	0%	25%
Q2 2015	79%	16%	4%	1%	0%	0%	0%	0%	0%	21%
Q3 2013	74%	19%	5%	2%	1%	0%	0%	0%	0%	26%
Q3 2014	78%	17%	4%	1%	0%	0%	0%	0%	0%	22%
Q3 2015	80%	15%	4%	1%	0%	0%	0%	0%	0%	20%
Q4 2013	76%	17%	5%	2%	0%	0%	0%	0%	0%	24%
Q4 2014	76%	17%	4%	2%	1%	0%	0%	0%	0%	24%
Q4 2015	80%	15%	4%	1%	0%	0%	0%	0%	0%	20%

Source: San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

As identified in table 5.3a–d on pages 126 and 127, as with the decrease in EIS alerts there has also been a decrease in EIS indicators for the period 2013–2015. During this time frame, indicator behavior dropped approximately 18.2 percent.

An Assessment of the San Francisco Police Department

Table 5.4. Indicators by quarter, 2015

	Use of force	Officer- involved shooting	Officer- involved discharge	OCC complaint	IAD investiga- tion	EEO com- plaint	Suit	claim	On-duty collision	Vehicle pursuit	Total
01	243	7	_	205	126	3	5	44	49	ı	683
Percent	35.6%	1.0%	0.1%	30.0%	18.4%	0.4%	0.7%	6.4%	7.2%	%0	
Q2	272	1	2	157	09	_	13	54	45	7	611
Percent	44.5%	%0	0.3%	25.7%	%8.6	0.2%	2.1%	8.8%	7.4%	1.1%	
Q3	251	2	3	136	70	3	4	50	45	10	574
Percent	43.7%	0.3%	0.5%	23.7%	12.2%	0.5%	0.7%	8.7%	7.8%	1.2%	
04	285	11	1	101	94	4	1	91	23	7	617
Percent	46.2%	1.8%	0.2%	16.4%	15.2%	%9:0	%0	14.7%	3.7%	1.1%	
Total	1051	20	7	599	350	11	22	239	162	24	2485
Percent	42.2%	0.8%	0.3%	24.1%	14.1%	0.5%	%6:0	%9.6	6.5%	0.1%	

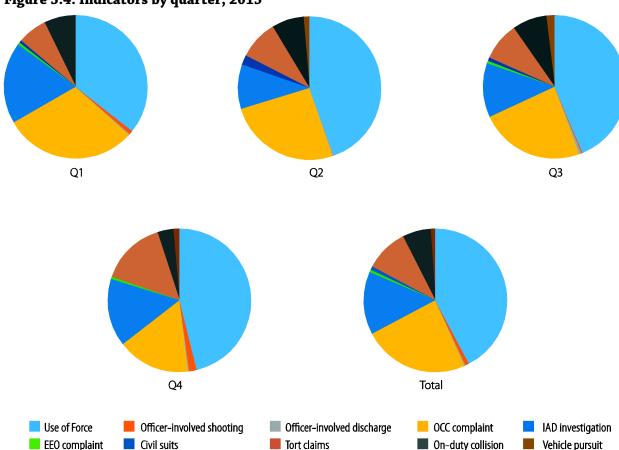


Figure 5.4. Indicators by quarter, 2015

As observed in table 5.4 on page 128 and in figure 5.4, use of force is the most frequently reported indicator, accounting for 42.2 percent of all indicators. OCC complaints account for 24.1 percent of all indicators.

When broken down by district, indicators provide for a more global view of possible trends for review. For example, Tenderloin and Mission lead all other districts in reported use of force incidents at 156 and 145 reports, respectively. These two districts alone account for almost 33 percent of all reported use of force within the 10 patrol districts.

Furthermore, while the data used in this review are focused on the period 2013–2015, review of EIS indicator data for the first quarter of 2016 identifies a similar trend. For this period, both Mission and Tenderloin are the districts with the highest reported use of force, accounting for 30.7 percent of all reported use of force indicators at 593. However, for the first quarter of 2016, officers assigned to the Mission District far exceed the other districts with 107 reports of use of force. The next closest district, Tenderloin, has 75 reports of use of force, but Mission exceeds this rate by almost 30 percent. This increasing trend is of concern and will be monitored during the CRI-TA implementation phase.

^{142.} Data obtained by the assessment team from the SFPD EIS Unit June 22, 2016.

An Assessment of the San Francisco Police Department

EIS needs to be an organizational priority. Its goal should be more than tracking employee actions and generating supervisory reports. The philosophical goals of EIS are identifying at-risk employees and interceding to improve overall performance. Pursuant to DGO 3.19, the EIS Board has responsibility for review of aggregate information, but assessment team members observed little action based upon data analysis during the assessment. The EIS Board consists of the following individuals:

- Deputy Chief of Administration (Chair) (current practice has placed the chief of staff as chair)
- Deputy Chief of Field Operations
- Commanding Officer of Risk Management
- Commanding Officer of the Training and Education Division
- Officer in Charge of the EIS Unit
- Officer in Charge of the Behavioral Sciences Unit
- Police Officers Association Representative
- OCC Representative

The EIS Board meets to discuss the EIS thresholds, and these thresholds are publicly provided as quarterly reports at the Police Commission meetings. A certain level of administrative authority and direct command over parties with roles in the EIS process is required for the EIS program to be effective. At present, the SFPD does not have a cohesive organizational approach to EIS.

Office of Citizen Complaints

OCC, a civilian-staffed local governmental agency, has responsibility for investigating public complaints against police officers that are not criminal in nature. 143 Upon completion of its investigations, OCC makes nonbinding recommendations for discipline to the police chief if the complaint is sustained. If the chief declines OCC's recommendations to file disciplinary charges, OCC has the authority to file disciplinary charges directly with the Police Commission itself.

Staffing the Office of Citizen Complaints

OCC is headed by Executive Director Joyce Hicks.¹⁴⁴ OCC's approved budget for fiscal year 2015–2016 was \$5,562,081.¹⁴⁵ Staffing for OCC is established by city charter, which requires that OCC consist of no less than one line investigator for every 150 sworn SFPD members.¹⁴⁶ The police officer staffing minimum threshold is established by city charter at 1,971 officers.¹⁴⁷ Given the SFPD's current staffing level (2,220 sworn members at the end of 2015) at the time of this report, the minimum staffing requirement for line investigators is 15.¹⁴⁸

^{143.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{144.} City and County of San Francisco, "Office of Citizen Complaints."

^{145.} OCC, The Office of Citizen Complaints 2015 Annual Report.

^{146.} City Charter § 4.109, Police Commission, San Francisco City Charter Article IV.

^{147.} City Charter § 4.127, Police Department, San Francisco City Charter Article IV.

^{148.} City Charter § 4.127, Police Department, San Francisco City Charter Article IV.

At the close of the 2016 second quarter, OCC had five investigator vacancies including two line investigators and three senior investigators. ¹⁴⁹ In anticipation of expanded responsibilities for investigating all officer-involved shooting incidents, a budget increase to \$7,770,373 is expected to be adopted for 2016–2017 that includes positions to handle the new responsibilities. ¹⁵⁰

San Francisco's city charter requires OCC to present quarterly recommendations, known as the Sparks' Report, concerning SFPD policies and practices that enhance police-community relations while ensuring effective public services to the Police Commission.¹⁵¹ These recommendations do not require action on the part of the SFPD but rather inform the department of issues arising out of OCC's investigations that are policy related. Team members found the Sparks' Report to be comprehensive in addressing a variety of risk and community issues regarding the SFPD.¹⁵²

However, the Sparks' Report reflects missed opportunities. Although the SFPD has implemented recommendations and continues to work with OCC and other stakeholders on a variety of issues identified within the report, OCC has no authority to require the SFPD to examine its recommendations or adopt them. For example, OCC forwarded several good practice recommendations relevant to the *Final Report of the President's Task Force on 21st Century Policing* to the SFPD on September 18, 2015. These recommendations included convening quarterly meetings between key OCC and SFPD staff members and incorporating principles of procedural justice in certain practices. As of July 13, 2016, OCC has received no response from the SFPD regarding this recommendation, ¹⁵³ nor is the SFPD required to respond pursuant to existing policy and law.

Intake of public complaints

All complaints that fall under OCC's jurisdiction are investigated unless they show proper conduct on the face of the allegation. ¹⁵⁴ Except for cases of officer-involved shootings, OCC is a reactive agency pursuant to its statutory authority. This means a member of the public must make a complaint for OCC to initiate an investigation; OCC cannot investigate of its own accord. In the event of criminal allegations against SFPD officers or allegations related to off-duty conduct, both of which fall outside OCC's jurisdiction, OCC refers the complaint back to the SFPD. ¹⁵⁵

OCC has a preference for in-person complaints but also accepts written and anonymous complaints.¹⁵⁶ Complaint forms are available at the district stations, OCC, and various locations throughout San Francisco, such as with local advocacy groups. Completed forms can be mailed directly to OCC. Complainants also have the options of filing complaints by telephone call with either the SFPD or OCC and filing online through the OCC website. When the SFPD receives a complaint, pursuant to DGO 2.04 its policy is to

^{149.} OCC, The Office of Citizen Complaints Quarterly Reports: Second Quarter 2016.

^{150.} OCC, The Office of Citizen Complaints Quarterly Reports: Second Quarter 2016.

^{151.} City Charter § 4.109, Police Commission, San Francisco City Charter Article IV.

^{152.} Police Commission, San Francisco Police Department/Office of Citizen's Complaints Status of General Orders/Policy Proposals 1st and 2nd Quarter 2016.

^{153.} Police Commission, San Francisco Police Department/Office of Citizen's Complaints Status of General Orders/Policy Proposals 1st and 2nd Quarter 2016.

^{154.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{155.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{156.} City and County of San Francisco, "Office of Citizen Complaints: Complaint Process."

An Assessment of the San Francisco Police Department

document the information on a complaint form and forward the original to OCC. The commanding officer receives a copy of the complaint form and ensures that any attachments or additional information that may inform the investigation are forwarded to OCC.

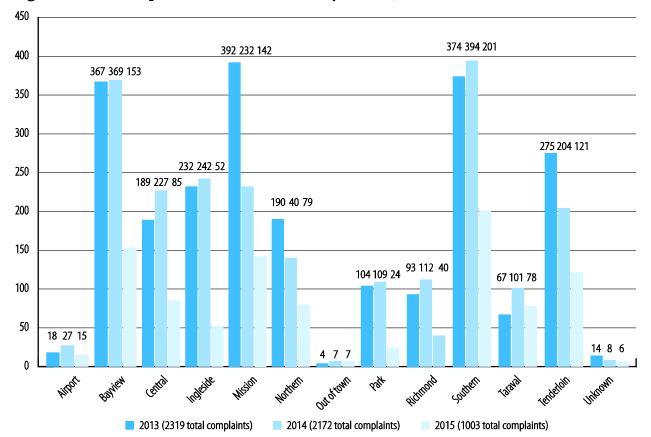


Figure 5.5. OCC complaint distribution intake by district, 2013-2015 totals

Source: Data obtained by the assessment team from the Office of Citizen Complaints May 12, 2016

Complaints are tracked regarding the source from which they originated. As demonstrated in figure 5.5, OCC received 5,494 complaints for the period 2013–2015. Of those, the majority of complaints came from Southern District followed by Bayview District. Mission had a significant drop in complaints from 2013 to 2015, for a total decrease of 63.7 percent. However, because minimal data analysis is done surrounding complaints in the SFPD, the ability to capitalize upon the decrease in public complaints is limited. Absent analysis and understanding of the contributing factors to the decrease, this potential success story cannot be replicated in reducing complaints across the city or even for identifying what factors contributed to the decrease.

For a sense of the overall nature of complaints within San Francisco, figure 5.6 on page 133 identifies the distribution of OCC complaint intake. The majority of complaints arose from the category Inappropriate Behavior/Comments. Failure to take Required Action was the next most prevalent complaint, followed by Unnecessary Force and Harassing due to Bias.

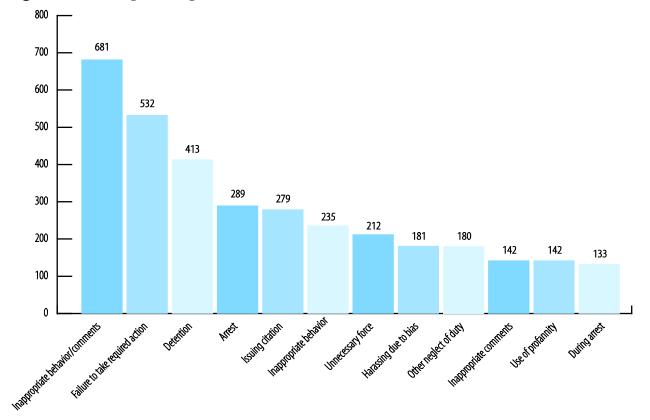


Figure 5.6. OCC top 12 complaint totals, 2013-2015

Source: Data obtained by the assessment team from the Office of Citizen Complaints May 12,2016

When OCC undertakes an investigation in which an SFPD officer is accused of misconduct by a member of the public, it develops a preliminary investigation, which is essentially a collection of the information and available documentation.

When a complaint against a police officer is sustained, the OCC director makes a recommendation for discipline to the police chief.¹⁵⁷ The OCC director can recommend a suspension of no more than 10 days or alternatively can recommend that the police chief file charges with the Police Commission.¹⁵⁸ OCC states that it follows the SFPD discipline matrix, as discussed later in this chapter, to direct this process.¹⁵⁹

^{157.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{158.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{159.} San Francisco Police Department, Disciplinary Penalty & Referral Guidelines.

An Assessment of the San Francisco Police Department

Once OCC has made its determination and recommendation, the police chief either refers the case to the Police Commission or hears the matter directly. ¹⁶⁰ If the chief decides to hear the case directly, the chief determines whether to sustain OCC's findings and what discipline to impose. ¹⁶¹ Therefore, by default, when the police chief retains decision authority over an OCC investigation and recommendation, the penalty will be no more than 10 days' suspension. ¹⁶²

In the event the chief declines OCC's recommendation to file a charge with the Police Commission, after conferring with the chief the OCC director can file charges with the Police Commission directly. ¹⁶³ OCC did not use this process during the CRI-TA assessment period.

Investigative findings

At the conclusion of their respective disciplinary investigation, both the SFPD's IAD and OCC make a statement of findings and recommendations for discipline if the complaint is sustained. Findings on complaints are categorized as depicted in table 5.5.

Table 5.5. SFPD and OCC categories of findings for disciplinary investigations

IAD*	OCC†
 Improper conduct Insufficient evidence Proper conduct Unfounded Training failure 	 Sustained Not sustained Proper conduct Unfounded Policy failure Supervision failure Training failure Info only No finding Mediated

^{*} San Francisco Police Department, Supervisory Investigations Manual.

OCC and the SFPD do not use the same categories for findings. This lack of correspondence is an issue because the investigations of both OCC and the SFPD cover one employee group, SFPD officers, who have a single administrative disciplinary process. The determinations of these oversight agencies are further complicated by the fact that where the agencies share titles for their findings, they define them differently. For example, both the SFPD and OCC use a finding of Proper Conduct. However, OCC defines it as "The evidence proved that the acts occurred; however, such acts were justified, lawful, and proper," 164 while the SFPD defines Proper Conduct as "The evidence proves that, while the incident occurred, the actions taken by the member were lawful and/or conformed to Department regulations." 165 Although this is a subtle

[†] Data obtained by the assessment team from the Office of Citizen Complaints May 12, 2016.

^{160.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{161.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{162.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{163.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{164.} Office of Citizen Complaints, Office of Citizen Complaints Procedures Manual.

^{165.} San Francisco Police Department, Supervisory Investigations Manual.

difference, administrative process language is important because there is legal precedence to how standards are applied, and different definitions can have significant impact on the process. In addition, the different categories for findings in table 5.5 on page 134 create challenges for ensuring accuracy and sufficiency of the disciplinary record. Also, these differences add to the challenge of identifying and addressing institutional issues, such as that of training or policy.

Finally, the assessment team was concerned by the lack of coordination between the SFPD and OCC around shared responsibilities, such as ensuring discipline is recommended in a uniform manner. While both are independent agencies, their work of ensuring the accountability and proper conduct of SFPD officers is shared. Team members believe that formal partnership agreements on shared areas of responsibility would help advance accountability in the SFPD.

Reported findings 2013-2015

As noted in figure 5.7, OCC sustained 339 complaints and found 952 complaints to have been proper conduct. Almost 60 percent of complaints were not sustained, meaning there was insufficient evidence to prove or disprove the allegation made in the complaint.

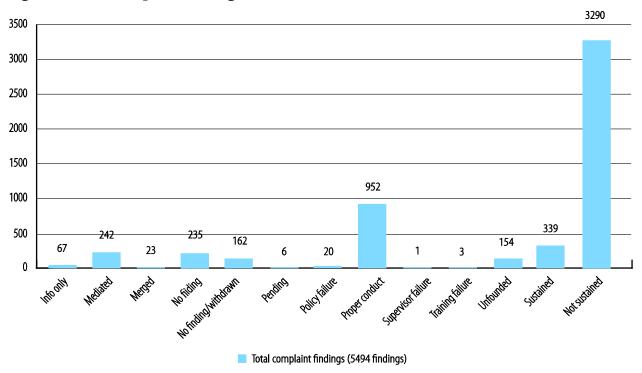


Figure 5.7. OCC complaint findings, 2013-2015

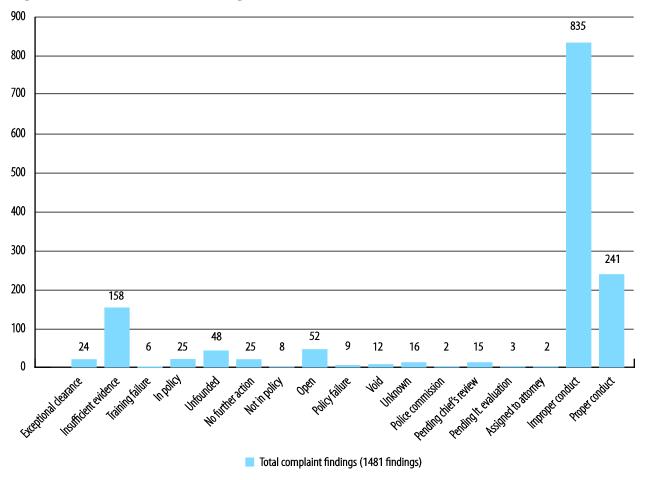
Source: Data obtained by the assessment team from the Office of Citizen Complaints May 12, 2016

In data provided by the SFPD's IAD, the SFPD returned a finding of Insufficient evidence in 10.7 percent of all findings. As depicted in figure 5.8 on page 136, improper conduct was found in 56.4 percent of all findings, while proper conduct was found to have occurred in 16.3 percent of all findings. Taking into account that OCC sustained cases are included in the SFPD's totals, the SFPD's higher sustained rate may

An Assessment of the San Francisco Police Department

reflect the fact that the investigative complaints are generated internally by persons in management positions with specific knowledge of the incident and the procedures, policies, and appropriate conduct required of police officers.

Figure 5.8. SFPD complaint findings, 2013-2015



There were a total of 1,481 findings for the 1,156 complaints filed with the SFPD.

Source: Data obtained by the assessment team from the SFPD's IAD June 17, 2016

Adjudication

Adjudication is an important factor in accountability. The public and police officers want to be assured that the imposed discipline is appropriate to the misconduct. The SFPD shares responsibility with the Police Commission for imposing discipline.

Mediation of public complaints

Mediation involves the informal resolution of a complaint or dispute between two parties through a face-to-face meeting in which a professional mediator serves as a neutral facilitator and where both parties ultimately agree that an acceptable resolution has been reached. OCC uses mediation to resolve some public complaints before final resolution. 167

Mediation is an emerging practice because many resident complaints against police and other problems stemming from police-community interactions are often the result of misunderstanding or miscommunication. Mediation focuses on understanding, problem solving, and reconciliation, which are seen as beneficial in addressing the community issue. AD does not use mediation in adjudication of complaints.

OCC determines whether a complaint is eligible for mediation, and for it to go to mediation both the complainant and the accused officer must agree to the mediation. Cases that are successfully mediated are not considered disciplinary proceedings in an officer's record and are considered closed as of the conclusion of the mediation process. For the period 2013–2015, OCC mediated a total of 242 complaints, as identified in figure 5.7 on page 135. Of the 5,494 cases investigated during this period, mediation accounts for slightly more than 4 percent of all findings.

Disagreement on discipline

When OCC recommends discipline, conflict sometimes arises when the SFPD does not follow the recommended penalty. OCC has the authority to present cases where the recommended discipline exceeds 10 days' discipline directly to the Police Commission. In cases where the potential penalty is 10 days or less, OCC submits its findings directly to the police chief.

As a general practice, OCC forwards all investigations with sustained findings to the SFPD to allow for an informed review by the SFPD of its investigations. Pursuant to policy, once OCC forwards a case to the SFPD, it is under review at the SFPD for 60 days.¹⁷¹ However, OCC identifies that at times, the SFPD has implemented a lower level of discipline during this review period without consultation back to OCC. Where the penalty implemented by the chief is 10 days or less, the discipline decision rests with the chief, since OCC only recommends discipline.

^{166.} Walker, Archbold, and Herbst, *Mediating Citizen Complaints*.

^{167.} City and County of San Francisco, "Office of Citizen Complaints: Mediation."

^{168.} Walker, Archbold, and Herbst, Mediating Citizen Complaints.

^{169.} Walker, Archbold, and Herbst, Mediating Citizen Complaints.

^{170.} City and County of San Francisco, "Office of Citizen Complaints: Mediation."

^{171.} San Francisco Police Department, Department General Order 2.04 — Citizen Complaints Against Officers.

An Assessment of the San Francisco Police Department

OCC can appeal the chief's decision in discipline to the Police Commission if OCC disagrees with the outcome. However, OCC has not exercised this authority because of a variety of factors. Members of OCC expressed to the assessment team that when the chief lowers OCC's discipline recommendation, it undermines OCC's authority and investigative findings, thereby limiting OCC's ability to effectively collaborate around issues of officer misconduct.

Discipline penalties

The SFPD has a disciplinary matrix, last modified in 1994, that categorizes misconduct into four classes associated with suggested penalties, including termination, for each offense.¹⁷² Each penalty is to be determined on a case-by-case basis using the following criteria:

- Severity of the offense
- Number of acts of misconduct involved
- Officer's disciplinary history
- Whether an injury or death resulted from the violation
- Whether lives were endangered
- Whether discriminatory intent was involved
- Whether property was damaged
- Whether the department's image was tarnished
- Whether the accused officer was on probation
- Whether mitigating factors affected the officer's conduct ¹⁷³

At the lower level of misconduct, class D penalties for first, second, and third offenses range from a reprimand to an increased class of misconduct (thereby enhancing penalties and possibly including termination). For all first offenses in class D, reprimand is the minimum level of discipline according to the matrix. However, as the assessment team's case file review and review of chief's decisions on discipline reflect, discipline, even reprimands, rarely occurs in cases sustained by IAD or OCC.¹⁷⁴

As referenced in figure 5.9 on page 139, admonishment is the most common category of recommended discipline for OCC sustained findings. However, this category is not considered as true discipline because it is not entered into an officer's disciplinary history. The data do not identify the discipline recommendation from OCC, resulting in little transparency on whether the SFPD reduced the penalties recommended by OCC. However, a high level of admonishment occurs: 39.2 percent of all imposed discipline for OCC cases, which is not actually discipline.

As referenced in figure 5.10 on page 140, IAD investigations predominantly conclude with a finding of no further action. Similar to OCC, when IAD sustains a finding, the most common outcome is Admonishment or Admonishment and Retraining.

^{172.} San Francisco Police Department, Disciplinary Penalty & Referral Guidelines.

^{173.} San Francisco Police Department, Disciplinary Penalty & Referral Guidelines.

^{174.} City and County of San Francisco, "Police Department: OCC Decision Issued;" City and County of San Francisco, "Police Department: IAD Sustained Complaints: Chief's Decision."

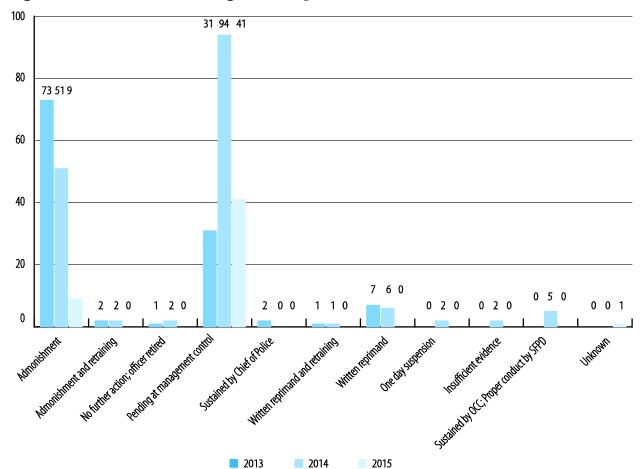


Figure 5.9. OCC sustained findings and discipline, 2013-2015

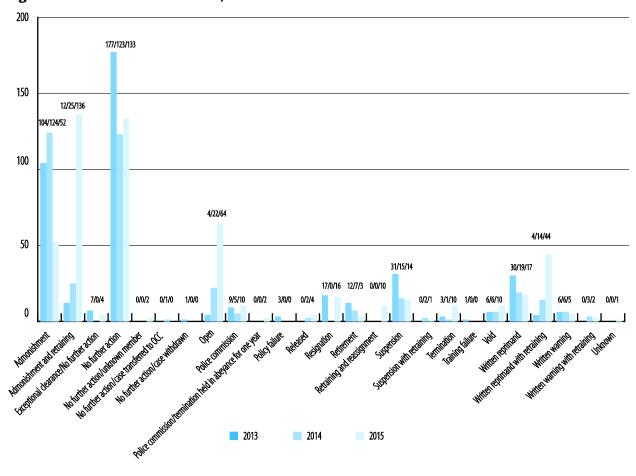
Source: Data obtained by assessment team from the Office of Citizen Complaints May 12, 2016.

For OCC cases, suspensions account for only two findings (less than 1 percent) of all discipline imposed while reprimands account for 15 findings (4.4 percent) of all discipline imposed. This compares to 63 findings (7.5 percent) of suspensions for all discipline in IAD discipline findings and 128 findings (15.3 percent) of reprimands for all IAD cases.

It is not clear to the assessment team whether the disciplinary matrix is being appropriately applied because the officer's history was not always reviewed as part of the investigation or in reporting the discipline decision. During the case file reviews, team members observed repeated misconduct findings where discipline was not advanced to a higher penalty, particularly for the IAD category of Failure to Appear.

An Assessment of the San Francisco Police Department

Figure 5.10. SFPD IAD outcomes, 2013-2015



Source: Data obtained by the assessment team from the SFPD Internal Affairs Division June 17, 2016.

Moreover, neither admonishment nor training is noted on an officer's disciplinary record. As identified, admonishment and training are the most frequent outcomes of sustained investigations. This level of discipline appears to be inconsistent with the disciplinary matrix because the matrix does not identify admonishment as a category of discipline. Team members learned that there is no tracking mechanism to confirm that the training was appropriate to the underlying complaint, that the training was completed, or that the training became a matter of the employee's record. The goal of discipline is correcting action, and regularly imposing discipline of little consequence to misconduct undermines discipline's deterrent value.

Police Commission

The Police Commission is responsible for setting policy, conducting disciplinary hearings on charges of police misconduct, imposing discipline, and hearing police officers' disciplinary appeals.¹⁷⁵ Both OCC and the SFPD report to the Police Commission,¹⁷⁶ which is composed of seven civilian commissioners: four appointed by the mayor and three by the Board of Supervisors. The Police Commission meets weekly in both a public meeting and then a closed meeting.¹⁷⁷ President Suzy Loftus heads the Police Commission since her election to the position in September 2014.

According to San Francisco City Charter § 4.109, the Police Commission is "empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department."¹⁷⁸ Therefore, the Police Commission is the authority that publishes policy for the SFPD.

In addition, the Police Commission hears all police discipline matters that involve suspensions of more than 10 days and has the authority to remove the chief, either separately or jointly with the mayor.¹⁷⁹ The Police Commission is currently leading the selection process for a new chief of the SFPD.¹⁸⁰

The Police Commission plays a vital role in adjudication of complaints against police officers. The president of the Police Commission assigns disciplinary cases to individual commissioners on a rotating basis. Commissioners are then responsible for managing adjudication of the matter through review and hearing of cases assigned to them. They present their findings to the full Police Commission, which votes on the level of corrective action or discipline to impose.

The role of adjudication is significant, especially given commissioners' other responsibilities. Police Commissioners are not full-time employees but rather volunteers paid a minimal stipend. In this essentially volunteer capacity, commissioners attend weekly meetings, adjudicate cases of discipline, and engage in a variety of other civic outreach and meetings related to their roles.

In addition, the rules require that only one commissioner "shall be a retired judge or an attorney with trial experience." ¹⁸¹ At this time, several of the commissioners are attorneys.

Penalty decisions of the Police Commission

The most serious misconduct cases are adjudicated at the Police Commission. For the period 2013–2015, the Police Commission was assigned 37 cases. The Police Commission imposed discipline in 19 of those cases as reflected in table 5.6 on page 142 and the rest remained active before the Police Commission. Resignation and retirement accounted for 47 percent of the disciplinary hearing outcomes, sometimes

^{175.} City and County of San Francisco, "Police Department: Police Commission."

^{176.} City Charter § 4.127, Police Department, San Francisco City Charter Article IV; City Charter § 4.109 Police Commission, San Francisco City Charter Article IV.

^{177.} City and County of San Francisco, "Office of Citizen Complaints: Frequently Asked Questions."

^{178.} City Charter § 4.109, Police Commission, San Francisco City Charter Article IV.

^{179.} City Charter § 4.109, Police Commission, San Francisco City Charter Article IV.

^{180.} City and County of San Francisco, "Police Department: Search for San Francisco Chief of Police."

^{181.} City Charter § 4.109, Police Department, San Francisco City Charter Article IV.

An Assessment of the San Francisco Police Department

years after the cases began, as table 5.7 shows. Two cases resolved by resignation or retirement in the first quarter of 2015 were first initiated in 2013. When suspension was the outcome, suspensions ranged from 15 days to 75 days.

Table 5.6. Disciplinary action by the Police Commission, 2013-2015

	Year	Number of cases	
2013		4 cases	
2014		6 cases	_
2015		9 cases	
Total		19 cases	

Table 5.7. Discipline decisions by the Police Commission, 2013-2015

Decision	Number	Percentage
Resignation	7	37%
Retired	2	11%
Suspension with stipulations	6	32%
Suspension with no stipulations	1	5%
Appeal of chief's decision withdrawn	2	11%
Returned to chief to be handled administratively	1	5%
Total	19	100%

Complex operating environment

The separate processes that contribute to police oversight in San Francisco create a complex operating environment. The SFPD, OCC, and the Police Commission all have distinct roles and therefore unique responsibilities for public engagement on the issue of police misconduct. Much of the focus on police misconduct is inward-facing and centered on the process of investigation and adjudication of complaints. Similarly, SFPD policies associated with public complaints, which drive the actions of the Police Commission and OCC, tend to be process-directed and codify internal practice around reporting and collective bargaining practices. As a result, the complaint process in San Francisco has very little transparency, particularly regarding IAD investigations.

During the CRI-TA assessment, coordination of the complaint process emerged as a challenge facing the SFPD and its oversight partners. Indeed, in interviews with the assessment team, representatives of the District Attorney's Office, OCC, and the SFPD described a relationship that was often adversarial. Further, the fact that several governmental agencies, including the District Attorney's Office, the OCC, and the Public Defender's Office, have sought authority—or greater authority—to investigate officer misconduct is evidence of the lack of trust in the ability of the SFPD to investigate itself. Further, the ongoing discourse exacerbates the public's perception of the SFPD's trustworthiness. In addition, institutional partners raised concerns with the SFPD's transparency and ability to address officer misconduct. This environment is not conducive to the transparent, fair, and impartial system of accountability for SFPD officers that officers and the community deserve.

Resourcing and independence of the Police Commission

The Police Commission is reliant upon the SFPD for administrative support, access to file information, and guidance from SFPD members. For example, a member of the SFPD serves as the Police Commission secretary. Duties include recording Police Commission minutes and scheduling disciplinary hearings and appeals. Scheduling includes sending all required hearing notices and ensuring all required documents are part of the Police Commission record.

All parties observed by the assessment team acted with commitment and dedication to their roles. However, the Police Commission's reliance upon the SFPD for administrative support and preparation for its cases is not good practice for true independence. Furthermore, the Police Commission is presented as a component of the SFPD on the department's website. While this is most likely a function of resource optimization, it presents the Police Commission to digital visitors and the public as part of the SFPD rather than as serving in a standalone oversight role.

Many commissioners have full-time careers of their own, which necessitates even greater reliance and guidance from members of the SFPD. The assessment team observed that the Police Commission had no paid independent professional staff to assist them in completing its important functions and relies on the SFPD for such support. 182 Assessment team members were informed that the quality of case presentation varies according to the skill and engagement of the assigned commissioner. All parties the team interviewed regarding disciplinary hearings raised the issue of resources and the ability to prepare and adjudicate discipline in a timely manner.

Resolving serious complaints of misconduct, as well as making discipline decisions that have significant impact on the career and finances of police officers, are too important to relegate to what is essentially a volunteer, part-time civic engagement. Notwithstanding the commitment of the Police Commission as a whole, a modern, procedurally just law enforcement organization requires a strong oversight body that is consistent and staffed in accordance with its responsibilities. The SFPD should work with the City and County of San Francisco and the Police Commission to identify solutions to ensure appropriate support for the disciplinary hearing process that provides for sufficient independence and resourcing.

Institutional coordination and communication

The fairness and impartiality of complaint investigation practices and procedures are critical to building community trust. However, in addition to legal issues, the SFPD faces structural issues that create barriers to open, fair, and impartial investigative processes.

^{182.} During the assessment phase, the Police Commission received funding for a research analyst and began its hiring and onboarding practice for the position.

An Assessment of the San Francisco Police Department

Roles, authority, and operational responsibilities

SFPD leadership has the responsibility to advocate for consistent, fair practices that hold officers accountable for misconduct through an open and transparent process. The accountability process in San Francisco is a system replete with checks and balances and includes independent agencies with independent responsibilities. This structure is not unique, as law enforcement agencies in many cities such as Chicago and Los Angeles operate under external civilian oversight investigation and a police board.

The SFPD, OCC, and the Police Commission are committed to their roles in supporting police accountability. However, since no one person or department has full responsibility, the system of accountability in San Francisco suffers from a significant level of compartmentalization. Given each organization's clearly defined responsibility, assessment team members were surprised to find that there was no operating protocol in place to facilitate the investigative processes and to de-conflict and share information on investigations. The Sparks' Report recommendation that OCC and the SFPD meet quarterly, as discussed earlier in this chapter, is one way to develop better coordination and communication. The SFPD must build trust with its partners in investigating police accountability if it is to be seen as a model law enforcement agency.

The value of protocols between key partners

The compartmentalization of investigative responsibilities also contributes to process issues. The team learned that delay in investigations or findings are often attributed to faults in partner systems. However, assessment team members' review of the IAD investigation files revealed timing gaps across the entire investigative process. Access to basic records from partner agencies is often protracted and requires overcoming administrative hurdles, such as requiring supervisor approval on written requests for routine data needs. The lack of protocols among the institutions charged with ensuring police accountability is challenging the SFPD's ability to maintain an effective system of oversight and transparency.

The SFPD also suffers from an absence of internal protocols and procedures, which has a negative impact on investigations and coordination. Evidence of the lack of protocols in Internal Affairs came to light as a result of a texting scandal in 2014, in which SFPD officers exchanged biased text messages. During the ongoing criminal investigation, the department did not investigate the matter as administrative misconduct. Some SFPD supervisors had knowledge of the offensive messages but did not forward them to IAD for investigation because they believed they had a legal obligation to protect the integrity of the federal investigation. By the time the investigation into the officers' misconduct was put forth for disciplinary adjudication, a California Superior Court judge ruled that the one-year statute of limitations for disciplining peace officers had expired. At the time of this report, the San Francisco City Attorney's Office appeal of the decision to the California Court of Appeals is still pending. 183

The negative public impact from this incident was considerable. The San Francisco District Attorney's Office and OCC related that they had no knowledge of the incident until it was published by the media. On its end, the District Attorney's Office initiated a Blue Ribbon Panel to conduct a review of the potential

^{183.} City Attorney of San Francisco, "Herrera's Appeal."

impact of SFPD officer bias on its criminal cases for prosecution. Establishing effective policies and protocols, predicated upon communication, will allow for identified responsibilities and roles. Such practices may also help improve working relationships.

Accountability and transparency sources

San Francisco provides a range of information on officer misconduct. The Police Commission has an active, up-to-date website with a variety of information relative to misconduct and actions involving the SFPD. Specific to misconduct, the Police Commission posts Veronese Reports, which identify the case number, violation, charges, proceeding, and penalty information on officers who have been disciplined on its website. These reports include a limited narrative on the underlying action and the discipline but do not provide information on the accused's past disciplinary history, which would contribute to the penalty. ¹⁸⁴ The Police Commission also posts the outcomes of sustained IAD and OCC complaints along with those pending the chief's decision.

OCC's reporting on misconduct investigations has limited information. OCC provides its findings, quarterly and annual reports, and some general public information on its website.

California law as a barrier to transparency

A network of legal barriers limits the transparency of policing in California and the ability of communities to hold their law enforcement agencies accountable. California law places tight restrictions on the release of law enforcement records and information related to criminal investigations. In California, Penal Code §§ 832.5, 832.7, and 832.8 govern the confidentiality of peace officer personnel records and constitute an exemption to the California Public Records Act. Peace officer or custodial officer personnel records, records maintained by any state or local agency, or information obtained from these records are confidential except by evidentiary discovery. Police misconduct records are also confidential, and criminal or civil litigation through order of the court is the only way to obtain such documentation. Moreover, when materials are disclosed, they are often subject to protective orders, thereby preventing their public dissemination.

In *Copley Press*, *Inc.* v. *Superior Court* in 2006, the California Supreme Court effectively tightened the confidentiality protections afforded officers, making it even more challenging for members of the public to view law enforcement misconduct records. ¹⁸⁶ Legislators have proposed but not successfully advanced California Senate Bill SB 1286, which is aimed at making misconduct and disciplinary information available to the public. SB 1286 would require formal findings that officers had used excessive force, engaged in sexual assault, or acted dishonestly or improperly become a matter of public record. SB 1286 would also

^{184.} Thompson, "Latest Attempt at Police Transparency."

^{185.} Cal. Pen. Code § 832.7, http://codes.findlaw.com/ca/penal-code/pen-sect-832-7.html; Cal. Pen. Code § 832.5, http://codes.findlaw.com/ca/penal-code/pen-sect-832-5.html; Cal. Pen. Code § 832.5, http://codes.findlaw.com/ca/penal-code/pen-sect-832-5.html; Cal. Pen. Code § 832.7, http://codes.findlaw.com/ca/penal-code/pen-sect-832-5.html; Cal. Pen. Code § 832.8, http://codes.findlaw.com/ca/penal-code/pen-sect-832-5.html.

^{186.} Copley Press, Inc. v. Superior Court, 39 Cal. 4th 1272 (2006).

An Assessment of the San Francisco Police Department

require the disclosure of formal findings of investigations into cases in which officers used lethal force or caused serious bodily injury.¹⁸⁷ The result of California's legal stance around police accountability is a system that is built upon nondisclosure rather than public dissemination.

The reach of confidentiality protections and their stifling impact on accountability emerged during the assessment team's observation of a Firearm Discharge Review Board (FDRB) meeting. The FDRB is an oversight board that conducts reviews of officer-involved shooting incidents, as discussed later in this chapter. During this meeting, the FDRB was informed that an associated allegation of misconduct was under investigation arising out the firearm discharge under review. Team members perceived this allegation to be connected to officers' conduct that led to the shooting incident and presumed the conduct would be informative to FDRB's review. However, the IAD sergeant presenting the shooting investigation case to the FDRB stated that the other allegation under investigation could not be discussed because of confidentiality restrictions. Such a restriction seemed to be overly cautious, as the FDRB has responsibility for assessing the overall factors leading to the officer-involved shooting incident. An effective review requires discussion of all contemporaneous actions involved in a shooting incident for a complete evaluation.

Outcome reporting

Despite the efforts at publishing materials related to officer misconduct and police action regarding arrests and traffic stops, community members have valid concerns related to transparency and accountability in the SFPD that are perpetuated by a lack of information on the SFPD's accountability systems and processes. Community members have continued to voice concerns over how complaints are investigated and adjudicated by the SFPD, to the extent that one panel review of the SFPD concluded that there was a code of silence and lack of transparency leading to a failure of accountability. 188

The assessment team consistently heard the community's frustration stemming from unsatisfactory communications regarding complaints including the status of the investigation, the timeliness of the investigation, the disposition of the complaint investigation, and the outcome.

The assessment team spoke with a number of complainants who stated they were not informed of the outcome of their complaint. OCC members confirmed the complainants' critique of the process and the limitation on public disclosure: OCC does not name the officer or publicize the investigative details and discipline resulting from the complaint, nor does the SFPD. This lack of transparency is especially problematic in investigations where complainants are asked to facilitate the investigation. Under the current model, complainants do not receive the benefit of closure or being informed of the outcome despite investing time and energy into participating in the complaint process.

^{187.} An act to amend Sections 1043 and 1045 of the Evidence Code and to amend Sections 832.5 and 832.7 of the Penal Code, relating to peace officers, California, Senate Bill 1286 failed May 27, 2016 in committee.

^{188.} Cordell, Reynoso, and Tevrizian, Report of the Blue Ribbon Panel.

With respect to officer-involved shootings, community mistrust is evidenced in the ongoing demand for and focus on obtaining a U.S. Department of Justice Civil Rights Division investigation of the SFPD in response to the officer-involved shooting incidents that include those of Mario Woods, Alex Nieto, and Luis Góngora. The independent institutional layers of review have not satisfied community expectations of transparency and accountability. If the SFPD is to gain trust in all of the communities of San Francisco, it needs to address these perceptions directly.

In community forums and interviews, the assessment team heard repeatedly that the community does not have full trust in the integrity of the SFPD. Team members recognize that officers may be raising valid concerns over privacy. Addressing discipline matters in a law enforcement agency is a complex issue interwoven with legal and collective bargaining implications. However, a system that releases minimal or no information on sustained findings of misconduct to the public is not a system of accountability. The best path forward is to place a high priority on ensuring transparency in misconduct reporting wherever and whenever possible.

Policy promulgation in the SFPD

Policy directs behavior, and in the SFPD, DGOs and Department Bulletins are the governing policies. DGOs contain the policies and procedures of the SFPD and are the rules governing conduct of SFPD officers. Because the power to set policy for the department rests with the Police Commission, enacting or revising policy has proven to be an arduous task. DGOs, some of which date back to 1994, are not always consistent with current policing standards.

To compensate for the dated DGOs and to provide direction to its employees, the SFPD is guided by a system of temporary directives, Department Bulletins, that keep pace with policing changes. Department Bulletins communicate the leadership's expectations regarding policies and procedures on a variety of matters, from significant risk areas such as use of force to social announcement. Department Bulletins are less transparent than DGOs, which are published on the SFPD's website. They also expire after two years.

Written Directives Unit

The Written Directives Unit is staffed by a lieutenant, a sergeant, and a civilian staff member. As stressed throughout this report, policies drive practice and are critical to principled and procedurally just policing practices. For an organization the size of the SFPD with the risk profile that exists in modern policing, this is an understaffed unit. For example, in the first quarter of 2016, the Written Directives Unit wrote and staffed 46 Department Bulletins and had 19 open projects regarding DGOs. 189

The work of the Written Directives Unit should be developing codified, transparent policies that help to inform officers in their daily duties with clear, consistent direction. However, the unit's current staffing levels are insufficient to support such action. OCC has assumed a drafting and developmental role on several DGO initiatives. While collaboration is beneficial to both OCC and the SFPD, the assessment team is

^{189.} San Francisco Police Department, San Francisco Police Department Written Directives Unit Summary.

An Assessment of the San Francisco Police Department

concerned that the SFPD is not directing appropriate focus on developing improved policies. As indicated by the Sparks' Report, many orders remain open without significant progress on identified problems, even when supported by the SFPD.¹⁹⁰

Department General Orders

One of the marks of a professional and progressive law enforcement agency is the development, implementation, and consistent maintenance of a General Orders Manual that reflects policies, procedures, and practices that meet best practices and standards in policing. Policies of law enforcement agencies need to be routinely updated to reflect legal and organizational changes such as safety updates. Up-to-date policies allow employees to understand what the organization expects of them. The SFPD's General Orders Manual guides the day-to-day duties of SFPD officers and is considered the final authority on policies and procedures.

Unlike many other law enforcement agencies, the SFPD does not have sole authority to draft its policies and procedures. Section One of the General Orders Manual outlines the organizational structure of the SFPD beginning with the Police Commission and then describing the rank structure of the organization from the position of police chief to police officer. According to DGO 1.01, the duties of the Police Commission are "to organize, reorganize, manage, and set policy for the department." ¹⁹¹ In addition, the Police Commission "adopts rules and regulations to govern the Department." ¹⁹² Therefore, the authority to draft policies for the SFPD rests with the Police Commission.

The current version of the General Orders Manual was distributed on July 19, 2015, superseding all policies and procedures, orders, and directives issued before that date. However, while the new edition was printed in 2015, many of the actual policies contained in the General Orders Manual have not been updated in decades. Many of the DGOs retain issue dates from 1994. This is a significant concern for the assessment team.

As noted earlier, critical risk areas require routine updating, and policing has evolved in the last 20 years. The use of force policies have not been updated in years, as identified in table 5.8.

Table 5.8. Use of force policy revision dates

Policy title	Adopted or revised
5.01 Use of Force	10/04/95
5.02 Use of Firearms	03/16/11
8.11 Officer-Involved Shootings and Discharges	04/15/09

^{190.} Police Commission, San Francisco Police Department/Office of Citizen's Complaints Status of General Orders/Policy Proposals 1st and 2nd Quarter 2016.

^{191.} San Francisco Police Department, *Department General Order 1.01 — Organizational Structure*.

^{192.} San Francisco Police Department, *Department General Order 1.01 — Organizational Structure*.

That these important policies are not routinely updated raises valid concerns over the SFPD's commitment to the constitutional use of force and the credibility of the SFPD's investigations of such incidents. The SFPD did update certain key elements of its use of force policy through Department Bulletins, but these are not publicly published and therefore do not serve to assuage public concern over the SFPD's commitment to transparency in its practices.

Department Bulletins

Department Bulletins address a range of issues from critical risk areas such as officer-involved shootings to routine administrative issues. One advantage of Department Bulletins is that they can be quickly drafted in response to emerging issues.

Sensitive to the perception that SFPD orders may be outdated, SFPD leadership developed a system of internal Department Bulletins by which the chief issues policies or information to guide employees in the performance of duty, as outlined in DGO 3.01 – Written Communication Systems. These Department Bulletins are organized in three levels:

Category A Department Bulletins are reserved for matters of policy and procedure
 2-3. Category B and C Department Bulletins are used for other types of correspondence.¹⁹³

Department Bulletins supersede DGOs but sunset after two years. 194

Furthermore, as various members of the SFPD and external stakeholders identified, a principal disadvantage of Department Bulletins is that they are sometimes developed within bureaus that do not communicate with or engage with subject matter experts on the specific topic. This in turn results in disjointed implementation that may require further correction.

While many DGOs are posted on the SFPD's website, none of the Department Bulletins is posted online. This is a considerable transparency issue, because SFPD issued 262 Department Bulletins in 2015 alone. The assessment team found that the SFPD's present use of Department Bulletins is inconsistent with the role and intent of the Police Commission regarding police policy and contributes to a lack of transparency regarding its policies and procedures.

Policy requirements: officer knowledge and adherence

Policy is the framework for SFPD officer action; it guides their decisions and actions. Clear policies are needed to help employees make the right decisions. Officers are required to have a working knowledge of all departmental orders, pursuant to DGO 3.01 – Written Communication System. The act of opening a Department Bulletin e-mail is the equivalent of accepting responsibility for knowledge of the order.

^{193.} San Francisco Police Department, *Department General Order 3.01 — Written Communication System*.

^{194.} San Francisco Police Department, *Department General Order 3.01 — Written Communication System*.

An Assessment of the San Francisco Police Department

Officer accountability for performance and behavioral expectations depends in part upon the manner in which internal directives are disseminated and stored. At present, the SFPD's DGOs and Department Bulletins are stored electronically in PDF format. However, the team heard from many SFPD members that the current storage process is not user-friendly and that PDF documents are not easily searchable for policy review or other administrative purposes.

In addition, members pointed out that the Department Bulletins' two-year life span created logistical difficulty for the organization. In some cases, the issued Department Bulletin has been modified to incorporate additional changes or perspectives creating an environment that can be best described as "dueling" Department Bulletins. According to some members, the short life of Department Bulletins creates confusion for employees who are subject to the policies as well as for those employees tasked with determining whether Department policies have been violated.

Despite anecdotal evidence of confusion around Department Bulletins, the assessment team found policies relating to conduct and discipline to be fairly well understood by SFPD members. A review of Internal Affairs case files does not suggest that officers are confused about the applicability of policy. In their review, team members did not encounter any file wherein an officer attributed a failure to adhere to policy or their behavioral infraction to lack of knowledge or misunderstanding of existing policy.

Communications challenges with Department Bulletins

Assessment team members came to understand that SFPD officers did not always feel they were properly engaged or informed regarding departmental policies. The use of force policies were under revision before the start of the assessment and entered into the collective bargaining process as this report was being published. However, unlike the protracted process for the draft use of force orders, the decision to require patrol officers to carry a 36-inch baton as a mandatory uniform item came with little discussion. On April 30, 2016, the SFPD issued Department Bulletin 16-071, Department-Issued Impact Weapons, which requires patrol officers to carry the 36-inch baton while on patrol duty.

The assessment team observed that most officers did not know why the policy was implemented. Many came back from days off to find this a new requirement and had to quickly ensure they were properly equipped. Some officers expressed concern over being required to carry the baton when they have not been trained in its proper use and implementation for routine field operational use. Until the SFPD issued the Department Bulletin, the 36-inch baton was an instrument employed for crowd control and officers were specifically trained to engage the baton under crowd control factors. Training and Education Division members responsible for defensive tactics and patrol sergeants stated they had not been asked to provide input into the decision to require use of the instrument before the Department Bulletin's release. At the time team members met with Training and Education Division staff, they were developing a training curriculum to address how to use the 36-inch baton in other situations. However, this was after the release of the Department Bulletin and while officers were now required to carry the batons as a mandatory uniform item.

The assessment team spoke with officers who addressed the impracticality of riding in a vehicle or running with the baton affixed to their utility belt when performing normal and expected duties. Some officers believed they could store the instrument in the vehicle and retrieve it in situations where it was specifically needed while others stated it needed to be on them at all times. Team members observed officers tripping over their batons as they exited their vehicles, while others were wearing them when engaging in ball games with children as part of a community engagement.

This discussion is important not to evaluate the merits of whether or not officers should carry a 36-inch baton but rather to illustrate that the decision to require the 36-inch baton appears to have been made without adequate input from key internal constituents. It also illustrates how the practice of using Department Bulletins, despite being well-intentioned, is subject to criticism that Department Bulletins are used to avoid internal and external input from stakeholders.

Contemporary law enforcement agencies must be attuned to evolving expectations regarding the role of police in modern society. The expectations are foremost with respect to how members of a law enforcement agency relate to and interact with the public and other stakeholders. It is therefore vital for an organization to be guided by contemporary internal directives in order to guide the considerable discretionary authority granted to police. Such directives must be aspirational in terms of informing employees of the agencies' expectations of how police are to relate to members of the public and society rather than being mere prescriptive guidelines or "how-to" manuals. Nationally, emerging practices identify that internal directives be continuously assessed and updated to ensure compatibility with contemporary standards.

The SFPD's current process for reviewing and updating official department policies does not support such action. The Police Commission's authority over DGOs supports one of the core concepts of "co-produced policing" as identified in the *Final Report of the President's Task Force on 21st Century Policing*. Public input, participation, knowledge, and understanding of police procedures is one way for the SFPD to hold itself accountable to the public. However, as shown through the protracted time it has taken to implement the body-worn camera policy and update the use of force policy, efforts at transparency have been impacted by existing organizational practices.

Performance evaluation

Accountability is also about the systems that measure and improve organizational and employee performance. To be on the forefront of promising practices, the SFPD must commit to individual and agency performance evaluations. In police agencies cognizant of contemporary practices, both employees and the agency itself are subject to periodic review and analysis. Performance evaluation, early intervention, and remedial training are important factors in assisting police agencies in creating internal and external trust within its employees and the communities they serve. From an external perspective, engaging in community surveys, seeking accreditation, and benchmarking accomplishments against organizational goals and the department's strategic vision are vital to creating an adaptive organization capable of serving community needs while meeting overall law enforcement standards.

An Assessment of the San Francisco Police Department

The SFPD has developed a policy for the periodic evaluation of officer performance that requires sergeants to maintain a Performance Improvement Binder for all officers. However, the practice of engaging in a written performance appraisal for all employees does not appear to be institutionalized across the department. The team spoke with a number of supervisors who indicated they had neither performed nor been subject to a performance evaluation in years. These comments were confirmed by observations and discussions with officers and other members of the SFPD.

Ongoing formal review of performance helps unite organizational goals and individual action. These are opportunities to engage in constructive coaching and mentoring. Furthermore, annual reviews and performance discussions can afford officers an opportunity to define their organizational role and goals for overall improvement. Finally, they provide articulable standards for performance, promotion, and other enrichment opportunities.

Organizational performance

The assessment team was told that routine internal audits are not a matter of practice in the SFPD despite references to audits within various policies. For example, DGO 3.19 – Early Intervention System requires an audit every six months, but this does not occur. Audits are a function of the Risk Management Unit, but the lack of data and supporting staff make conducting audits challenging. Interviews with supervisors and command staff indicated that audit practices were not a priority in the SFPD.

The newly implemented body-worn camera pilot program requires audits of member compliance with the provisions of DGO 10.11 – Body-Worn Cameras. The assessment team has concerns that absent resourcing and a prioritization of auditing for accountability in the SFPD, the audit will not be sufficiently supported. A robust internal auditing process is key to organizational accountability because it is a means by which to self-identify and correct issues across the organization. The SFPD needs to prioritize the role of auditing as a means to ensure organizational accountability and risk management and develop mechanisms to support such practices.

Technology and accountability

Data, analysis, and informed decision-making capacity are necessary for effective management of a large police organization. As of December 2015, the SFPD had more than 2,720 employees of whom 2,220 were sworn officers and an annual operating budget of \$566,270,469. For an organization of this size, surprisingly little of its management decisions regarding operations and personnel are supported by data and technology. The single most prevalent issue raised by department members, across all ranks, during discussions with the assessment team was how the absence of good technology limits individual and department effectiveness. While criminal investigative data has traditionally been the priority for most law enforcement agencies, data limitations exist even for informing day-to-day police operations in the SFPD.

^{195.} San Francisco Police Department, *Department General Order 3.18 — Performance Improvement Program*; San Francisco Police Department, *Performance Appraisal Guide*.

^{196.} Lee, Mayor's 2015—2016 and 2016—2017 Proposed Budget.

Much of the data intake by the SFPD remains manual, and there is little integration or even direct linkage to supporting systems or agencies, such as the Department of Emergency Management. The SFPD can provide for crime reporting and other such data, but analysis of arrests is limited by the poor record-keeping practices around arrests, as identified in appendix D of this report beginning on page 270. The ability to link data to an in-depth analysis requires significant resources and time.

Although administration data was an issue not traditionally prioritized within law enforcement agencies, good data are critical to effective management. During times of increasing demand and limited resources, the better a department can manage its personnel and automate practices the more effective it can be at the larger mission of public safety. The quality of the management data in the SFPD is far less than the team originally anticipated. The absence of good data significantly impacts effective overall organization management because managers do not have the necessary information to make sound strategic decisions or provide independent support for organizational decisions overall.

As it relates specifically to discipline, both the SFPD and OCC use different information technology systems and collection practices for complaint data, investigations, and reporting. There is minimal use of these data as a routine management tool. CompStat data regarding traffic, use of force, and IAD do not extend beyond reporting total counts in a year-to-year format. EIS quarterly reports document issues, including complaint counts and statistics which are identified as trends or district-specific patterns. However, data are not further analyzed other than to report the overall counts in the SFPD. There was minimal use of data and data were not easily accessible in support of management needs.

The assessment team found no evidence of a robust data-led management process in the SFPD. In response to requests, the team was informed that most inquiries around personnel, including training records, discipline data, performance data, and any relational analysis, would require significant hours of development. Data returned were segmented and often not correlated in a format that allows for meaningful review. Beyond informing management, better data analysis and collection would help the SFPD develop the ability to proactively address community concerns and trends in officer conduct.

Transparency requires better data collection and management

The SFPD has an enormous amount of information and data that, when analyzed, could serve as a foundation for improving the agency and the profession. However, collection of data is but an initial step. The SFPD needs to advance its data capacity to be able to digest the information it holds in a consistent, easily accessed format that provides management with real-time information to help inform their practice. Better data collection and management would also improve the transparency of the SFPD's practices for its employees and the community, particularly as it relates to accountability. Assessment team members often heard community members and institutional partners state that the SFPD's poor data capacity enabled its lack of transparency.

At present, the SFPD maintains a website with information for the community's consumption. In addition to crime information and other issues associated with the SFPD's public safety role, the department also posts accountability data.

An Assessment of the San Francisco Police Department

For example, the SFPD maintains several sets of accountability information on its website:

- Data surrounding EIS along with IAD findings on completed officer misconduct investigations.
- White House Police Data Initiative, which reports officer-involved shooting data, officer demographics, and traffic stop data. However, the data fields are limited for all categories and are not available in an easily digestible format for the public. The officer-involved shooting report includes a descriptive narrative that provides the public with a good summary of the data for shooting incidents occurring from 2000 to the present.¹⁹⁸
- Reform Initiatives, a page that is currently populated with the SFPD's reporting pursuant to Administrative Code 96A, which requires the SFPD to report on use of force and arrests in a consistent, quarterly format.
- Public Commendation / Complaint, a page that provides information on how members of the public can provide feedback on the SFPD. Members of the public can register complaints online but cannot provide compliments.
- Search tool, which allows users to find links to reports posted by the Police Commission.

A new report, posted on July 26, 2016, outlines the analysis of the SFPD's use of force incidents and arrests for the first quarter of 2016. This is a promising good practice, as it has extensive data and indicates significant analysis on the part of the SFPD. However, its posting date also highlights the time required to develop and publish the report. SFPD personnel explained that up to this point data were collected manually but that the data collection systems were re-tooled to include the mandated data fields for analysis. The assessment team will monitor this new reporting and analysis for good practice and potential to inform improvements in other accountability data as part of the CRI-TA implementation phase.

At an organizational level, universities and institutional research organizations commonly analyze law enforcement agency data in an effort to assist the agency in improving performance or to provide informed research on a subject or practice that has implications across the law enforcement profession. Contemporary law enforcement agencies proactively seek outside review of the agency by partnering directly with local universities, including participating in surveys or platform studies.

To date, despite the proximity of neighboring Silicon Valley and some of the most prestigious research universities in the world the SFPD has not leveraged these resources to assist in addressing its digital and technological needs or to improve its data capacity and analysis to improve the management and oversight of the SFPD.

^{197.} San Francisco Police Department, 4th Quarter 2015 Early Intervention System Panel Meeting.

^{198.} City and County of San Francisco, "Police Department: Data." The White House Police Data Initiative seeks smarter, data-driven ways of improving community policing efforts and reducing use of force incidents. A variety of technology solutions are being evaluated across the United States as a way to identify technology solutions to current police issues. Smith and Austin, "Launching the Police Data Initiative."

^{199.} City and County of San Francisco, "Police Department."

Assessing the SFPD's complaint files

The assessment team conducted a file review of the complaints in SFPD's possession. The sample totaled 117 complaint files, and team members reviewed 45 complaint files. As part of this analysis, files were from the years 2013, 2014, and 2015. The majority of these investigations were low-level complaints, with 26.7 percent arising out of failure to appear in court or for training.

As a means of evaluating quality control of the investigation, the assessment team assessed whether investigators employed standardized forms and captured sufficient content and whether files were comprehensive and consistent.²⁰⁰

Assessment team members assessed the following investigative minimum standards:

- All allegations are clearly stated and clearly answered.
- All relevant facts bearing on the truth of each allegation are clearly stated.
- All evidence, such as photos or recordings, is included or its means of retrieval specified.
- Contact and identification information for all persons interviewed and for the investigator(s) is included.
- The report is impartial, with no bias for or against any party.²⁰¹

Beyond minimum standards, assessment team members gave consideration to report quality based on the following standards:

- The report is logically organized with the aim of helping the reader understand it.
- Its language is clear, and where special terms are used they are defined. The reader does not have to presume or guess the meaning of a term.
- The report avoids conclusory statements wherever possible.
- Sentences and paragraphs are direct, simple, and easy to understand, using the fewest words to clearly convey the point.
- Estimates of time, distance, or other quantities are as precise as reasonably useful but need not be precise beyond that.
- Unless explicitly permitted by agency policy, personal opinions are avoided. If they are permitted, they should include explicit evidence to support the opinion.²⁰²

Last, assessment team members assessed whether IAD investigations were completed within a reasonable time frame except in cases where local statute contradicts or personnel and financial resources available make that timeframe not feasible.²⁰³

^{200.} COPS Office, Standards and Guidelines for Internal Affairs.

^{201.} COPS Office, Standards and Guidelines for Internal Affairs.

^{202.} COPS Office, Standards and Guidelines for Internal Affairs.

^{203.} COPS Office, Standards and Guidelines for Internal Affairs.

An Assessment of the San Francisco Police Department

Overall, the assessment team found that the SFPD's IAD complaint investigations had minimal investigative value. The actions in the files were accurately recorded, reported, and documented but were often not investigated. There was little evidence of interpretation of facts and their meaning. For example, in one matter, an employee was being investigated for failure to appear at a required training session. It turned out that the employee lied about being present for training and it was verified that the employee was not present. Rather than treating this statement as a false statement, it was founded as a failure to appear for training, a lesser disciplinary matter.

In addition, the SFPD does not follow an investigative template, and therefore the reporting format is not consistent. Information was not consistently provided for complainant, victim, witness, or officer identifiers.

In its review of selected IAD case files, the assessment team found that although case files contained similar information, there was no consistent format or structure to the case files, including location of key documents or evidence. This variability was especially true for officer-involved shooting case files.

While IAD and the overall maintenance of the files were secure, there was no isolation of compelled statements. The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.

In addition, the SFPD's present state of data and recordkeeping for disciplinary matters does not allow for more sophisticated analyses or for meaningful searches and reporting mechanisms.

Assessment team members also determined that timeliness of investigations was an issue. The majority of the SFPD's investigations ran close to a full year. This was also an issue for OCC investigations as observed by the team. California Code 3304 requires administrative investigations into police officers to be completed within a year. In the SFPD, many investigations languished for the duration of this year for no apparent reason and many reflected unexplained gaps in the investigative period. Such practices are indicative of a less than robust supervisory oversight. The chain of command and IAD must be held accountable for the timeline established for completing the investigations. In several of the instances the due dates were missed, and in a few instances IAD sent reminder notices that were ignored.

Some investigations were not sufficiently advanced. For example, in one, an SFPD supervisor was accused of improper use of force. The SFPD issued only an admonishment despite the fact that the use of force was not documented until six months after the initial incident and was approved at that time by the accused, as the supervisor reviewing the incident. No review occurred regarding the lengthy delay or the authority of the accused to approve a use of force incident as the individual engaged in the use of force being reported.

However, some cases were well-investigated. In one example, an SFPD member was using the computer for personal business. In response, the SFPD used appropriate computer resources to track the employee's usage and hold the employee to account.

Absent a template and standards, it was difficult to ascertain compliance with SFPD standards. The officer conduct investigated within the randomly generated sample was generally of a low-level issue, and therefore the cases in the sample were not priority investigations. However, assessment team members found it challenging to review the files given the lack of order of the content in each file and the lack of supervisory review of the files in terms of how they were compiled and reported.

Evidentiary standards varied as well. Review for video evidence, where appropriate, was not always conducted in a timely manner. Communication and supervisory oversight were not routinely documented as part of the investigation. No reviews were identified during the pendency of the investigation.

Assessment team members had some concerns regarding how certain aspects of investigations were not addressed, particularly where the actions of the officers could form the basis for a misconduct complaint. In one, a complainant was arrested for jaywalking after stepping into the street to request an officer's name and star number. The internal investigation did not address the probable cause or even the basis for the arrest but rather the refusal of the officer to provide their name.

In another incident, an off-duty officer was stopped and a use of force situation arose out of the traffic stop to which several officers responded. Numerous actions occurred on scene, which could have formed the basis for a misconduct investigation. However, only one officer was the subject of an internal investigation and discipline.

In reviewing the case files, it was noted that where discipline occurred, there appeared to be disparity. While the sample size was not sufficient to draw significant conclusions, the assessment team was concerned that in some investigations, the officers who received discipline were primarily ethnic or racial minorities or women. In an organization where very few officers received suspensions for misconduct, this discrepancy stood out. As part of the CRI-TA implementation, team members will further review the circumstances under which discipline is issued and its impact on internal procedural justice.

Challenges to accountability and trust

Transparency and fairness in the investigation and adjudication of complaints of misconduct is the primary way law enforcement agencies ensure accountability to their stakeholders. Internal support for accountability is crucial in rebuilding community trust.

At present, the culture of the SFPD is not directed toward building an environment of accountability. Policies are disregarded and investigations are not robust. The lack of coordination between institutional partners for investigations is a real challenge to building trust within the community. Even IAD members perceive a lack of support from the department as a whole. According to these members, not all SFPD line officers and supervisors support the need for internal investigations in ensuring transparency and building effective community relationships. IAD personnel reported arriving at a district to interview an officer and encountering district personnel, including supervisors, who would protect or conceal the officer from the investigators. From the perspective of leadership and management communications, all SFPD members need to feel valued and supported by the organization. Internal Affairs should be seen as a rewarding assignment, one that is valued by the organization.

An Assessment of the San Francisco Police Department

Communities trust their police departments when they believe that complaints of misconduct are taken seriously and are vigorously investigated. During the community listening sessions and interviews with a variety of SFPD and community members, a common theme was that officers are not held to account. Review of published discipline records shows that the SFPD does not implement discipline frequently, and when it does it is rarely at a significant level. While the level of discipline alone does not indicate a failure of accountability, the lack of transparency and communication on the discipline processes and how it is addressed throughout the organization fuels community mistrust.

Findings and recommendations

Findings follow the flow of the narrative within the chapter.

Finding 55

The SFPD is not transparent around officer discipline practices.

During the community listening sessions and interviews with community members, there was a consistently stated belief, especially in the African-American and Hispanic communities, that officers are not held accountable for misconduct.

Recommendation 55.1

The SFPD should expand its current reporting process on complaints, discipline, and officer-involved shootings to identify ways to create better transparency for the community regarding officer misconduct.

Recommendation 55.2

Consistent with the current practice on Early Intervention System data, the SFPD should develop and report aggregate data regarding complaints against Department members, their outcome, and trends in complaints and misconduct for both internal and external publication.

Finding 56

The SFPD does not engage in community outreach and information regarding the discipline process and rights of the community.

The absence of information and education about the complaint system and its outcome contributes to the negative perceptions of the SFPD by residents.

Recommendation 56.1

The SFPD should work with the OCC and Police Commission to minimize obstacles to transparency as allowed by law to improve communications to complainants and the public regarding investigation status, timeliness, disposition, and outcome.

Recommendation 56.2

The SFPD should allocate appropriate staff and resources to enhance community outreach initiatives and to incorporate customer service protocols for periodic follow-up and status communications with complainants for the duration of their open cases.

Recommendation 56.3

The SFPD should work with the OCC to facilitate the same actions and outreach to the community as best suits the independence of the OCC.

Recommendation 56.4

The SFPD should ensure that the OCC public complaint informational materials are readily available in the community and in particular prominently displayed in district stations for access by the public. These materials should be designed to educate the public about confidentiality limitations on sharing investigative information to inform residents of the type of feedback they may reasonably expect, and they should be provided in multiple languages.

Recommendation 56.5

The SFPD should work with the OCC and the Police Commission to conduct community workshops on the complaint process and the roles and responsibilities of each agency relative to the overall process within nine months of the issuance of this report.

Recommendation 56.6

The SFPD should encourage the OCC and IAD to identify obstacles that interfere with optimal complaints investigations and accountability, with a goal of implementing changes to better support their intended missions.

Finding 57

The SFPD does not provide leadership in its role with respect to complaints against SFPD personnel.

Promising practices emphasize the role of effective investigation of complaints in building community trust. Procedural justice informs us that members of the public are more likely to trust law enforcement agencies when they believe their issues are handled with dignity and respect.

Recommendation 57.1

The SFPD needs to update its policies and educate personnel to appropriately recognize the importance of the first interaction between police personnel and members of the public who have complaints against the police.

An Assessment of the San Francisco Police Department

Recommendation 57.2

The SFPD should institutionalize the process of explaining and assisting community members who file complaints against officers.

Recommendation 57.3

The SFPD should ensure that all personnel are trained and educated on the public complaint process and the location for the appropriate forms.

Recommendation 57.4

The SFPD should develop "next steps" and "know your rights" handouts for complainants who file complaints at department facilities.

Finding 58

The SFPD does not have a tracking system for complaints received at a district station.

Recommendation 58.1

The SFPD should establish a record system for ensuring that complaints received at a district station are forwarded properly and in a timely matter to the OCC. E-mail and fax should be considered for ensuring delivery and creating a record.

Finding 59

SFPD Internal Affairs Administrative Investigations and Internal Affairs Criminal Investigations are not effectively collaborating.

In meeting with members of IAD, the team learned that there was a lack of clarity as to roles within IA Criminal and IA Administrative, and unit members often felt that they did not have sufficient direction. Members of IAD acknowledged that they seldom meet to discuss investigations or common issues such as how to develop an effective database for case management and archival purposes. They also referenced a lack of administrative and technical resources, especially data systems, as impediments to the effective and efficient performance of their duties. However, absent protocols field assignments are subject to variance, and therefore so is the overall focus and quality of the investigative process.

Recommendation 59.1

Members, including investigators, of the IA Administrative Unit and IA Criminal Investigations Unit should meet regularly to discuss processes, practices, and the flow of assigned cases to ensure that administrative violations are timely and properly addressed.

Finding 60

Internal Affairs case tracking is insufficient to ensure the timely progression of investigations and achieving key deadlines.

Recommendation 60.1

The SFPD and OCC should jointly develop a case tracking system with sufficient security protections to assure independence that would identify each open investigation, where it is assigned, and the date the case expires for the purposes of compliance with California Government Code Section 3304(d)1, which requires the completion of an administrative investigation into misconduct within one year of the agency discovery.

Recommendation 60.2

The SFPD and OCC should establish an investigative protocol within 120 days of the issuance of this report that allocates specific time parameters for accomplishing investigative responsibilities and transfer of cases if criminal allegations are made against SFPD officers.

Recommendation 60.3

Supervisors should be held accountable for ensuring timely transfer of cases to SFPD Internal Affairs Administrative Investigations from SFPD Internal Affairs Criminal investigations when appropriate.

Finding 61

The SFPD's Internal Affairs Division does not have standard operating procedures or templates for investigation reporting.

By not having specific protocols and templates, miscommunication is occurring with the investigations.

Recommendation 61.1

The SFPD should develop a Standard Operating Procedures Manual detailing the scope of responsibility for all functions within the IAD. Standard operating procedures should provide guidance and advice on conflict reduction, whether internal or external to the SFPD.

Recommendation 61.2

The SFPD must establish clear responsibilities and timelines for the progression of administrative investigations, and supervisors should be held to account for ensuring compliance.

Finding 62

Files stored with the SFPD's Internal Affairs Division are secured, but compelled statements are not isolated.

During the file reviews, the assessment team did not find any compelled statements isolated.

An Assessment of the San Francisco Police Department

Recommendation 62.1

The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.

Finding 63

The SFPD does not fully support members performing internal affairs functions.

SFPD officers identified a department culture that is hostile and in some cases detrimental to the accountability role of the IAD, thereby limiting the effectiveness of the process.

At present, the culture of the SFPD is not directed toward building an environment of accountability. Policies are disregarded, and investigations are not robust. The lack of coordination between institutional partners for investigations is a real challenge to building trust within the community. Even IAD members perceive a lack of support from the department as a whole. According to these members, not all SFPD line officers and supervisors support the need for internal investigations in ensuring transparency and building effective community relationships. IAD personnel reported arriving at a district to interview an officer and encountering district personnel, including supervisors, who would protect or conceal the officer from the investigators. From the perspective of leadership and management communications, all SFPD members need to feel valued and supported by the organization. Internal Affairs should be seen as a rewarding assignment, one that is valued by the organization.

Recommendation 63.1

The SFPD should clearly define the authority of IAD and reinforce that cooperation and collaboration with IAD is mandatory.

Recommendation 63.2

The SFPD should continue to implement the tenets of procedural justice and ensure training include instruction on the importance of the IAD's functions to the integrity of the department and connection to the community.

Recommendation 63.3

SFPD leadership should demonstrate its support of the IAD's role and responsibility within the department and provide recognition and support for good investigative practices.

Finding 64

The SFPD does not routinely collaborate with the Office of Citizen Complaints.

The transparency of the complaint and disciplinary process is negatively affected by the working relationship between SFPD IAD and OCC. The lack of engagement undermines the effectiveness of both in fulfilling their respective roles and responsibilities. Issues with respect to information sharing between the

two entities, timeliness of complaint investigations, and bases for recommending progressive discipline potentially impede the investigative and adjudication processes, potentially eroding the overall integrity of the public complaint resource.

Recommendation 64.1

The SFPD should convene a joint review process within 90 days of the issuance of this report, co-chaired by OCC and SFPD senior staff, to evaluate existing complaint and disciplinary processes, policies, and liaison relationships to enhance trust and legitimacy around these issues.

Recommendation 64.2

The SFPD should immediately accept OCC's recommendation, as reported in the First Quarter 2016 Sparks' Report, to convene quarterly meetings between OCC staff and SFPD staff.

Recommendation 64.3

The SFPD should seek to improve interagency communications and identify ways of improving collaboration on investigative practices to ensure timely conclusion of investigations, shared information on prior complaints and finding of misconduct, and appropriate entry of discipline, designed to improve the overall discipline system that holds officers to account.

Recommendation 64.4

The SFPD should work with OCC to develop standards within 120 days of the issuance of this report regarding timeliness of complaint investigations, and consistency of investigative findings and practices to ensure progressive discipline is appropriately recommended.

Recommendation 64.5

The SFPD should engage with OCC to ensure that the classification for complaints and their findings are reported consistently between the two agencies to ensure better transparency.

Finding 65

The SFPD does not sufficiently analyze Office of Citizen Complaints reports and analyses of its complaints, investigations, and case dispositions.

This information is shared with the SFPD and largely available publicly on the OCC website. However, the SFPD rarely uses complaint information or aggregated data to inform change management priorities in areas such as professional conduct, community and police relations, training, and policy.

An Assessment of the San Francisco Police Department

Recommendation 65.1

The SFPD should develop a department-internal priority to regularly review and analyze OCC complaint reporting to identify priorities for intervention in terms of workforce culture, training, policy clarification, or leadership development.

Recommendation 65.2

The SFPD should raise district captains' awareness of this information by requiring IAD to present a trends analysis report of OCC case activity, emerging issues, and concerns at CompStat meetings every quarter.

Finding 66

The SFPD is not required to take action on the recommendations put forth in the Office of Citizen Complaints Sparks Report.

OCC provides the Sparks Report quarterly to the Police Commission. The Sparks Report provides recommendations on policy and revisions.

Recommendation 66.1

The SFPD should meet with OCC on a quarterly basis following the release of the Sparks Report to discuss the recommendations.

Recommendation 66.2

The SFPD should make it mandatory for the Professional Standards and Principled Policing Bureau to review the Sparks Report and direct action where appropriate.

Recommendation 66.3

The SFPD should provide twice-yearly reports to the Police Commission regarding actions resulting from the Sparks Report, including whether the OCC recommendation is supported and a timeline for implementation or correction to existing practice and policy.

Finding 67

The SFPD does not analyze trends in complaints, situations that give rise to complaints, or variations between units or peer groups in relation to complaints and misconduct.

In part, this is because the SFPD does not have appropriate data systems to allow for data-led management and policing decisions.

Recommendation 67.1

The SFPD must work to develop practices that measure, analyze, and assess trends in public complaints and employee misconduct.

Recommendation 67.2

Supervisors should be provided with quarterly reports that integrate individual actions, as is currently reported by the Early Intervention Systems Unit, with aggregated information that provides complaint and misconduct data trends for the watch, district, and city.

Finding 68

The SFPD has poor data collection and analysis, which significantly impacts effective overall organization management and accountability.

The technology in the SFPD requires significant updating. However, poor data collection practices, including lack of supervisory review and accountability for improperly completed reports and form sets, contributes to the poor data environment.

Recommendation 68.1

As part of its technological capacity improvement strategy, the SFPD should develop a plan to advance its capacity to digest information it currently possesses in a consistent, easily accessible format such as a template containing key data points including officer performance indicators and crime indicators that could provide management with real-time information to inform their practice.

Recommendation 68.2

Supervisors and officers who fail to properly collect and enter information must be held accountable through discipline. Absent proper collection of data, little to no analysis can occur.

Recommendation 68.3

The SFPD should increase transparency by collecting and providing data, policies, and procedures to the public in multiple languages relevant to the local community through official SFPD website and municipal open data portals.²⁰⁴

^{204.} President's Task Force on 21st Century Policing, Final Report.

An Assessment of the San Francisco Police Department

Finding 69

The SFPD does not consistently apply the principles of procedural justice.

Recommendation 69.1

SFPD leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. The Police Commission, OCC, IAD, and POA leadership should be partners in this process.

Albeit conclusions are drawn from a small sample, the assessment team is concerned that in review of some investigations, the officers who received discipline were primarily ethnic or racial minorities or women. In an organization where very few officers received suspensions for misconduct, this discrepancy stood out.

Recommendation 69.2

The SFPD should task a committee to review internal discipline on a quarterly basis to assure the fairness and impartiality of the process overall and particularly to ensure that there is not bias in determination and application of discipline. This analysis should be multi-levelled to include aggregate data, trend analysis, and outcome impact on officer demographics including prior discipline and adherence to the discipline matrix.

Recommendation 69.3

The SFPD should report annually to the Police Commission the analysis of discipline including officer demographics and prior discipline histories.

Finding 70

The process to update Department General Orders is overly protracted and does not allow the SFPD to respond in a timely manner to emerging policing issues.

As a result, many of the Department General Orders are from the mid-1990s and do not fully reflect current policing practices.

Recommendation 70.1

The SFPD should work with the Police Commission to develop a nimble process for reviewing and approving existing and new Department General Orders that supports policing operations with codified, transparent policies.

Recommendation 70.2

The SFPD should commit to updating all Department General Orders in alignment with current laws and statutes, community expectations, and national best practices every three years.

Recommendation 70.3

Prior to promulgation of policies and procedures, the SFPD should ensure that comments are sought from members and units most affected by any practice, policy, or procedure during the initial stages of development.

Recommendation 70.4

Input and review from external stakeholders must be completed before implementation of the practice, policy, or procedure.

Finding 71

The SFPD does not have an effective process for the development and distribution of Department General Orders and Bulletins.

Clearly articulated policies are needed to help SFPD personnel make the right decisions.

Recommendation 71.1

The SFPD needs to work with the Police Commission to create a process to make timely and necessary updates to key policies.

Recommendation 71.2

The SFPD should develop a general order review matrix predicated upon area of risk, operational need, and public concern to allow for timely update and review of prioritized orders.

Finding 72

Department Bulletins are used as a workaround for the Department General Order approval process.

Recommendation 72.1

The SFPD should present all Department Bulletins that substantively change or countermand a Department General Order to the Police Commission before implementation and publish them on their website after approval is received.

An Assessment of the San Francisco Police Department

Recommendation 72.2

All Department Class A Bulletins and any Department Bulletin that modifies an existing Department General Order should be posted on the SFPD's website.

Recommendation 72.3

The SFPD should limit the use of Department Bulletins to short-term direction and eliminate the authority to continue a Department Bulletin after two years.

Finding 73

The SFPD does not have an effective mechanism for determining whether an officer has accepted a policy and therefore could be held to account for its provisions.

Recommendation 73.1

The SFPD should develop a mechanism by which to track when a Department General Order or Department Bulletin has been accessed and acknowledged by a SFPD member.

Recommendation 73.2

Once a mechanism is established, the SFPD should create a protocol for notification, noncompliance, and accountability.

Finding 74

The SFPD does not provide sufficient training, supervision support, and guidance when releasing new Department Bulletins.

Training is critical, particularly when associated with risk issues such as use of force, bias, stop and seizure. It was rare that any training accompanied new policies outlined in Department Bulletins, as evidenced in the lack of training development before the introduction of the mandatory requirement to carry the 36-inch baton.

Recommendation 74.1

The SFPD should conduct a thorough and structured approach when creating new policies and procedures via Department Bulletins.

Recommendation 74.2

The SFPD should ensure that Bulletins are accompanied by appropriate training, supervision, and consistent reinforcement of the intended purpose of the policies.

Finding 75

The SFPD does not devote sufficient administrative or command-level resources to the process of creating, implementing, maintaining, and updating Department General Orders and Bulletins.

The team found that Department Bulletins updating provisions within Department General Orders were repeatedly renewed to meet the two year sunset, often without receiving any substantive updates and in place of addressing the issue within the appropriate Department General Order.

Recommendation 75.1

The SFPD should task the Principled Policing and Professional Standards Bureau with overall responsibility for development, maintenance, training, and implementation planning for Department General Orders.

Recommendation 75.2

The Written Directives Unit should be tasked to work with subject matter experts from OCC and the Police Commission to ensure policies are adopted in a timely manner and appropriately updated.

Recommendation 75.3

The Written Directives Unit should be sufficiently staffed with personnel and resources to enable the unit to function as the project managers for Department General Orders at the direction of the Police Commission.

Finding 76

Although the SFPD internally provides Department General Orders and Department Bulletins that are electronically available, the documents are not easily accessible.

Absent an easily cross-referenced system, particularly one where Department Bulletins can supersede a Department General Order, policy failure or incorrect action can occur.

Recommendation 76.1

Department General Orders and Department Bulletins should be stored in a searchable digital central repository for ease of access by officers and for administrative purposes.

Recommendation 76.2

The SFPD should provide department members access to an online electronic system for Department General Orders and Department Bulletins to provide timely updates, cross-referencing, and reporting and monitoring capabilities for managers.

An Assessment of the San Francisco Police Department

Finding 77

The SFPD does not conduct routine, ongoing organizational audits, even where such practices are established in policy.

Recommendation 77.1

The SFPD should prioritize auditing as a means to ensure organizational accountability and risk management and develop mechanisms to support such practices.

Recommendation 77.2

The SFPD should develop an auditing plan and schedule for both routine and risk audits within 90 days of issuance of this report. Staffing, resources, and training need to be allocated to the process to ensure an active and robust auditing schedule.

Finding 78

The SFPD does not engage in any outside evaluations of its practices, data, or reporting.

Recommendation 78.1

The SFPD should consider partnering with local academic institutions to evaluate its reform program, particularly as it seeks to implement the recommendations in this report.

Finding 79

Evaluation of employee performance is not an institutionalized practice in the SFPD.

SFPD personnel interviewed did not recall having or conducting a performance evaluation within the department.

Recommendation 79.1

The SFPD should adopt a policy and implement the practice of completing regular performance evaluations of all department employees tailored to goals and objectives, job functions, and desired behavior and performance indicators.

Recommendation 79.2

SFPD leadership needs to create a system to ensure that all personnel are being evaluated at least twice a year.

Recommendation 79.3

The SFPD should use performance evaluations as an evaluation factor in promotions.

Finding 80

The SFPD does not have internal protocols for collaboration with regard to criminal investigations conducted by the district attorney or the United States Attorney's Office for the Northern District of California.

Police misconduct uncovered during any type of covert investigation should be reported pursuant to established protocols and protect the integrity of the investigating officers. In situations with shared areas of jurisdiction or responsibility for officer conduct, there should be protocols for roles and responsibilities for all partners.

Recommendation 80.1

The SFPD should create a policy governing the reporting of criminal activity and administrative misconduct uncovered during any type of covert investigation. Such policies will prepare the department for complex legal situations with multijurisdictional responsibilities for either criminal or administrative investigations into officer conduct.

Recommendation 80.2

Clear communication protocols, responsibilities, and roles need to be established among the key partners responsible for investigations into criminal conduct and address administrative misconduct by officers.

Recommendation 80.3

The SFPD should develop clear and defined policies and protocols to address reporting and confidentiality requirements for officers investigating criminal activity and administrative misconduct of other police officers uncovered during any type of investigation.

6. Recruitment, Hiring, and Personnel Practices

San Francisco's diversity as a city impacts the need for diversity among SFPD personnel

San Francisco takes pride in the diversity of its communities and its tolerance for activism. Early engagement and support of LGBTQ communities have fostered the image of San Francisco as a tolerant and open city. San Francisco neighborhoods include a tapestry of cultures, with significant numbers of native speakers of Chinese (7.1 percent; Chinese includes Mandarin and Cantonese), Tagalog (3.7 percent), and Spanish (14 percent).²⁰⁵

The Final Report of the President's Task Force on 21st Century Policing outlines two key components of improving police-community relations:

- 1. Departments should prioritize diversity in entry-level recruitment and ensure ongoing diversity among all levels of employment.
- 2. Departments need to acknowledge that their policies and staffing are of interest to the community. Departments should take steps to increase the transparency of the department by publishing and sharing the demographics of their workforce, including race, gender, age, and other relevant demographic data.²⁰⁶

Such practices occur in the San Francisco Police Department (SFPD), but the department can improve diversity in its supervisory ranks as well as improve its transparency and planning for diversity.

Methodology used to assess this objective

To evaluate diversity in the SFPD's recruitment, hiring, and personnel practices, the assessment team collected information and data in many ways including interviews; observations; focus groups; review of organization structure, relevant policies, directives, and training manuals; review of all components of the SFPD's hiring process; review of the Commission on Peace Officer Standards and Training (POST) Administrative Manual; and review of SFPD workforce data, demographic data, and—where possible—data comparison to relevant benchmarks such as national demographic data for local police departments and San Francisco community demographic data.

Policy support of diversity

Two policy documents outline the SFPD's position on diversity: its vision statement and Department General Order (DGO) 11.07 – Prohibiting Discrimination, Harassment, and Retaliation. These policies establish a vision of a discrimination-free working environment.

^{205.} Hendricks, "Bay Area/Report: 112 Languages Spoken."

^{206.} President's Task Force on 21st Century Policing, Final Report.

The SFPD's vision statement addresses the department's hiring practices, stating that it values and rewards "hard work, ingenuity, and resourcefulness demonstrated by its employees." According to its vision statement, the SFPD commits to offering state-of-the-art training, development, and career opportunities for advancement and retention to "ensure that employees see the Police Department as a lifelong career and strive to become the department's next generation of leaders." ²⁰⁸

DGO 11.07 – Prohibiting Discrimination, Harassment, and Retaliation states that the SFPD "values diversity in its workforce, and is committed to fair and equal treatment of all applicants for employment and all members in the terms, conditions and privileges of employment. The Department is also committed to providing a workplace where all members are treated professionally, with courtesy, dignity and respect." ²⁰⁹

Four key elements of strategic planning

Four key areas impact a department's diversity in recruitment, hiring, promotional, and personnel practices:

- 1. First, the department's senior command must lead by example and commit to diversity in its recruitment, hiring, promotional, and personnel practices.
- 2. Second, a diverse department depends on a rigorous and continuous recruitment plan aimed at reaching a variety of potential applicants.
- 3. Third, in actively addressing diverse candidates who culturally represent the community, the recruitment plan needs to demonstrate that the department is inclusive and welcoming.
- 4. Fourth, the department needs strong recruiters who maintain an active presence in the diverse communities targeted for recruitment.²¹⁰

Recruitment and hiring

The SFPD's recruitment and hiring functions are spread across two different bureaus and several chains of command. The Professional Standards and Principled Policing Bureau oversees the Recruitment Unit, which has the responsibility to market the department to attract qualified, diverse candidates.

Thereafter, the SFPD's Administration Bureau, under the command of a deputy chief, has primary responsibility for the majority of the functions related to the hiring process and training recruits. The Background Investigation Unit, a component of the Staff Services Division of the Administration Bureau, is responsible for investigating and adjudicating the backgrounds of employment applicants. Though not involved in the other selection processes, the Background Investigation Unit coordinates with physicians, psychologists, polygraph technicians, and outside agencies to conduct background investigations of candidates.

^{207.} City and County of San Francisco, "Police Department Vision Statement."

^{208.} City and County of San Francisco, "Police Department Vision Statement."

^{209.} San Francisco Police Department, *Department General Order 11.07 — Prohibiting Discrimination, Harassment and Retaliation*.

^{210.} U.S. Department of Justice, Principles for Promoting Police Integrity; Orrick, Recruitment, Retention, and Turnover.

An Assessment of the San Francisco Police Department

The Personnel Unit of the Staff Services Division of the Administration Bureau is responsible for human resources functions including the appointment and processing of new hires, promotions, and separations. Finally, the Training and Education Division of the Administration Bureau is responsible for all formalized training functions for the Department and includes the Academy, the Field Training Office, the Office of Education and Training, and the Firearms Range. Each of these units, divisions, and bureaus plays a critical role in advancing diversity in the SFPD.

Recruitment unit

The Recruitment Unit is the public face of the organization when reaching out to candidates and potential applicants. To achieve diversity in staffing, police departments must empower their recruitment offices with a strategic diversity plan and demonstrate support from senior leadership.²¹¹ Law enforcement agencies need to ensure that they are using the right people as recruiters because recruiters demonstrate and reflect the whole of the department's dedication to bringing in the best possible candidates. Individuals committed to the organization's diversity practices and who reflect positively on the organization are ideal for the position of recruiter. As a best practice, this position should be a competitive one that is filled only by the most qualified individuals.²¹² Law enforcement agencies should prioritize this role and ensure appropriate personnel are placed within the position because they help shape the future of the department as ambassadors for the organization.

The SFPD's Recruitment Unit is staffed with a lieutenant, a sergeant, and a team of four full-time recruiting officers and has the primary role of conducting outreach to potential candidates for the SFPD. Recruiting officers are assigned tours of duty ranging from two to four years. Their efforts are augmented, as needed, with temporary detailing of officers from other units. These temporary officers are paired with full-time recruiters to attend various recruitment events. Using temporary recruiters to supplement full-time staff is a common practice among other similarly sized police organizations. Such partnerships allow for a consistent field perspective in the recruiting process—a factor that is an initial draw for many applicants and facilitates the development of a representative recruiting team for specific community events.

The SFPD's Recruitment Unit implemented a robust program focused on diversity and targeted recruiting throughout San Francisco's communities. The assessment team conducted multiple interviews with staff members and supervisors and reviewed recruiting materials, including recruitment events, targeted recruiting initiatives, budget expenditures, applicant tracking, media campaigns, promotional literature, and proposals for major initiatives. Team members found that the materials are of good quality and reflect a culture that is welcoming of candidates from diverse backgrounds.

^{211.} Orrick, Recruitment, Retention, and Turnover.

^{212.} Orrick, Recruitment, Retention, and Turnover.

Strategies to attract recruits

The SFPD engages in several activities and programs to attract potential candidates to the department. The department offers college internships for students interested in exploring career options in law enforcement through the unpaid Police Internship Program. The Recruitment Unit offers orientations for the Police Internship Program three times a year.

Another program, Police Cadet, offers a paid position designed to engage youth in the provision of service to the community and the SFPD. The SFPD envisions the Police Cadet as a future leader in the community. This program exposes men and women to the various aspects of police work to prepare them for careers in law enforcement. The team reviewed job announcement flyers for the Police Internship and Police Cadet programs and observed cadets in various locations throughout the city. Team members noted that cadets are a diverse group with a sense of pride in their roles in the SFPD.

Regular recruiting events

The team reviewed a listing of the 2015 and first quarter 2016 recruiting events. The SFPD held a variety of events that demonstrated a focus on community, military, college or university (in and out of state), women, and minority recruits. Target audiences and recruiting events during this period included the following:

- Women 19 events
- Military or veterans 43 events
- African Americans 22 events
- Hispanics 17 events
- Asians, Filipinos, and Pacific Islanders 10 events

Although the Recruitment Team maintains a busy schedule of recruiting events, the assessment team did not ascertain whether the it measures the effectiveness of its efforts.

Innovative recruiting tactics

To increase recruitment among applicant pools such as women, Asians, and African-American community members, the lieutenant assigned to recruitment turned to his recruiters for ideas and began implementing some of these. One is a boot camp for women held outside police headquarters. This boot camp allows female candidates and recruits the opportunity to talk to female officers about the challenges and rewards of joining the SFPD. Fostering creativity among staff members who reflect the communities the department most wants to recruit is a promising way to ensure sustained diversity in recruitment.

In 2015, the SFPD's Recruitment Unit worked with community partners to host a community-led recruitment event. In addition to more traditional information about working as a law enforcement officer, community partners provide practical information to potential recruits about how to prepare for hiring process requirements. Because the community partners had strong relationships of trust with participants, the SFPD reported that it reached many community members from underrepresented segments who might not otherwise have attended a recruitment event.

An Assessment of the San Francisco Police Department

Communications and outreach

In reviewing the 2015 recruitment event summary, the assessment team noted that SFPD recruiters had collected thousands of e-mails or other contact information from interested applicants. A recruiter personally contacted every applicant by telephone or e-mail. In addition, recruiters met one on one with several applicants and held four recruitment workshops at the police academy. The department invited individuals interested in law enforcement to participate in a question and answer session with SFPD members of various ranks to practice the physical ability test. These types of personal approaches are good, but there also needs to be the ability to actively reach a broader audience. Ideally, these hands-on recruiting tactics would be supplemented by technology to facilitate ongoing engagement with candidates.

Application and selection process

The hiring process consists of multiple steps supported by the City and County of San Francisco Human Resources (City HR) and the SFPD. The process begins with the applicant submission of an online application with City HR followed by an examination administered by a private contractor secured by the city.²¹³ The testing protocol for SFPD entry-level officer applicants includes the following:

- Multiple choice
- Video-based testing of dimensions including critical thinking
- Interrogation and investigation skills
- Team orientation
- Ability to restrain use of authority
- Confrontation and enforcement
- Ethics
- Ability to handle stressful situations
- Organization support
- Customer and community relations skills for law enforcement officers

The testing also includes written language and reading comprehension components. There is a fee associated with the testing process, but the City and County of San Francisco has an option for applicants to apply for a fee waiver to minimize impact upon applicants with financial hardship.²¹⁴ Once applicants have successfully completed the test, the private contractor provides the SFPD with lists of prescreened candidates for further processing and employment consideration.

Hiring standards

The SFPD engages in a multi-step testing process. Like most other major city law enforcement agencies, the SFPD has instituted a testing process that must withstand a variety of legal challenges. Until recently, this process included the need to pass the Physical Ability Test (PAT). PAT is a pass-fail examination that

^{213.} California Commission on POST, *Background Investigation Manual*.

^{214.} City and County of San Francisco, "Civil Service Commission: Rule 211 Examinations."

assesses the physical abilities needed to perform essential police officer tasks and successfully complete academy training. City HR validates these skills. Recently, the SFPD sought to update or eliminate the PAT requirement to repeatedly pull a firearm trigger. As a result, the entire PAT must be redesigned and validated. As of the date of this report, PAT is not part of the selection process and was therefore not a part of the assessment. However, a selection process that does not include a physical abilities test is not optimal because physical skills are important for police officers. If the redesigned testing process is released during the Collaborative Reform Initiative for Technical Assistance (CRI-TA) implementation phase, the team will review the process for evidence of unintended biases.

Once a candidate is issued a conditional offer of employment letter, instructions for the background packet are sent from the Background Investigation Unit to the candidate for completion. The background packet includes an authorization to release information form and a personal history statement form. The process is fairly comprehensive and requires completion of

- a preliminary drug test;
- fingerprinting for criminal check;
- a Department of Motor Vehicles form;
- a writing sample essay;
- a supplemental personal history statement questionnaire.

Once all components are successfully completed, applicants are scheduled for an initial intake interview, during which the Background Investigation Unit conducts a thorough study of the candidate's history to determine fitness for employment. The candidate must also successfully complete psychological screening and medical examination.

The candidate's completed personal history statement is measured against the following categories to determine the candidate's overall suitability for hire:

- Criminal record
- Traffic history
- Credit history
- Education
- Military service record
- Employment history
- Personal references
- Law enforcement records checks
- Drug test
- Reported drug use
- Alcohol use
- Domestic violence
- Additional law enforcement agencies applied to and status of such applications

An Assessment of the San Francisco Police Department

These standards conform to those used by other law enforcement agencies, though the assessment team did not observe their specific application to the SFPD's process because the SFPD was not processing recruits during the time of the assessment.

Background Investigation Unit

The Background Investigation Unit is staffed by seven full-time officers (most of whom are on modified duty) and 24 nonsworn investigators (most of whom are retired from the SFPD) who work on a part-time basis. The Background Investigation Unit is tasked with investigating the backgrounds of all applicants upon receipt of completed background packets. The unit's goal is to facilitate the hiring process by ensuring timely and complete background investigations.

As described to the assessment team, the background investigation process conforms to the requirements set forth under California Commission on Peace Officer Standards and Training (POST) regulations § 1953 and accompanying *Background Investigation Manual: Guidelines for the Investigator*. ²¹⁵ Prior to assignment of a background investigation caseload, investigators must successfully complete a 32-to-36-hour POST-mandated certification course.

The assessment team learned that management of the Background Investigation Unit is presently developing and piloting performance measures and quality assurance metrics to evaluate the unit's investigators in terms of outcomes such as length of investigation, timeliness of investigation, numbers of contacts with the applicant, consistency of investigative approach, and hiring recommendations, among other factors. Objective measures for performance will help guide the background investigation process and, ideally, maintain efficiency within the unit.

Over the course of the assessment phase, the team heard concerns about the degree of objectivity of some of the background investigators. Concerns were raised over the degree of influence that an individual investigator might have in not recommending an applicant for hire because the applicant "does not fit the image" or "does not look like" what the investigator believes a police officer should look like. The assessment team was told of concerns over whether the biases of individual investigators might adversely impact the selection of candidates who reflect more contemporary, diverse, and younger lifestyles.

However, the team found that from 2013 to 2015, minority candidates as a whole accounted for 50.2 percent of all candidates entering the Academy. In interviews, a small group of diverse candidates felt supported by their background investigator whom they felt worked with them to get them through the process successfully. Despite the diversity of the SFPD as a whole and ongoing diverse hiring, community complaints about an unfair process remain. During the CRI-TA implementation phase, the team will continue to monitor the process and the implementation of performance standards within the unit.

^{215.} California Commission on POST, Background Investigation Manual.

Psychological evaluation

The SFPD contracts with a private vendor to administer the pre-employment psychological screening, written testing, and oral interview. For the SFPD, the psychological assessment consists of a four-hour test battery using the California Psychological Inventory, the Personality Assessment Inventory, and a 300-item psychological history questionnaire. In addition, applicants complete a 45-minute structured interview with a psychologist. The psychological testing protocol fully complies with POST standards requiring that two psychological dimensions be tested: one to measure emotional stability of the applicants and a second to measure normal functioning and range of behavior.

The U.S. Equal Opportunity Commission identifies that agencies have adopted a rule of thumb under which they will generally consider a selection rate for any race, gender, or ethnic group that is selected at less than four-fifths or 80 percent (i.e., 80 percent of the selection rate for the group with the highest selection rate). ²¹⁶ The "80 percent rule" is not a legal definition but rather a practical means of keeping attention on serious discrepancies in rates of hiring. ²¹⁷ The psychological screening for the SFPD has been internally reviewed and assessed by the vendor used to provide the testing. The pass rate on the psychological examination for African American applicants is 80 percent, for Hispanic applicants is 83 percent, for Asian applicants is 79 percent, for White applicants is 83 percent, and for female applicants is 81 percent. ²¹⁸ Therefore there is no evidence that the SFPD's psychological screening process has a negative impact on diverse candidates.

Hiring panel

Once the processing is completed, the SFPD convenes a hiring panel. The hiring panel determines the list of candidates that will be forwarded to the police chief for final hiring approval. The hiring panel is comprised of the command staff from the Administration Bureau, representatives from the Background Investigations Unit, and the psychological consultants who perform the psychological assessment screening. The purpose of panel review is to consider, evaluate, and reconcile applicants' suitability for hire based on the completed background investigation and psychological assessment processes.

The hiring panel is an opportunity to assess each of the key components of the hiring processes including the psychological background, the polygraph, and the background investigation for each applicant. To begin, the background investigator who conducted the investigation into the candidate presents an overview, summarizes key findings from the background investigation process, provides overall impressions, identifies any concerns, raises unresolved questions, and makes a recommendation for suitability for hire based on the background investigation data. The psychologist who conducted the assessment for the applicant then presents the findings of the testing and interview. The team found this process to be robust and reflective of the key issues in hiring candidates.

^{216.} U.S. Equal Employment Opportunity Commission, "Adoption of Questions and Answers."

^{217.} See Matthies, Keller, and Lim, "Identifying Barriers," for more information on applying the rules through a barrier analysis.

^{218.} Data were provided to the assessment team by the SFPD June 2016.

An Assessment of the San Francisco Police Department

The hiring panel then holds a discussion to corroborate and validate findings from both the background investigation and psychological assessment processes. Administration Bureau Command staff, who have hiring authority, can raise questions or concerns. Based on the outcomes of the testing processes, there are four potential outcomes for each applicant:

- 1. Recommended for hire
- 2. Disqualified for hire
- 3. Deferred for a subsequent academy class
- 4. Deferred pending additional investigation or information

Candidates who fall in the latter two categories have the opportunity for subsequent panel review once any impediments are overcome. For example, someone in category 3 might be on military deployment, and someone in category 4 might have missing history information or another unresolved issue as a result of the background investigation.

Hiring is subject to budget appropriation, and not all persons deemed eligible are hired. Once the hiring panel deems a candidate recommended for hire, eligible candidates are placed on a hiring list and remain eligible for two years from the date they were approved. However, psychological testing, medical examination, and polygraph exam results are valid for only one year, so a candidate who is approved but not immediately hired would need to undergo such testing again, an arrangement that adds to the overall cost of hiring a candidate.

The SFPD notifies applicants who are not selected either that they did not pass the background investigation or the psychological assessment or that they were not selected because of the presence of better-qualified applicants. Failure on either the background investigation or the psychological assessment provides a right of appeal.

The assessment team observed the hiring panel process and found it to be comprehensive, well-documented, and effective in bringing multidisciplinary perspectives to consensus about an applicant's suitability for recommendation for hire.

Academy training

There are two training components to preparing a recruit to become a police officer: the Academy Basic Course Training and Field Training Program. The Academy's goal is to prepare recruits mentally and physically to advance into the SFPD's Field Training Program, a 17-week program that occurs in the field under the tutelage of a Field Training Officer.

The Academy recruit training consists of 1,080 hours of instruction.²¹⁹ Recruits are evaluated on academics and must also learn operational tactics, including how to operate an emergency vehicle under stressful and nonstressful conditions. During an interview with the academy supervisory staff, the assessment team was informed that in the past, recruits often had trouble successfully completing the course on emergency

^{219.} City and County of San Francisco, "Police Department: Administration."

vehicle operations and control. In one case, an academy trainer stated it was because "women do not know how to drive." However, the SFPD now provides an orientation specifically for emergency vehicle operations and control before recruits take the course.

Emergency vehicle operations remains an area in which recruits fail to complete academy training successfully. From 2013 through 2015, 17.3 percent of recruits were terminated because of a failure to complete emergency vehicle operations successfully. This area, both the orientation class and actual training for emergency vehicle operations and control, bears monitoring during the CRI-TA implementation phase to determine whether the orientation class has a positive impact on the failure rate and whether it has disparate impact on certain diversity classifications.

The assessment team found that the curriculum and practices used in the Academy conform to California Commission on POST standards. However, training must evolve to prepare recruits to deal with complex and emerging issues in today's law enforcement environment. The *Final Report of the President's Task Force on 21st Century Policing* notes, "As our nation becomes more pluralistic and the scope of law enforcement's responsibilities expands, the need for more and better training has become more critical. Today's line officers and leaders must meet a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and growing mental health crisis." ²²⁰

Like many agencies across the country, the SFPD is re-engineering its Academy curriculum to include deescalation training, use of force training with a focus on the sanctity of life, and training on impartial policing and procedural justice. In March 2016, national policing experts hosted a day-long training event discussing the state of use of force in the SFPD, which subsequently informed some of its internal practices. Most of these programs are in the developmental stage and have not been fully implemented. Addressing these training needs is critical to achieving a procedurally just and fair policing organization. Therefore, the team will monitor their development and execution during the CRI-TA implementation phase.

Diversity of recruits

A total of 619 recruits entered the Training Academy from February 2, 2013, through June 3, 2016. Of those 619 recruits, 503 passed and entered field training and 116 individuals were separated. Of those 116 separations, 12 (10.3 percent) were resignations and 104 (89.7 percent) were releases (terminations). The reasons for termination are detailed in table 6.1 on page 182. Of the 619 recruits, 308 (49.8 percent) were White, 121 (19.5 percent) were Asian/Filipino, and 113 (18.3 percent) were Hispanic, as shown in table 6.3 on page 182.

^{220.} President's Task Force on 21st Century Policing, Final Report.

Table 6.1. Terminations from Training Academy, February 2, 2013-June 3, 2016

Reason for termination	Percentage	Number
Injury/Medical	13.5%	14
Simulations	36.5%	38
Physical training	1.0%	1
Defensive tactics	8.7%	9
Written exams	9.6%	10
Range	3.8%	4
Emergency vehicle operations and control	17.3%	18
Policy/Attitude violations	9.6%	10

Of the 619 recruits entering the academy, 526 (85 percent) were men and 93 (15 percent) were women. Of the 116 separated by resignation or release, 88 (75.9 percent) were men and 28 (24.1 percent) were women. Women are disproportionately represented in the release group, as shown in table 6.2. The gender of SFPD recruits entering the Academy is comparable to that of the general population of sworn officers. However, as the training period progresses, women are reduced in number at a higher rate of change (30.1 percent) than male recruits (16.7 percent).

Table 6.2. Separations from academy to FTO by gender

	Entering academy (619)	Entering FTO (503)	Total separated (116)	% of change
Male	526 (85%)	438 (87.1%)	88 (75.9%)	-16.7%
Female	93 (15%)	65 (12.9%)	28 (24.1%)	-30.1%

Table 6.3. Separations from academy to FTO by race or ethnicity

	Entering academy (619)	FTO (503)	Total separated (116)	% of change
American Indian	1 (0.2%)	0 (0%)	1 (0.8%)	-100%
Asian/Filipino*	121 (19.5%)	96 (19.1%)	25 (21.6%)	-20.7%
African American	59 (9.5%)	45 (8.9%)	14 (12.1%)	-23.7%
Hispanic	113 (18.3%)	81 (16.1%)	32 (27.6%)	-28.3%
Other	17 (2.7%)	10 (2%)	7 (6.0%)	-41.2%
White	308 (49.8%)	271 (53.9%)	37 (31.9%)	-12.0%

^{*}The race or ethnicity category of Filipino was left separated from Asian, as provided by the SFPD; they were combined when conducting the analysis.

Table 6.3 identifies the race or ethnicity breakdown of the 116 recruits who were separated from the SFPD after entering the Academy and before being released to field training.

As compared to White candidates, all minority candidates are more severely impacted by release, with Hispanic candidates having the highest rate of change (28.3 percent). White candidates had a significantly lower release change rate (12.01 percent). The duration of the assessment phase did not allow for significant analysis and observation regarding the impact of these rates of release.

Nonetheless, the Academy could improve its tracking and analysis of human resource data to develop and assess the impact of various training stages upon recruit retention and identify mechanisms to mitigate these impacts. Familiarizing recruits with emergency vehicle operations is one example of mitigating disparate impact. Ideally, the Academy should conduct an annual analysis and develop standards to address such impacts. Review of the training modalities and how the SFPD uses data to inform hiring and recruit training practices will continue in the CRI-TA implementation phase.

Field training

The final step in the selection process is the 17-week Field Training Program. There are currently 126 field training officers (FTO) throughout the SFPD. An officer has to have three years of service in patrol with the SFPD to be considered for the FTO position. The position requires additional work and unplanned overtime to complete daily observation reports and entails the added responsibility of ensuring the safety of another officer. Taken together, these factors tend to make the position less attractive for officers who can select their assignments. The team learned that most FTOs do the job because they enjoy training others. Training takes place at the Central, Southern, Bayview, Mission, Northern, Ingleside, and Tenderloin districts. Each district has FTO coordinators who are specific supervisors responsible for monitoring the progress of the recruits at their respective district stations. There are three phases in the program where new officers are assigned to different shifts with three different FTOs. The recruit stays at the same district station for all three phases.

SFPD's diversity in staffing

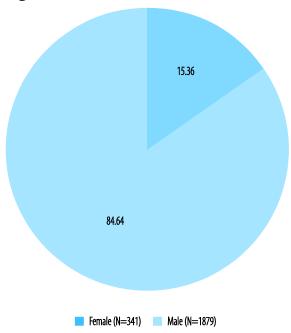
The SFPD's sworn population reflects a relatively diverse organization. In particular, the supervisory and leadership ranks of the department are diverse, with a solid representation of women and minorities across positions of responsibility.

The SFPD most recently released staffing data from 2015. Women constitute 15 percent of the organization, as shown in figure 6.1 on page 184. The national average, according to 2013 data (the most recent available) from the Bureau of Justice Statistics, is 12.2 percent.²²¹ Almost 20 percent of SFPD first-line supervisors are women, compared to the national average of 10 percent.²²²

^{221.} Reaves, "Local Police Departments."

^{222.} Reaves, "Local Police Departments."

Figure 6.1. Sworn sex breakdown, 2015



San Francisco has a diverse representation of 48.87 percent of non-White personnel, significantly higher than the national average of 27 percent. Reflecting in part the city's demographic makeup, Asian personnel account for 22.35 percent of the workforce, African-American personnel for 9.28 percent, and Hispanic personnel for 15.86 percent, as identified in figure 6.2 on page 185.

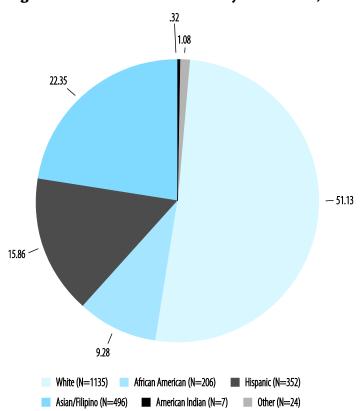
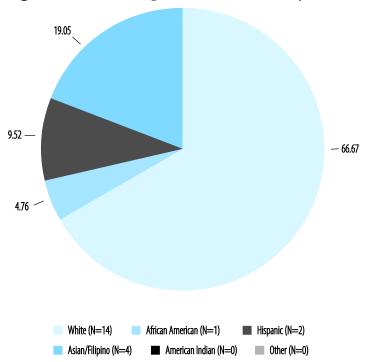


Figure 6.2. Sworn race or ethnicity breakdown, 2015

However, this information reveals some disparity by rank. As depicted in figure 6.3 on page 186 and table 6.4 on page 187, White officers are somewhat overrepresented compared with their workforce presence in the ranks of sergeant, lieutenant, captain, and inspector. African Americans are underrepresented in sergeant and captain ranks compared to their overall representation in the workforce, as depicted in table 6.4 on page 187. The lack of minority representation in the front-line supervisory ranks is concerning because these positions are the most community-facing, especially in San Francisco, where first-line supervisors and captains are responsible for developing and implementing community policing tactics in their districts.

Figure 6.3. Rank of captain, race or ethnicity breakdown, 2015



Hispanics are underrepresented in the sergeant, lieutenant, and captain ranks, and Asians are somewhat underrepresented in the sergeant, captain, inspector, and deputy chief and chief ranks. The greatest disparity is in minority representation at the rank of captain in comparison to White officers. The rank of captain serves as the point of the entry into the SFPD's command, so a disparity at the rank of captain may limit racial minorities' ability to make decisions and impact the shape and direction of the SFPD as an organization.

Table 6.4. Diversity by rank, 2015

	Police Officer (N = 1588)	Sergeant (N = 446)	Lieutenant (N = 111)	Captain (N = 21)	Commander (N = 5)	Assistant Inspector and Inspector tor $(N = 42)^*$	CSI manager (N = 1)	Deputy Chief and Chief (N = 6)	Total sworn force (N = 2220)
Gender Male	86.27% (1370)	80.04% (357)	81.98% (91)	85.71% (18)	80.0% (4)	78.57% (33)	100% (1)	83.33% (5)	84.64%
Female	13.73% (218)	19.96% (89)	18.02% (20)	14.29% (3)	20.0% (1)	21.43% (9)	(0) %0	16.67% (1)	15.36% (341)
White	48.61% (772)	58.97% (263)	51.35% (57)	66.67% (14)	40.0% (2)	54.76% (23)	100% (1)	50.0% (3)	51.13% (1135)
African American	9.38% (149)	7.62% (34)	12.61% (14)	4.76% (1)	20.0% (1)	14.29% (6)	(0) %0	16.67% (1)	9.28% (206)
Hispanic/ Latino	16.94% (269)	12.78% (57)	13.51% (15)	9.52% (2)	20.0% (1)	16.67% (7)	(0) %0	16.67% (1)	15.86% (352)
Asian/ Filipino/ Native Hawaiian/ Pacific	23.17% (368)	20.4% (91)	22.52% (25)	19.05% (4)	20.0% (1)	14.29% (6)	(0) %0	16.67% (1)	22.35% (496)
American Indian/ Alaska Native	0.38% (6)	0.22% (1)	(0) %0	(0) %0	(0) %0	(0) %0	(0) %0	(0) %0	0.32% (7)
Other	1.51% (24)	(0) %0	(0) %0	(0) %0	(0) %0	(0) %0	(0) %0	(0) %0	1.08% (24)

* This position is being eliminated by attrition and is now filled by the rank of sergeant.

[†] The race or ethnicity category of Filipino was combined with Asian, Native Hawaiian, and Pacific Islander for comparison to national data purposes only.

An Assessment of the San Francisco Police Department

During the majority of interviews and briefings with SFPD command, management, supervisors, sworn members, civilian members, and recruit personnel, the assessment team heard that the SFPD strongly values workforce diversity and actively encourages principles of diversity and inclusion in its personnel practices. Many individuals shared anecdotal accounts expressing pride in organizational diversity as a cultural value and in the diverse composition of the SFPD's workforce, as evidenced by the numbers of women and racial and ethnic minority members. The team interviewed a few police academy recruits who resoundingly identified diversity of the workforce and the perception of sincere cultural openness to all groups as positive factors influencing their decision to join the SFPD over other law enforcement agencies.

However, assessment team members also heard a level of discord. Individuals raised issues such as a lack of diversity in the newly established Professional Standards and Principled Policing Bureau. Members of Police Employee Groups (PEG), which represent various diverse populations in the SFPD, stated that they felt unserved by the collective bargaining unit and were sometimes not supported by management. Some female supervisors disclosed that although they had good rank representation, their role in organizational decisions was limited.

Selection and assignment to command-level positions, particularly in the captain to commander roles, is important for advancing diversity because individuals in these roles influence organizational decisions and community service delivery. When the team first arrived, the female command-level personnel were only in the transportation command; however, they are now placed in Administration Bureau and operational roles. At the time of this report, African Americans are underrepresented at the rank of captain.

Diversity is more than just race and gender. True diversity, as noted by the *Final Report of the President's Task Force on 21st Century Policing*, includes race, gender identity and sexual orientation, language, and life and cultural experiences. Law enforcement agencies' staffing plans should factor these characteristics and experiences into their efforts to expand diversity.²²³ To overcome perceptions that law enforcement is a closed culture, the SFPD needs to reflect diversity at all levels and across all department components to provide high-quality, effective policing. Increasing diversity at the captain and commander rank is critical for ensuring the department receives full value from its diverse workforce in maintaining its vision and supporting the communities of San Francisco.

As a whole, the SFPD is a diverse organization, as depicted in figures 6.4a and 6.4b on pages 189 and 190. The SFPD collects diversity data on gender and racial and ethnic status for its police officers. The SFPD does not collect information on other types of diversity but does prioritize hiring persons fluent in the languages represented in San Francisco's communities. ²²⁴ However, through interviews and observations with many SFPD police officers, the assessment team identified that the department does demonstrate a range of true diversity.

The SFPD is to be commended for its hiring focus and practices that seek to ensure diversity and for maintaining diversity in the organization. However, to create an inclusive and diverse organization, ongoing organizational support of diversity must continue and be prioritized throughout the Department

^{223.} President's Task Force on 21st Century Policing, Final Report.

^{224.} City and County of San Francisco Department of Human Resources, "Entry Level (Q-2) Police Officer."

for all ranks and assignments. Management decisions related to staffing have impact upon the diversity of SFPD, which in turn affect the perception of SFPD as an organization that supports diversity, both internally and externally, within the communities it serves.

The team observed that certain ranks and units of assignment do not reflect the overall diversity of the Department. Although collective bargaining agreements limit some of the ability of management to assign police officers, management has the authority to assign police officers once their field training is completed, as well as lieutenants and above, at its discretion.

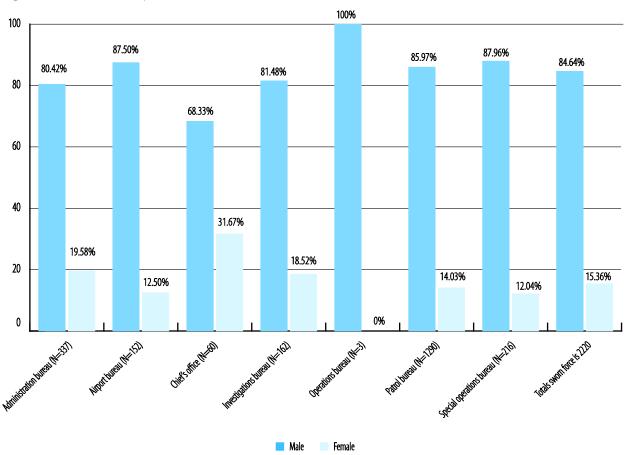


Figure 6.4a. Gender by bureau, 2015

Although the SFPD is diverse, some bureaus and ranks within those bureaus could improve their representation of the diversity of the organization. As demonstrated in figure 6.4a and in figure 6.4b on page 190, the operational bureaus of Administration, Airport, Chief of Staff, Investigations, Patrol, and Special Operations are not as diverse as the organization.²²⁵ Exact representation should not be required, and variances exist in almost all of the bureaus compared to the SFPD's overall population. However, diversity is representative of the overall female and male ratios within the operational bureaus with the exception of Special Operations and Airport Bureaus, where women are underrepresented, and in the

^{225.} The Operations Bureau is an administrative function. However, the Chief's Office is included—given its responsibility for operational units, including IAD and Youth and Community Engagement—at the end of 2015.

Administration and Investigations Bureaus, in which women are slightly overrepresented. Women have double the representation in the Chief of Staff's office compared to their overall number in the department, as depicted in figure 6.4a on page 189.

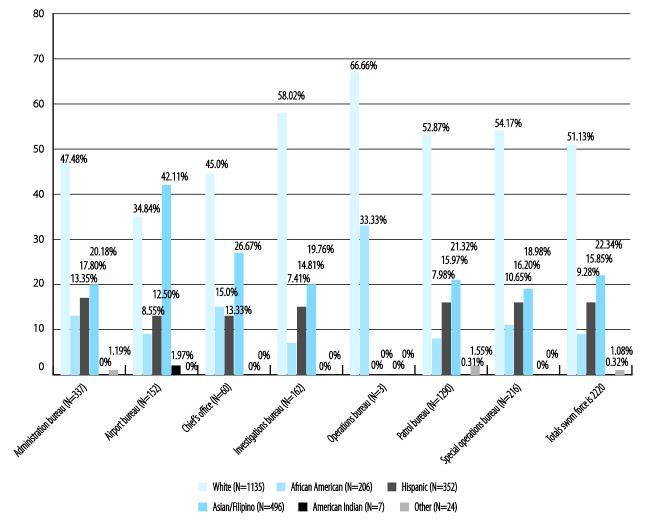


Figure 6.4b. Race or ethnicity by bureau, 2015

The bureaus reflected were those in existence as of December 31, 2015 and do not reflect the current bureau structure of the SFPD. (The SFPD has stated that these numbers do not accurately reflect the total staffing as of December 31, 2015; however, the data provided are accurately represented in the figure.)

With regard to racial and ethnic diversity within the operational bureaus, African American employeess are underrepresented in the Investigations and Patrol Bureaus and overrepresented in Administration, the Chief of Staff's office, and Special Operations Bureaus, also as depicted in figure 6.4b. These disparities matter, because an underrepresentation of an ethnic and racial minority in patrol means that community members do not see the diversity as it exists across the organization. White employees are overrepresented in the Investigations and Special Operations Bureau and underrepresented in the

Administration, Airport, and Chief of Staff Bureaus. Hispanic employees are slightly underrepresented in the Chief of Staff's office. Asian employees are significantly overrepresented in the Airport Bureau but overall are fairly well-represented throughout the department.

Table 6.5. Gender and race or ethnicity for Patrol Bureau Captains, 2015 (N = 12)

Race or ethnicity	Female	Male
White	2	7
Black/African American	0	1
Hispanic/Latino	0	1
Asian/Filipino/Native Hawaiian/other Pacific Islander	0	1
American Indian/Alaska Native	0	0
Other	0	0

While the Bureaus are generally diverse, disparity in diversity at individual ranks is more apparent. Most need to improve overall ethnic and racial representation at specific ranks. One example is at the rank of captain in patrol, where out of 12 captain positions there are three racially or ethnically diverse captains—one who is Asian, one who is African American, and one who is Hispanic—compared to nine White captains, as depicted in table 6.5. Diversity at this rank is important, as this position in patrol is the lead on the community policing practices for the SFPD. Because captains are the community face of the SFPD at the district level, a lack of diversity at this rank can contribute to a perception that the department is not diverse.

Table 6.6. Gender and race or ethnicity by bureau for police officer, 2015

	Bur	stration eau 276)	Ві	irport ureau = 117)	f	ef's Of- fice = 20)	1	estigations Bureau N = 36)	r	rol Bu- eau = 975)		ecial Opera- ns Bureau (N = 164)
Gender	Female	Male	F	М	F	М	F	М	F	М	F	М
Race or ethn	icity											
White	21	98	4	36	3	1	4	18	71	428	9	79
Black/ African American	8	31	1	9	1	4	0	2	12	63	2	16
Hispanic/ Latino	15	40	4	15	0	4	0	4	18	141	4	24
Asian/ Filipino/ Native Hawaiian/ other Pacific Islander	8	51	3	42	2	5	2	6	21	198	0	30
American Indian/ Alaska Native	0	0	0	3	0	0	0	0	2	1	0	0
Other	0	4	0	0	0	0	0	0	3	17	0	0

Table 6.7. Gender and race or ethnicity by bureau for sergeant, 2015

	Admini: Bure (N =	eau	i	oort Bu- reau = 21)	0	nief's ffice = 30)	В	stigations ureau I = 93)	Вι	atrol ıreau = 236)	era	ecial Op- tions Bu- reau N = 32)
Gender	Female	Male	F	М	F	М	F	М	F	М	F	М
Race or ethnicity												
White	7	19	2	6	7	12	10	43	22	115	4	16
Black/African American	0	2	0	0	1	1	1	7	7	13	1	1
Hispanic/Latino	1	1	0	0	3	0	6	7	5	29	2	3
Asian/Filipino/ Native Hawaiian /other Pacific Islander	1	3	1	12	1	5	1	18	5	39	0	5
American Indian/Alaska Native	0	0	0	0	0	0	0	0	1	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

A variety of disparities in gender and racial or ethnic minorities appear in the bureau ranks. For example, Special Operations has only 15 women assigned out of 164 officers.

Table 6.8. Gender and race or ethnicity by bureau for lieutenant, 2015

	Adminis Bure (N =	eau		oort Bu- reau I = 11)	0	nief's ffice = 6)		estigations Bureau (N = 13)	В	Patrol ureau I = 56)	· -	ecial Op- erations Bureau N = 13)
Gender	Female	Male	F	М	F	М	F	М	F	М	F	М
Race or ethnicity												
White	1	5	1	3	1	2	2	7	8	22	0	4
Black/African American	1	1	2	1	0	1	0	0	2	4	1	1
Hispanic/Latino	0	1	0	0	0	0	0	2	1	9	0	2
Asian/Filipino/ Native Hawaiian/other Pacific Islander	0	2	0	4	0	2	0	2	0	10	0	5
American Indian/Alaska Native	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

Within the Patrol Bureau at the rank of police officer, only 75 officers out 975 officers assigned are African American. Along with captains, patrol is the point of most frequent contact for members of the community. A lack of diversity for African Americans can contribute to the perception that the SFPD is not diverse.

Supervisory positions within all bureaus are visible reflections of the organization's commitment to diversity and its commitment to developing personnel for future leadership positions. As depicted in tables 6.6, 6.7, and 6.8 on pages 191 and 192, certain racial or ethnic disparities are apparent.

At the rank of lieutenant, of the 11 assigned to the Investigations Bureau, four are ethnic or racial minorities. Eight out of 93 sergeants in the Investigations Bureau are African American. At the rank of sergeant, there are no African-American or Hispanic sergeants in the Airport Bureau, while of the 34 sergeants in the Administration Bureau, there are only two African-American sergeants and two Hispanic sergeants.

Practices that support diversity, inclusion, and sustainability at all levels of the organization are fundamental to creating and maintaining a diverse workforce. To advance employees, law enforcement agencies must provide opportunities for all members in an equally competitive environment.

Promotion process

The City HR Public Safety Team conducts the initial promotional testing for the SFPD. There is no set schedule for testing because it depends on the department's need. The SFPD maintains the promotional eligibility lists for three years, but the lists can be extended by agreement between the SFPD's chief of police and the City HR director, pursuant to any legal requirements. During an interview with City HR, the assessment team learned that in past years, the SFPD had not exhausted any promotional hiring list.

When a test is needed, City HR conducts a job analysis and considers the minimum qualifications for candidates and the scope of duties for the rank to be tested. This analysis is informed by an assessment of the knowledge, skills, and abilities required for success in the particular rank. To validate promotional testing instruments, City HR strives to achieve 90 to 100 percent incumbent participation in validating the job requirements, including knowledge, skills, and abilities. As part of this process, for example, SFPD members with the rank of sergeant validate promotional tests for sergeants while lieutenants validate the tests for lieutenants. The applicants are tested on competencies derived from the incumbent validation process and emerging issues facing law enforcement leaders.

For promotion to the sergeant, lieutenant, and captain positions, applicants must complete a written scenario-based test and an oral scenario-based test. The two test scores are weighted to arrive at an overall promotion score. ²²⁶ Applicants also complete a secondary criteria form that surveys experience and performance factors such as foreign language skills, education, specialized qualifications and training, awards and commendations, and discipline.

^{226.} City and County of San Francisco: Department of Human Resources Public Safety Team. 2014. Interview Guide: Q-2 Police Officer.

Based on the combination of test scores and secondary criteria factors, the Personnel Unit prepares a list of eligible candidates, facilitates the scoring, and compiles applicant packages for review by the deputy chiefs. The promotion panel consists exclusively of deputy chiefs who review packages for the eligible applicants with a focus on secondary criteria. Also in attendance are the City HR Director or Manager and the Chief City Attorney. The selection rules allow candidates to be grouped within sets of 10, and the panel forwards the eligible group to the police chief, who can select any candidate from that group. The police chief has final selection authority.

Once selections have been made by the police chief, a process ensues to determine how to assign the newly promoted to vacancy opportunities based on the specific skill sets and requirements of the various supervisory positions, taking into consideration factors such as individual career development, career track, succession planning, and mission requirements.

Data from 2013 to 2015 reveals promotions increased diversity across different ranks as depicted in table 6.9, with a positive trend for promotions for racial minority groups in the SFPD's workforce. In 2015, fully 50 percent of the merit promotions were minorities. In 2014, 46 percent of promotions went to racial minorities, and in 2013, 38.6 percent of the promotions went to racial minorities. Overall, the promotion rate for women has declined from 26.0 percent to 13.6 percent.

Table 6.9. Promotions by gender and race or ethnicity, 2013-2015

	2013 (114 Promotions)	2014 (87 Promotions)	2015 (88 Promotions)
Gender			
Male	73.68% (84)	82.76% (72)	86.36% (76)
Female	26.32% (30)	17.24% (15)	13.64% (12)
Race or Ethnicity			
White	61.40% (70)	54.02% (47)	50.0% (44)
Black/ African American	4.39% (5)	8.05% (7)	11.36% (10)
Hispanic/ Latino	15.79% (18)	12.64% (11)	17.05% (15)
Asian/ Filipino/	18.42% (21)	25.29% (22)	21.59% (19)
Native Hawaiian/ Pacific Islander			
American Indian/ Alaska Native	0% (0)	0% (0)	0% (0)
Other	0% (0)	0% (0)	0% (0)

Across the SFPD, the assessment team heard from officers who stated they did not feel that they had a viable chance for promotion. In an organization that does not routinely conduct performance evaluations, it is often difficult to validate the qualities that support promotional choices. Although the overall data show a level of diversity among the ranks, various interview sources raised concerns about the transparency of the promotion process. Concerns were raised that components of the promotional process, including review by the panel of deputy chiefs, the ability to group candidates rather than select candidates based on score, and the chief's ultimate selection authority, allow for subjectivity and bias in the selection process.

The SFPD recognizes the role of PEGs in representing the issues and perspectives of diversity interest groups within the workforce. PEGs include a Women's Police Officers Association (POA), Latin POA, Filipino POA, Asian POA, Pride Alliance, and Officers for Justice. Individually, the groups advocate for their members to

- protect against discrimination;
- ensure fair, sufficient, and transparent opportunities for their members for career-enhancing assignments and promotion;
- encourage positive relationships with the minority communities in San Francisco;
- support diversity recruiting efforts;
- mentor and develop their members to increase their competitive success for advancement;
- facilitate communication with SFPD leadership around diversity concerns and group-specific agendas.

Most representatives the assessment team met described a positive environment in the SFPD for their role and value. In addition, most described visible improvement over the last few years in both the receptivity for their group in the department and advancement opportunities for their members in terms of promotion to positions of responsibility and selection for sought after assignments. However, there was not consensus among all representatives regarding the degree of respect and influence the PEGs receive from SFPD leadership relative to anti-discrimination, diversity recruiting, hiring, and promotion policies and practices. Team members perceived a lack of clarity and consensus among individuals and groups interviewed about the proper role of PEGs in the SFPD, as some perceive the groups as exclusive rather than inclusive, disjointed in their collaboration with other groups, and carrying too much influence on the promotion process.

Finally, testing processes provide opportunities for the SFPD to develop a culture of learning, inform officers on advancement requirements, and provide positive feedback in the overall testing environment. However, the team heard cynicism about promotion selections as too heavily influenced by nonmerit factors, such as the police employment groups that advocate on behalf of various employee populations, "who you know," "where you went to school," or "face time" in headquarters positions.

SFPD's need for a strategic diversity plan

Although SFPD staffing is generally diverse, the department does not have a strategic plan outlining its vision, mission, and purpose or its diversity objectives. A strategic plan is a component of internal procedural justice, which begins with the clear articulation of organizational core values.²²⁷ A strategic plan further serves to ensure a department's diversity objectives are achieved in terms of goals, action items, metrics to measure progress, and accountability for success. To maintain and further develop the benefits that diversity brings to the department, the SFPD must make a strategic plan a cultural imperative, develop the structures and processes that continue to facilitate diversity, and ensure its continued progression from hiring through career progression, including promotion.

^{227.} President's Task Force on 21st Century Policing, Final Report.

Role of performance appraisals

Despite policies and forms to support performance appraisals, the SFPD does not require the completion of performance appraisals across the organization. The department's Employee Performance Appraisal Guide was last updated in 1995. ²²⁸ Throughout the department, employees confirmed that they never received a performance appraisal. The lack of performance appraisals does a disservice to employees who cannot identify their goals or progress and is a missed opportunity to develop a shared organizational vision and provide guidance for employee development. Absent recognized performance measures, it is difficult to determine the reasons some people advance through an organization when compared with other equally situated and qualified individuals. The lack of transparency to the process also contributes to officer perceptions.

Senior leadership should provide transparency, feedback, and outcome analysis for promotional exams to foster continued interest in advancing through the SFPD. Positive organizational culture, as created through ongoing and constructive employee interaction with management, correlates with an officer's positive interaction with the public. Regular and constructive meetings between members and their supervisors foster personal development, support employees' goals, and give them a voice in their organization. In a positive organizational culture, evaluation processes foster employee development and reinforce and instill organizational values. The SFPD should develop performance measures that provide transparency in achievement and goal setting. To develop leaders who embody the principles of procedurally just policing, the SFPD needs to prioritize and incorporate those values in its internal employment processes.

Training needs analysis

Although a number of training initiatives are being reviewed and developed internally by the SFPD, the assessment team did not learn of any training needs analysis underway to support overall organizational goals and needs or as they relate to recruits, continuing professional training development, or promotional training. Further, the SFPD does not conduct routine review and assessment of the efficacy of the training provided to recruits, continuing professional training development, and developmental training for supervisory and other promotions. Given the investment in hiring recruits and the ongoing need for appropriate skills development for SFPD officers, a training needs analysis is critical to inform and drive the training delivered by the department. As of the release of this report, the SFPD's training focus is reactive in that it is developing and implementing training based on public demand for increased procedural justice and improved use of force decisions from its police officers.

In an organization that does not routinely conduct performance evaluations or training needs assessments, it is difficult to fully analyze knowledge deficits. However, training should be structured to address the organizational needs and to develop leadership at all levels in the department as identified in a strategic plan, predicated upon development of a highly trained and professional workforce.

^{228.} San Francisco Police Department, Performance Appraisal Guide.

Findings and recommendations

Findings follow the flow of the narrative within the chapter.

Finding 81

Despite a relatively good record in hiring diverse candidates, perception remains in the community that the SFPD seeks to eliminate diverse candidates from its hiring pool.

A lack of community engagement perpetuates this perception over hiring requirements.

Recommendation 81.1

The SFPD should clearly articulate its hiring and background standards as a matter of building community trust and ensuring applicants are prepared.

Recommendation 81.2

The SFPD should publish annual statistics on the demographics of applicants for each stage of the hiring process.

Recommendation 81.3

The SFPD should develop and implement applicant tracking and hiring data collection and reporting procedures to capture information such as

- recruitment sources for applicants who are hired and not hired;
- whether applicants are the result of personal referral, Internet, career center, print media, job fair, community or other outreach event, school career center, radio, television, outplacement service, or social media;
- passage rate by gender, race, and ethnicity for each major selection hurdle including written test, physical abilities, oral interview, polygraph, psychological assessment, hiring panel, and medical;
- selection rates by race, gender, and national origin;
- attrition rates by race, gender, national origin, and phase in training.

Finding 82

The SFPD does not fully engage its applicants throughout the hiring process.

Given the lengthy and intensive process for hiring, the SFPD needs to develop a program for engaging quality candidates early on and keeping them interested in and involved with the department.

Recommendation 82.1

The SFPD should develop an active social media and website presence to entice qualified candidates and keep them engaged throughout the application process.

An Assessment of the San Francisco Police Department

Recommendation 82.2

The SFPD should consider creating information boards and "applicant only" websites and providing ongoing updates and department information to applicants during the hiring process.

Finding 83

The SFPD is not administering a physical ability test (PAT)

The SFPD sought to update or eliminate the PAT requirement to repeatedly pull a firearm trigger. As a result, the entire PAT must be redesigned and validated. As of the date of this report, the PAT is not part of the selection process and was therefore not a part of the assessment. However, a selection process that does not include a physical abilities test is not optimal because physical skills are important for police officers. PATs are supposed to ensure a police officer's ability to perform effectively and simulate police officer work. However, some elements of the test for SFPD applicants may be outdated and inconsistent with emerging practices.

Recommendation 83.1

The SFPD should work with City HR to reinstitute a valid PAT that is aligned with current policing and state POST requirements within 180 days of this report.

Recommendation 83.2

The SFPD should continuously evaluate the PAT process to ensure no unintended impact for any of the diverse candidates it seeks to hire.

Finding 84

SFPD recruitment and hiring practices are disjointed.

The SFPD currently has three separate units within two bureaus that handle recruitment and hiring practices, each reporting to different organizational chains of command. The SFPD's recruitment and hiring functions are spread across two different bureaus and several chains of command. The Professional Standards and Principled Policing Bureau oversees the Recruitment Unit, which has the responsibility to market the department to attract qualified, diverse candidates.

Thereafter, SFPD's Administration Bureau, under the command of a deputy chief, has primary responsibility for the majority of the functions related to the hiring process and training recruits. The Background Investigation Unit, a component of the Staff Services Division of the Administration Bureau, is responsible for investigating and adjudicating the backgrounds of employment applicants.

The Personnel Unit of the Staff Services Division of the Administration Bureau is responsible for human resources functions including the appointment and processing of new hires, promotions, and separations. Finally, the Training and Education Division of the Administration Bureau is responsible for all formalized training functions for the Department and includes the Academy, the Field Training Office, the Office of Education and Training, and the Firearms Range.

Each of these units, divisions, and bureaus plays a critical role in advancing diversity in the SFPD. However, by splitting up the chains of command, recruitment and hiring practices become disjointed.

Recommendation 84.1

The SFPD should reorganize its recruitment and hiring practices under one bureau to provide cohesion and ensure resources are strategically used toward recruiting and hiring goals.

Recommendation 84.2

The SFPD should establish a recruiting and hiring committee to continuously improve and streamline processes for applicants. The process should be as user-friendly as possible.

The group should study and recommend operational best practices to achieve mutual recruitment, assessment, background investigation, and hiring selection goals that promote greater workforce diversity objectives.

Finding 85

The SFPD's Recruitment Unit has implemented an active recruitment program focused on diversity and targeted recruiting throughout San Francisco but does not measure or validate the effectiveness of their outreach and events.

Recommendation 85.1

The SFPD should continue supporting and overseeing this initiative and ensure the Recruitment Unit continues to implement best practices for recruitment, training, and outreach to improve diversity and cultural and linguistic responsiveness of the SFPD.²²⁹

Recommendation 85.2

The SFPD should consider assigning more resources, by way of community outreach and recruiting officers, to further engage underrepresented communities.

^{229.} President's Task Force on 21st Century Policing, Final Report.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Recommendation 85.3

The SFPD should expand its community partnerships and outreach to create a community ambassador program to identify and train community leaders to aid in the SFPD's recruitment process.

Recommendation 85.4

The SFPD should explore approaches to measure or validate the effectiveness of their recruitment outreach and events. The SFPD could do a community satisfaction survey or conduct GIS analysis to see whether all communities have access to these events.

Finding 86

The Background Investigation Unit is staffed by part-time investigators and is comprised of a mix of modified duty officers and retired officers.

Recommendation 86.1

The SFPD should staff the Background Investigation Unit with full-time investigative personnel who have the required training and requisite experience and who are invested in the area of investigations.

Recommendation 86.2

The SFPD should ensure that there is diversity within the investigators that comprise the Background Investigation Unit.

Finding 87

The Background Investigation Unit lacks valid performance measures to evaluate background investigators.

Recommendation 87.1

The Background Investigation Unit should continue the process of developing and implementing performance measures to evaluate the unit's investigators in terms of outcomes such as length of investigations, timeliness of investigations, numbers of contacts with the applicant, consistency of investigative approach, and hiring recommendations.

Recommendation 87.2

The SFPD should evaluate the overall background investigation process including the demographics of candidates interviewed and progressed for hiring decisions.

Finding 88

Gender, racial, and ethnic minority recruits were terminated at a higher rate from recruit training than White male recruits.

Gender, racial, and minority candidates accounted for 68.1 percent of all recruit terminations.

Recommendation 88.1

The SFPD should conduct ongoing review and analysis of release rates and their impact on diversity and identify mitigation measures to support the success of diverse candidates.

Recommendation 88.2

The SFPD should evaluate why recruits are failing and develop additional training mechanisms to assist recruits in successfully completing California POST requirements.

Recommendation 88.3

The SFPD should evaluate whether orientation for recruits has positively impacted disproportionate termination rates related to Emergency Vehicle Operations Training failure. If not, the SFPD should identify other strategies to assist recruits.

Recommendation 88.4

The SFPD should continually audit and review each phase of the hiring process to ensure there are no unintended consequences that limit the advancement of its diversity goals.

Finding 89

The SFPD lacks a strategic plan for diversity including recruitment, retention, and advancement.

The SFPD is to be commended for its diversity in overall staffing.

Recommendation 89.1

As part of the Strategic Plan (recommendation 39.1), the SFPD should develop a comprehensive diversity strategic plan that articulates the department's vision and commitment to organization-wide diversity initiatives including recruiting, hiring, and retaining a diverse and high-performing workforce. For this recommendation, the diversity strategic plan should

- identify specific diversity recruiting priorities that are informed by empirical data that identify areas of underrepresentation;
- identify specific recruiting activities and targets for diversity recruiting emphasis;
- establish specific responsibilities for implementing and supporting action items for diversity program staff;
- establish performance measures to track progress, solidify commitment, and ensure accountability across the organization for diversity in all ranks and units.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Finding 90

The SFPD does not have representative diversity within all its ranks in the organization, especially in the supervisory and leadership ranks.

Through visible commitment to diversity at all ranks of the department, the SFPD can establish itself as a welcoming organization for all communities.

Recommendation 90.1

The SFPD should regularly and systematically capture and report the demographic composition of its supervisory, management, and senior leadership ranks to establish an ongoing mechanism to conduct comparative analyses against the overall workforce composition.

Recommendation 90.2

The SFPD should commit to ensuring transparency and diversity in key assignments predicated on advancing and developing a talented and diverse pool of leaders.

Finding 91

The promotion process is not transparent.

The lack of transparency has created a level of distrust of the process in segments of the department.

Recommendation 91.1

The SFPD should increase the level of transparency of the promotion process and should clearly outline the qualifications required to advance for promotion.

Recommendation 91.2

The SFPD should consider providing feedback to unsuccessful candidates for promotion as a means of advancing institutional knowledge and performance improvement.

Recommendation 91.3

The SFPD should ensure that there is diversity on the panel that oversees promotions and should consider adding community members or outside observers (or both) to the panel.

Finding 92

The SFPD does not require the *Final Report of the President's Task Force on 21st Century Policing* as required reading for the promotional exam.

Recommendation 92.1

The SFPD should require the Final Report of the President's Task Force on 21st Century Policing as reading for all promotions.

Recommendation 92.2

The SFPD needs to require this assessment report as reading for all promotions.

Finding 93

The SFPD's Police Employee Groups (PEG) have a perception that their input and contributions to the department are not seriously considered.

Recommendation 93.1

The SFPD and the Police Employee Groups should look for ways to better institutionalize and incorporate their input into department operations where appropriate. Opportunities may include using members of the PEGs to

- serve on department panels and committees;
- help address issues of bias as part of the department's ongoing training by bringing forth their experience and perspective;
- work as community ambassadors for community members or as recruiters for hiring;
- address areas of institutional practices that could be considered biased.

Finding 94

The SFPD does not maintain, analyze, or use data to support and forecast human resource needs, including diversity staffing, succession, or basic demographics.

The SFPD cannot readily identify basic demographic data on its employees or readily access training records, separation records, and other human resource data for analysis and development in the department.

Recommendation 94.1

The SFPD should identify its data needs for personnel and human resource analysis, including organizational diversity, succession and forecasting, training records, and separation data. The collection of data should allow the agency to conduct a barrier analysis.²³⁰

Recommendation 94.2

The SFPD should prioritize the personnel and human resource data to better inform and support management decisions and practices.

^{230.} A barrier analysis allows an agency "to monitor progress and identify areas where barriers may operate to exclude or disadvantage any group based on gender, race, ethnicity, or disability" (EEOC, "Tips for Small Agencies;" Matthies, Keller, and Lim, *Identifying Barriers to Diversity*).

Part III. Conclusion

7. Summary

Leadership, accountability, and a vision and plan to move San Francisco Police Department (SFPD) forward are required for the department to achieve the reform recommendations contained within this report. The challenges facing the SFPD mirror many of those facing other law enforcement agencies across the nation. San Franciscans seek an active voice in the policing decisions that impact their communities. Like other residents of U.S. cities of all sizes, they want to be recognized as a true partner with their police department in helping to define what public safety means for themselves and their children for decades to come.

The assessment of the SFPD identified several clear community expectations: police transparency, evidence of progress in reducing and avoiding bias in policing, the ability to engage with the department to establish a co-produced policing approach to prioritize and ensure public safety and services for the city, and police services befitting a large, modern police department.

At many levels, SFPD personnel—from the department's leaders to its rank and file—support the community's expectations. The SFPD is poised to become a world-class policing organization, but it will take leadership, ongoing commitment to real reform, and hard work to make this happen. The first step was requesting the Collaborative Reform Initiative for Technical Assistance (CRI-TA) assessment from the U.S. Department of Justice, Office of Community Oriented Policing Services. The SFPD deserves credit and praise for this, as it is not easy to open your doors to a process that is going to identify and fully report the flaws found therein. The department has engaged fully and cooperated with the assessment. It has also demonstrated an awareness of its limitations and a desire to advance its standing and performance within the communities of San Francisco.

To do so, the SFPD needs to take a number of steps to improve its policies, practices, and perception in the community in the areas of use of force, biased policing, community policing, accountability and oversight, and diversity. These steps can be looked at as five major strategic themes that will need to be addressed in order for the SFPD to move forward to ensure procedural justice and earn community trust.

1. The importance of leadership in areas ranging from integrity to implementation

Leadership is a critical touchstone issue for the SFPD. The assessment team found the SFPD to be an organization of good intention but that sometimes failed in execution with respect to accountability and ensuring appropriate cultural standards. Leadership at all levels of the SFPD is needed to ensure a department that has the requisite integrity, ethics, and community focus to police in today's environment.

Issues that have been challenging for the SFPD, including officer misconduct and scandals, have not been systematically addressed from an organizational approach to improve the overall culture of the SFPD. The department demonstrated good practice in its community outreach after officer-involved shooting incidents, for example, hosting a town hall in the area soon after an incident. However, as a matter of overall leadership, public-facing dialogue and internal leadership were minimal.

The texting scandals were not met with any audits or integrity testing to ensure they were of a limited impact to the SFPD. The department did not deliver timely training to the organization as a whole and internal leadership was essentially mute on issues of potential bias and their impact on the department. Supervisors in the organization were not vocal in the need for SFPD members to stand apart from the negative influence of bias. Rather, the department appeared to have relied solely upon the negotiated discipline process to address officer conduct. Contract law and its provisions for discipline do not substitute for vision, guidance, or ethical standards as provided by leaders. SFPD leadership needs more visibility and voice in assuring the community that the SFPD is an ethical organization.

The team observed decisions and analysis that demonstrated ethical decision making, including the development of the Professional Standards and Principled Policing Bureau, which was a response to community demands for fairness, transparency, and accountability. However, the team also observed the SFPD's struggle to develop fair and transparent practices during the assessment. For example, a supervisor who had recently been involved in a fatal-officer involved shooting was transferred to be a part of the new bureau. The team was present at a Police Commission meeting when the decision to place that officer into the bureau became the subject of anger and protest. That SFPD management did not understand the potential impact on the community is a clear demonstration of a lack of awareness of the impact that internal decisions can have on the community. The community made it clear this felt like the department was unwilling to change.

The SFPD's missteps in anticipating public perception regarding such decisions are at the heart of some of the challenges facing the SFPD. The department's accountability is to the public and the SFPD's challenges in demonstrating this through sound decisions and leadership practices resonated across the organization throughout the CRI-TA assessment phase. Rather than creating stronger community trust through its laudable efforts in establishing a bureau focused on professional standards and principled policing, the SFPD found itself at the pointed end of public dismay over a series of decisions.

2. The vital role of communications across constituencies from officers to the public

The SFPD leadership team spoke of their commitment to community policing and serving the public. However, the assessment team learned that officers often did not have a clear understanding of the organization's expectations or reasons for required actions.

Internal communications could be improved significantly. Several members interviewed by the team did not know what collaborative reform was or what the SFPD's goals were for the program, even toward the end of the assessment. But beyond this, communication on what officers need to accomplish as part of their daily assignments and why is not evident. Policies and procedures are outdated, and internal review of policies is not a priority.

Most officers do not receive specific direction regarding their daily duties. No ongoing performance evaluations occur that allow shared goals to be developed and officers held to account for performance standards. Minimal messaging was observed regarding core values, the vision of the organization or the need for community policing.

A number of critical issues developed during the assessment, but the SFPD did not communicate well with either the team or the public regarding them or their resolution. For example, a large-scale corruption investigation concluded during the assessment, but no member of the SFPD shared information with the assessment team when the investigation's report was made public.

SFPD leadership is not visible to the public or its officers in a meaningful way. This is not to say they do not work hard. In fact, their dedication and hours of work are significant. But they need to be more effective in order to help transform the SFPD into a public-leaning organization that is more transparent and open. In order to do so, they must identify ways to open the organization to the community, as a true partner.

3. The need for a clear vision of the SFPD's future and a strategic plan

SFPD leadership must identify and drive the department's path forward. The SFPD needs to establish an overall strategic plan that provides the framework for the focus and direction of the entire department. The men and women of the SFPD demonstrated a keen understanding of their role as public servants, and many had the capacity and desire to serve their community in a more fulfilling manner.

A plan is needed to guide the ongoing commitment and actions of the department to address reform. The assessment team met with many dedicated and qualified individuals who were trying to institute reforms badly needed within the organization. However, these actions were often unit-specific and not part of a larger vision or plan. As a result, certain units had instituted good practices that were not shared across the organization. The SFPD needs to improve the communication and structure for sharing good practice among the activities of the various units in the SFPD.

Vision and leadership will set the stage for transformation and guide the department to its reform goals. With a defined plan and vision, the department will progress as a world class law enforcement agency, based upon shared, defined goals.

4. Protocols required to make oversight and accountability effective

San Francisco has a strong program of accountability and oversight of the SFPD—at least on paper. This structure includes independent civilian investigations into public complaints and a Police Commission

responsible for oversight of the organization and the discipline process. However, the absence of protocols and working arrangements with the oversight partners undermines timely and effective coordination on shared resources and the progression of investigations. Further, the discrete responsibilities limit effective identification of challenges. Complaints against police officers remain open and under investigation for extended periods of time. This precludes timely resolution of public complaints and removes the corrective impact of discipline, as it is neither timely nor swift.

The SFPD must make the accountability of its officers, the organization, and its commitment to police the people of San Francisco with fairness and integrity an overarching mission. The SFPD has not upheld its responsibilities on this end. Internal audits and inspections are essentially non-existent. From training through discipline, the SFPD must strive to inculcate a culture of responsibility, professionalism, and integrity for all SFPD members. The SFPD needs to focus on integrity and accountability as a fundamental goal within all of its strategies to deliver police services across the city.

5. Challenges in using data and technology

The SFPD needs to use and leverage technology more effectively. The assessment team was surprised at the overall poor quality of data and its minimal use across SFPD operations. Technology and data deficits regarding officer activity and the complaint system precludes management from developing proactive systems and awareness to support officer integrity and organizational accountability. Analyses of data related to bias, force, and complaints that were planned to be conducted for this assessment were challenging because of poor data sets or the absence of any data at all.

Officers spoke of constraints in performing their functions because they did not have ready access to information. A compendium of stand-alone databases inhibits information sharing across the organization. Existing programs are cobbled together in ways they were not intended to perform. The SFPD needs an overarching technology plan, one that aligns with the organization's strategic vision, and allows for "police strategies and tactics (that) must be driven by accurate, timely and reliable information supplied by current and emerging technologies and supported by the Department's systematic engagement of all of San Francisco's diverse neighborhoods."²³¹

Technology is more than crime data. It is a method to generate measures of performance for the organization as a whole and to allow for further refinement of vision and goals as the organization grows. Better use of technology will help the SFPD better communicate, collaborate, and share information with the community in a timely manner.

Overall, this report lays the groundwork for the SFPD to become a world class law enforcement agency through the 94 findings identified and the 272 recommendations developed.

^{231.} City and County of San Francisco, "Police Department Vision Statement."

8. Next Steps

During the next phase of this process, as the San Francisco Police Department (SFPD) implements the recommendations contained within this report, it will need to consider the overarching issues that attach to all of the identified objectives: the need for communication and transparency, the requirements of improved data collection and analysis, and the imperative of robust oversight and accountability. Three principal issues contributed across the board to the challenges the SFPD faces:

- 1. Throughout the course of the assessment, SFPD officers and personnel and community members identified a lack of communication that prevented some excellent practices and policies from improving operations across the department.
- Closely tied to the issue of communication are shortcomings in data technology that impede
 department leaders from recognizing trends and making connections that could improve policing and
 personnel practices.
- 3. The department needs to focus on developing a leadership approach that demands excellence in all aspects of policing, one that works with the community to co-produce public safety as an inherent outcome of mutual trust and understanding.

Therefore, addressing these concerns as part of the reform for each objective will drive the most dramatic advancements in policing in San Francisco. Implementing the recommendations within this report represents the most promising path forward for the department. If the SFPD does so – with sustained diligence and in good faith – it will become a model policing agency in this country.

Next steps

During the Collaborative Reform Initiative for Technical Assistance implementation phase, the SFPD will work closely with the U.S. Department of Justice, Office of Community Oriented Policing Services to implement reforms as recommended herein. The SFPD's progress will be monitored and the outcomes of these reforms documented in initial and final progress reports. These reports will be publicly released. The goal of these recommendations is to reform policing in San Francisco to conform to community expectations and to improve public safety.

Part IV. Appendices

Appendix A. Findings and Recommendations

Following is the full list of all the findings identified and associated recommendations developed.

Finding 1

The majority of deadly use of force incidents by the SFPD involved persons of color.

Nine out of the 11 deadly use of force incidents from May 1, 2013, to May 31, 2016, involved persons of color.

Recommendation 1.1

The SFPD must commit to reviewing and understanding the reasons for the disparate use of deadly force. Specifically, SFPD needs to

- partner with a research institution to evaluate the circumstances that give rise to deadly force, particularly those circumstances involving persons of color;
- develop and enhance relationships in those communities most impacted by deadly officer-involved shootings and monitor trends in calls for service and community complaints to ensure appropriate police interaction occurs as a matter of routine police engagement;
- provide ongoing training for officers throughout the department on how to assess and engage in encounters involving conflict with a potential for use of force with a goal of minimizing the level of force needed to successfully and safely resolve such incidents.

Finding 2

The SFPD has closed only one deadly use of force incident investigation for the time frame 2013 to 2015.

The SFPD has been involved in nine deadly use of force incidents during the time frame of review for this assessment, 2013–2015. All but one remains open, pending a decision by the district attorney on whether the officers' actions were lawful. It is unacceptable for officer-involved shooting investigations to remain open for years.

Recommendation 2.1

The SFPD must work with the City and County of San Francisco to develop a process that provides for timely, transparent, and factual outcomes for officer-involved shooting incidents.

Finding 3

The SFPD and the Police Commission collaboratively worked with community stakeholders to update Department General Order 5.01 – Use of Force policy.

Department General Order 5.01 was last revised in 1995. The draft revision, dated June 22, 2016, reflects policy enhancements that progressive police departments across the country have implemented, including incorporating recommendations from the *Final Report of the President's Task Force on 21st Century*

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Policing. However, because of collective bargaining practices, the policy has not yet been implemented by the Police Commission as of the date of this report.

Recommendation 3.1

The Police Commission, SFPD leadership, and elected officials should work quickly and proactively to ensure that the department is ready to issue these use of force policies and procedures to all department employees immediately following the collective bargaining meet-and-confer process. The process should not be drawn out, because the goal should be immediate implementation once it has been completed.

Recommendation 3.2

The SFPD should work with the Police Commission to obtain input from the stakeholder groups and conduct an after-action review of the meet-and-confer process to identify ways to improve input and expedite the process in the future for other policy development.

Finding 4

The Use of Force Log captures insufficient information about use of force incidents.

The SFPD does not have a separate use of force report for personnel to complete after a use of force incident. Rather, the specific articulable facts leading to the force incident are documented in the narrative of a regular incident report form and a paper use of force log, making it difficult to collect accurate and complete data or analyze aggregate use of force data. In addition, it requires staff to manually log the information into the Early Intervention System.

Recommendation 4.1

The SFPD needs to create an electronic use of force reporting system so that data can be captured in real time.

Recommendation 4.2

In developing an electronic reporting system, the SFPD must review current practice regarding reporting use of force, including reporting on level of resistance by the individual, level and escalation of control tactics used by the officer, and sequencing of the individual's resistance and control by the officer.

Recommendation 4.3

In the interim, the SFPD should implement the use of force report that is under development within the Early Intervention System Unit and require that it be completed for every use of force incident. The assessment team identified this report to be a good start to a robust reporting system for use of force incidents in the SFPD. The SFPD should eliminate the Use of Force Log (SFPD 128 (Rev. 03/16)).

Recommendation 4.4

To facilitate the implementation of recommendation 4.3, a training bulletin describing the form, its purpose, and how to accurately complete it should accompany the form introduction. The bulletin should be implemented within 90 days of the issuance of this report.

Recommendation 4.5

The SFPD should continue the manual entry of use of force data until the electronic use of force report is operational. To ensure consistency and accuracy in the data, this entry should be conducted in a single unit rather than in multiple units.

Recommendation 4.6

The SFPD should audit use of force data on a quarterly basis and hold supervisors accountable for ongoing deficiencies.

Recommendation 4.7

The SFPD should assign the Training and Education Division to synthesize the issues emerging from the use of force reports and create announcements for roll call on emerging trends. The announcements can include scenarios from incidents that were troubling or complicated in some way and encourage officers to discuss with one another in advance how they would communicate and approach such situations.

Finding 5

The SFPD does not consistently document the types of force used by officers.

Out of a sample of more than 500 reported incidents of use of force, only five had documented the type of use of force on the Use of Force Log. Department Bulletin 14-111 – Documenting Use of Force, drafted April 4, 2014, requires officers to document the type and amount of force used, including the use of impact weapons, with supervisors responsible for ensuring compliance with the policy. However, through 2015, the team found that force data remained incomplete. The overall lack of consistent data collection is indicative of limited oversight of force reporting.

Recommendation 5.1

The SFPD needs to develop and train to a consistent reporting policy for use of force.

Recommendation 5.2

The SFPD needs to hold supervisors and officers accountable for failure to properly document use of force incidents.

Finding 6

The SFPD has not developed comprehensive formal training specifically related to use of force practices.

A number of training issues on emerging operational practices in the SFPD and those highlighted in the *Final Report of the President's Task Force of 21st Century Policing,* such as de-escalation, have not been adequately addressed.

Recommendation 6.1

The Training and Education Division should adopt and implement a formal Learning Needs Assessment model that identifies and prioritizes training needs and should subsequently design and present them in the most effective and efficient ways possible.

Recommendation 6.2

To support policies mandated through recent Department Bulletins, as well as to ensure implementation of best practices and policies outlined in the Final Report of the President's Task Force of 21st Century Policing, the SFPD's Training and Education Division should prepare training on the following topics at minimum:

- Enhanced de-escalation
- Sanctity of life
- Enhanced service-oriented interactions with homeless individuals
- Improved dispatch protocols for cases requiring Crisis Intervention Team response

Recommendation 6.3

SFPD training records should be fully automated and training data easily accessible.

Finding 7

SFPD officers have not been trained on operational field use of the mandated 36-inch baton.

Department Bulletin 16-071, which was published on April 30, 2016, requires all officers to carry a 36-inch baton as part of their daily uniform requirements. The assessment team was concerned that the Training Academy staff did not have advance knowledge of the baton policy change. During the team's visit, Training Academy staff members were drafting training guidelines for use of the 36-inch baton after the policy had already been issued. There must be good communication before and following the publication of orders that affect daily activities or provide for a change in organizational focus. This would allow for smoother implementation and ensure that appropriate training is available, particularly for key orders.

Recommendation 7.1

The SFPD must develop a policy on the use of the 36-inch baton for the use of interacting with individuals with edged weapons. The policy should also dictate the proper handling of the baton, and the policy should dictate when it is appropriate to use a two-hand stance and when a one-hand approach is needed.

Recommendation 7.2

The SFPD must develop training on the use of the 36-inch baton for the use of interacting with individuals with edged weapons. Once developed, the training should be deployed to all officers.

Recommendation 7.3

The SFPD should prohibit the use of the 36-inch baton until all officers are properly trained in its intended field use.

Finding 8

SFPD supervisors are not required to respond to the scene of all use of force incidents and are not required to fully document their actions.

Supervisors are not appropriately tasked in relation to use of force incidents. Supervisors are required to respond to the scene for use of force incidents only when injuries are reported injuries and are not

required to document their actions in the incident report. Furthermore, during the review period officers and supervisors continued to inconsistently complete use of force reporting forms.

Recommendation 8.1

The SFPD should immediately require supervisors to respond to events in which officers use force instruments or cause injury regardless of whether there is a complaint of injury by the individual. This will allow the department greater oversight of its use of force.

Recommendation 8.2

Supervisors should be held accountable for ensuring accurate and complete entry for all use of force data reporting.

Recommendation 8.3

Supervisors should be required to document their actions regarding the investigation of the use of force incident within the incident report. As recommended in this section (recommendation 3.2), a standalone use of force report should be developed and, when completed, should contain a section for supervisory actions relative to the incident and signature.

Finding 9

The SFPD is inconsistent in providing timely notifications to all external oversight partners following an officer-involved shooting.

Members of the SFPD acknowledged that there are occasionally notification delays because of administrative issues and the time it takes to notify required parties of an incident. Regardless of the reason, delayed notification to key partners means that those partners are not present at the earliest stages of an officer-involved shooting investigation. Notifying external oversight partners (including the district attorney and Office of Citizen Complaints [OCC]) promptly allows for timely arrival on the scene and facilitates effective and transparent external oversight of officer-involved shooting investigations.

Recommendation 9.1

The SFPD should work with the Department of Emergency Management to provide it with primary responsibility for timely notification to all stakeholders on the call-out list used immediately after an officer-involved shooting incident.

Recommendation 9.2

Until the Department of Emergency Management protocol is established, when activating the protocols for notification following an officer-involved shooting incident the Operations Center should notify representatives of IAD, the District Attorney's Office, and OCC with no lag time occurring in any of the notifications. The Operations Center log for notifications should be included as part of the investigation report case file to accurately and fully depict notifications.

Recommendation 9.3

All notified responders should be required to notify the Department of Emergency Management of the time of their arrival. This will create a comprehensive permanent record of the time of notifications and responses of the units to the scene.

Recommendation 9.4

The SFPD should explore the option for timely electronic notification to all oversight partners.

Finding 10

There is a lack of coordination and collaboration for responding to and investigating an officer-involved shooting.

The SFPD's investigative protocols are comparable to those followed by other professional major city police departments. However, IAD staff members, along with some of SFPD's partners such as members of the District Attorney's Office and the OCC assigned to respond to such incidents, are not as integrated.

Lack of collaboration and cooperation in investigating officer-involved shooting incidents can undermine procedural justice and transparency for the department. The SFPD needs to develop protocols and memoranda of agreement to ensure the highest level of cooperation and oversight into the investigation of officer-involved shooting incidents. Joint training protocols ensuring all parties are appropriately trained and working to the highest professional standards should become a matter of routine practice. These protocol agreements and practices will become more important as OCC assumes its responsibility to independently investigate SFPD officer-involved shooting incidents. The team will monitor the implementation of the new law during the CRI-TA implementation phase.

Recommendation 10.1

The SFPD should establish a formal protocol to ensure that a representative of the Homicide Detail provides OCC and District Attorney's Office investigators a timely briefing about the facts of the case and to make arrangements for a formal walk-through or gain investigative access to the incident scene as soon as possible. The highest-ranking officer on the scene should be responsible for ensuring compliance with this recommendation.

Recommendation 10.2

The SFPD should work with its accountability partners the OCC and the District Attorney's Office in officer-involved shootings to develop a formal training program in which representatives of the District Attorney's Office, SFPD Homicide Detail, and the OCC engage in regular training regarding best practices for investigating such cases. This training should be developed and implemented within 120 days of the issuance of this report.

Finding 11

The Firearm Discharge Review Board is limited in scope and fails to identify policy, training, or other tactical considerations.

The FDRB is a good practice but has devolved to essentially determining whether the shooting officer's actions were consistent with policy. However, several other layers of authority also conduct this determination. The FDRB is better served following its policy mandate to ensure that the department is continually reviewing its training, policy, and procedures as they relate to officer-involved shooting incidents.

Recommendation 11.1

The SFPD should update the Department General Order 3.10 – Firearm Discharge Review Board to require written evaluation of policy, training, and tactical considerations of discharge incidents, specifically identifying whether the incident was influenced by a failure of policy, training, or tactics and should include recommendations for addressing any issues identified.

Recommendation 11.2

The SFPD should update existing programs and develop training to address policy gaps and lessons learned. The Training and Education Division should work with the FDRB and Homicide Detail to create a presentation to inform department personnel about key issues that contribute for officer discharge incidents and to help mitigate the need for firearm discharge incidents.

Recommendation 11.3

The SFPD should update the DGO to ensure that the FDRB is staffed with a Training and Education Division representative as an advisory member to ensure an appropriate focus on development of responsive training protocols.

Recommendation 11.4

Officer-involved shooting events need to be reviewed in a more timely fashion as they relate to policy, training, and procedures. The FDRB should review incidents at the conclusion of the IAD investigation rather than waiting for the district attorney's letter of declination for charging of an officer-involved shooting incident, which can take up to two years.

Finding 12

The SFPD has significantly expanded its Crisis Intervention Team (CIT) training program; however, the SFPD does not have a strong operations protocol for CIT response.

Crisis Intervention Team training instructs officers how to effectively manage behavioral crisis situations in the field. Since February 2015, all recruits complete the 40-hour Crisis Intervention Team training before they leave the Academy. As of March 2016, 593 members—27 percent of the department—have received crisis intervention training.

Although there is a policy that supervisors are to be requested at the scene of an incident wherein a member of the public in mental health crisis is armed, more must be in place to address such situations. The team learned that CIT-trained officers are not pre-identified to facilitate their assignment to calls related to persons in mental health crisis. However, given the data issues facing the SFPD, the ability to clearly track and confirm policy adherence for identifying CIT-trained officers remains an issue.

Recommendation 12.1

The SFPD should work with the Department of Emergency Management to ensure sound CIT protocols, namely the following:

- Ensure that dispatchers are notified at the beginning of each shift which units have CIT-trained officers assigned so they are appropriately dispatched to calls for persons with mental health disabilities.
- Develop protocols to ensure that mental health crisis calls for service are answered by intake personnel at the Department of Emergency Management and the information is appropriately relayed to field personnel.

Recommendation 12.2

The SFPD should ensure an appropriate distribution of CIT-trained personnel across all shifts in all districts.

Recommendation 12.3

Newly promoted supervisors should also receive CIT training as part of their training for their new assignments.

Finding 13

The SFPD engages with the community following an officer-involved shooting incident through a town hall meeting in the community where the event occurred.

The town hall meetings following an officer-involved shooting in the relevant neighborhood is a promising practice.

Recommendation 13.1

The practice of hosting a town hall meeting in the community shortly after the incident should continue with a focus on releasing only known facts.

Finding 14

The SFPD does not have a strategy to engage with the broader community following a fatal officer-involved shooting until its conclusion.

The SFPD does not keep as active an engagement during the investigative process, and consideration should be given to publishing findings once an investigation is completed to ensure community closure.

Recommendation 14.1

The SFPD should develop an ongoing communication strategy for officer-involved shootings.

Recommendation 14.2

The SFPD should ensure that media outreach is immediate and that information conveyed is succinct and accurate.

Recommendation 14.3

The SFPD should use social media as a tool to relay critical and relevant information during the progression of the investigation.

Finding 15

The SFPD does not adequately educate the public and the media on issues related to use of force and officer-involved shootings.

Recommendation 15.1

The SFPD needs to create outreach materials related to educating the public and the media on use of force and officer-involved shooting investigations and protocols. These materials should be disseminated widely through the various community engagement events and district station meetings.

Recommendation 15.2

The SFPD should host town hall presentations to educate the public and the media on use of force and officer-involved shooting investigations and protocols.

Finding 16

Currently, SFPD officers are not authorized to carry electronic control weapons (ECW, i.e., Tasers).

These tools are less-lethal weapons that are meant to help control persons who are acting aggressively. Many police agencies use these tools and report that they have helped reduce injury to officers and community members and lead to fewer officer-involved shootings. Promising practices suggest that the use of ECWs can result in less use of force.

Recommendation 16.1

Working with all key stakeholders and community members, the SFPD and the Police Commission should make an informed decision based on expectations, sentiment, and information from top experts in the country.

Recommendation 16.2

The City and County of San Francisco should strongly consider deploying ECWs.

Finding 17

Currently, the SFPD authorizes personnel to use the carotid restraint technique.

This technique poses a significant risk in the community and is not a routinely adopted force option in many law enforcement agencies. Contemporary policing discussions regarding use of force suggest that police agencies should carefully weigh any perceived benefit of the use of carotid restraint against potential harm. It is challenging to maintain the appropriate leverage and placement in close-encounter struggles, thereby increasing the risk on an unintended, harmful outcome. The department's pending draft order on use of force would eliminate the use of the carotid restraint.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Recommendation 17.1

The SFPD should immediately prohibit the carotid restraint technique as a use of force option.

Finding 18

The SFPD does not adequately investigate officer use of force.

At present, the level of investigations in the SFPD is not sufficient as it relates to officer use of force. There is minimal documentation of witnesses, no separate or summarized interview of witnesses, no routine collection of photographic evidence, and minimal analysis of the event from an evidentiary standpoint. If a supervisor does not respond, then it falls to the officer who used force to complete the investigation, which is unacceptable.

Recommendation 18.1

The SFPD needs to develop a policy for investigation standards and response for all officer use of force.

Recommendation 18.2

The SFPD should create an on-scene checklist for use of force incidents.

Recommendation 18.3

The SFPD needs to develop a protocol for proper development and handling of officer statements.

Finding 19

The SFPD does not maintain complete and consistent officer-involved shooting files.

The SFPD maintains two separate officer-involved shooting files, one with the Homicide Detail and one with IAD. The files are incomplete with no consistent report structure. The team encountered a lack of consistency as to the investigations as well. The fact that some investigative evidence is digital while other evidence is still in paper format may contribute to this inconsistency.

Because Homicide Detail and IAD do not share protocols or standards for investigations of officer-involved shooting incidents, there is likelihood that evidence will not be properly identified or assessed, particularly with dual investigative approaches. Photos, crime scene logs, and video collection were referenced in many reports. However, these items were inventoried elsewhere without copies in the investigative files.

Investigative files did not contain preliminary finding reports or draft reports—even files that were years old. Within Homicide Detail, many files contained an initial summary report but did not document basic records of who was called to attend the scene or who was on the scene.

Recommendation 19.1

The SFPD needs to develop a standard officer-involved shooting protocol within 90 days of the release of this report.

Recommendation 19.2

The SFPD needs to create a template for all officer-involved shooting files. This template should detail report structure and handling of evidence. SFPD should refer to Officer-Involved Shootings: A Guide for Law Enforcement Leaders.

Recommendation 19.3

The SFPD should ensure that all officer-involved shooting investigations are appropriately reviewed by all levels of supervision.

Finding 20

The SFPD does not capture sufficient data on arrest and use of force incidents to support strong scientific analysis.

Because of limitations in the manner in which use of force and arrest data were collected by the SFPD, assessment team members were unable to perform a multivariate frequency analysis, which would have shed light on whether individuals who are members of racial minorities were subjected to force more often than White individuals during arrests.

Recommendation 20.1

The SFPD needs to develop reliable electronic in-custody arrest data. It needs to ensure that these arrest data accurately reflect the incident number from the event, and the number should be cross-referenced on both the booking card and the use of force reporting form.

Recommendation 20.2

The SFPD needs to audit arrest data and use of force data monthly to ensure proper recording of use of force incidents related to arrest incidents. An audit of these data should occur immediately upon publication of this report and monthly thereafter.

Recommendation 20.3

The SFPD needs to advocate for better coordination with the San Francisco Sheriff's Department to ensure that the recording of SFPD arrest data is accurate and corresponds with SFPD incident report and arrest data.

Recommendation 20.4

The SFPD should identify a research partner to further refine its use of force data collection and to explore the data findings of this report to identify appropriate data for measurement and to determine causal factors.

Finding 21

Community members' race or ethnicity was not significantly associated with the severity of force used or injury arising from an officer's use of force.

Recommendation 21.1

The SFPD should continue to collect and analyze use of force data to identify patterns and trends over time consistent with recommendations in finding 20.

Finding 22

When only minority officers were involved in a use of force incident, the severity of force used and the injuries sustained by community members increased.

Recommendation 22.1

The SFPD needs to improve data collection on use of force so that further analysis can be conducted to better understand this finding.

Finding 23

The SFPD allows members to shoot at moving vehicles under certain circumstances pursuant to Department General Order 5.02 – Use of Firearms.

SFPD policy provides for a variety of exceptions that allow officers to shoot at a moving vehicle, which effectively nullifies the general statement that officers are prohibited from discharging their firearm at the operator or occupant of a moving vehicle. The department's pending draft order on use of force allows shooting at vehicles when there is an immediate threat of death or injury by means other than the vehicle.

Recommendation 23.1

The SFPD should immediately implement this provision of the draft policy.

Recommendation 23.2

The FDRB should be tasked with review of all prior officer-involved shooting and discharge incidents in which firearms are discharged at a moving vehicle to

- evaluate and identify commonalities with recommendations for policy and training as a result of the review;
- oversee training and policy development aimed at eliminating the need for such actions;
- report to the Police Commission about the outcomes of the review and the actions taken to overcome those situations that contribute to such incidents.

Finding 24

The SFPD did not conduct a comprehensive audit of official electronic communications, including department-issued e-mails, communications on mobile data terminals, and text messages on department-issued phones following the texting incidents.

The advice in the memo (found in appendix K on page 390) sent on May 5, 2016, has not been completed by the SFPD. The recommended audit is to ensure organizational integrity regarding the potential for bias in departmental electronic communications.

Recommendation 24.1

The SFPD should immediately implement the bias audit as recommended by the U.S. Department of Justice COPS Office on May 5, 2016 (see appendix K).

Recommendation 24.2

Upon completion of recommendation 24.1, the outcome should be presented to the Police Commission.

Recommendation 24.3

The SFPD should immediately establish a policy and practice for ongoing audit of electronic communication devices to determine whether they are being used to communicate bias.

Recommendation 24.4

The SFPD should implement a policy and a Department General Order stipulating that there is no right to privacy in any use of department-owned equipment or facilities.

Recommendation 24.5

The SFPD should require all members to acknowledge appropriate use standards for electronic communications. This should be a signed acknowledgement, retained in the personnel file of the member, and department personnel should receive an alert reminding them of appropriate use whenever they sign onto SFPD systems.

Recommendation 24.6

The SFPD should report twice a year to the Police Commission on the outcome of these audits, including the number completed, the number and types of devices audited, the findings of the audit, and the personnel outcomes where biased language or other conduct violations are discovered.

Finding 25

The SFPD's General Orders prohibiting biased policing, discrimination, harassment, and retaliation are outdated and do not reflect current practices surrounding these key areas.

Recommendation 25.1

The SFPD should immediately update Department General Order 5.17 – Policy Prohibiting Biased Policing (effective May 4, 2011) and Department General Order 11.07 – Discrimination and Harassment (effective May 6, 2009) to reflect its current initiatives and align with best practices.

Recommendation 25.2

Upon meeting recommendation 25.1, SFPD leadership should release a roll-call video explaining the Department General Orders and reinforcing that a bias-free department is a priority.

Recommendation 25.3

The SFPD should develop and publish a comprehensive strategy to address bias. The strategy should create a framework for the SFPD to

- be informed by the preliminary action planning that was initiated during the command-level training in Fair and Impartial Policing, which addressed policy, recruitment, and hiring; training; leadership, supervision, and accountability; operations; measurement; and outreach to diverse communities;
- update policies prohibiting biased policing to include specific discipline outcomes for failure to follow policy;
- continue to expand recruitment and hiring from diverse communities (see recommendation 84.2);
- partner with the communities and stakeholders in San Francisco on anti-bias outreach (see recommendation 26.1);
- improve data collection and analysis to facilitate greater knowledge and transparency around policing practices in the SFPD;
- expand its focus on initiatives relating to anti-bias and fully implement existing programs as part of the overall bias strategy, including the existing Not on My Watch program aimed at engaging officers and the community on addressing issues of bias.

Recommendation 25.4

As part of its overall strategy, the SFPD should assess its needs for anti-bias programs across the organization, such as gender bias in sexual assault investigations.

Finding 26

There is limited community input on the SFPD's actions regarding its anti-bias policies and practices.

Recommendation 26.1

The Chief's Advisory Forum should be re-invigorated and allow for diverse communities to have meaningful input into bias training, policies, and the SFPD's other anti-bias programming. The chief should ensure that marginalized communities are given a meaningful opportunity to be a part of the Advisory Forum.

Recommendation 26.2

The SFPD should more clearly describe its anti-bias policies and practices for reporting police misconduct and its commitment to ensuring that policing in San Francisco will be bias-free.

Recommendation 26.3

The SFPD should implement an immediate public education campaign on the policies and procedures for reporting misconduct as centered on anti-bias and the initiatives underway.

Recommendation 26.4

The SFPD should work with the Police Commission to convene a community focus group to obtain input on the policies and practices as they are being developed.

Finding 27

The SFPD is not addressing the anti-bias goals set forth through the Fair and Impartial Policing training-the-trainers session.

The SFPD is to be commended for participating in the development of "train the trainers" for Fair and Impartial Policing. However, this training opportunity now needs to be integrated into an organizational approach to developing training delivery across the SFPD. Robust and ongoing training that addresses explicit and implicit biases must be a top priority, not only for the chief of police, the command staff, and the Training and Education Division, but for every member of the department.

Recommendation 27.1

The SFPD should develop a training plan based on a training needs assessment specific to the delivery of anti-bias training as part of an ongoing strategic approach to addressing bias in the SFPD.

Recommendation 27.2

The SFPD should begin anti-bias and cultural competency training of department members immediately and should not await the outcome of the training needs assessment. All officers should complete implicit bias training and cultural competency training, which should include the following topics:

- Implicit bias awareness and skills for promoting bias-free policing
- The definition of cultural competence
- Disparate treatment, prejudice, and related terms and their application in law enforcement
- The history of various cultures and underrepresented groups in society
- Self-assessment of cultural competency and strategies for enhancing one's proficiency in this area
- Culturally proficient leadership and law enforcement in communities

Recommendation 27.3

Training addressing explicit and implicit biases should employ teaching methodologies that implement interactive adult learning concepts rather than straight lecture-based training delivery.

Recommendation 27.4

To ensure first-line supervisors understand the key role they play in addressing bias, supervisor training should include coaching, mentoring, and direct engagement with problem officers.

Recommendation 27.5

All officers and supervisors should be fully trained on bias and cultural competency within 18 months of the release of this report.

Recommendation 27.6

The SFPD should measure the efficacy of such training through careful data collection and analysis practices, ideally in partnership with an academic researcher.

Recommendation 27.7

The SFPD should implement Force Options Training in a manner that reduces the impact of demographics on split-second use of force decisions and should ensure that in-service officers receive this training at least annually.

Finding 28

The SFPD's failure to fully and adequately address incidents of biased misconduct contributed to a perception of institutional bias in the department.

The SFPD responded to the racist, sexist, homophobic, and transphobic texts by a large group of officers by investigating the incident and disciplining the officers directly involved. However, given the nature of the officers' open and flagrant behavior, the SFPD should have taken action to ensure that this was not an institutionalized problem, including steps to address the behavior at the organizational level. Community perceptions that biased behaviors exist in the SFPD were exacerbated by the explicit bias demonstrated by SFPD officers in the texting scandals and the subsequent failure to take appropriate action.

Recommendation 28.1

The SFPD should investigate complaints of bias transparently and openly and recognize its potential impact upon the larger group of officers who do not hold such views and upon the affected communities of San Francisco. To address these concerns, the department should

- identify specific roles and responsibilities for supervision of officers regarding biased behavior;
- analyze E-585 traffic stop incident report data and enforcement actions with a lens for possible bias or disparate treatment and require supervisors to review these analyses;
- identify intervention mechanisms beyond discipline to deal with potentially biased behaviors.

Recommendation 28.2

The SFPD should provide for open, ongoing command engagement around the issue of bias, both internal and external to the department.

Recommendation 28.3

The SFPD should establish routine, ongoing roll-call training requirements for supervisors on key leadership issues, including their role in promoting fair and impartial policing.

Recommendation 28.4

The SFPD needs to engage in early identification of and intervention in behaviors that are indicative of bias through direct supervision, data review, and observation of officer activity.

Recommendation 28.5

The SFPD needs to train supervisors to recognize behaviors that are indicative of bias and intervene effectively.

Recommendation 28.6

The SFPD must address practices within the organization that reflect explicit biases and intervene with firm, timely disciplinary responses.

Recommendation 28.7

The SFPD needs to encourage all personnel to report biased behavior to the appropriate officials.

Finding 29

Allegations of biased policing by community members have not been sustained against an officer in more than three years.

Recommendation 29.1

The SFPD and OCC should establish shared protocols for investigating bias that do not relying solely on witness statements, given that bias incidents are often reported as one-on-one occurrences.

Recommendation 29.2

The SFPD should ensure that supervisors are trained on bias investigations, including all of the following:

- How to identify biased police practices when reviewing investigatory stop, arrest, and use of force data
- How to respond to a complaint of biased police practices, including conducting a preliminary investigation of the complaint in order to preserve key evidence and potential witnesses
- How to evaluate complaints of improper pedestrian stops for potential biased police practices

Recommendation 29.3

The SFPD should work with the City and County of San Francisco to ensure quality bias investigation training to all oversight investigators.

Recommendation 29.4

SFPD leadership should explore the options for alternate dispute resolutions regarding bias complaints, including mediation.

This is an opportunity to bring police and community members together to foster an improved understanding of police practices and community perceptions. Because bias complaints are rooted in perception and often difficult to sustain, mediation provides for a timelier, more transparent, and potentially more procedurally just resolution for the community member who lodged the complaint.

Finding 30

The weight of the evidence indicates that African-American drivers were disproportionately stopped compared to their representation in the driving population.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Citywide, African-American drivers were 24 percent more likely to be stopped by the police than their estimated representation in the driving population, and they were 9 percent more likely to be stopped given their estimated representation among potential traffic violators.

Recommendation 30.1

The SFPD should develop a plan to conduct further review and analysis of traffic stop data to identify the reasons and potential solutions for the traffic stop data disparities. The plan should be developed within 180 days of the issuance of this report.

Recommendation 30.2

Upon completion of recommendation 30.1, the SFPD should implement the plan to review and analyze traffic stop data to identify the reasons and potential solutions for the traffic stop data disparities.

Recommendation 30.3

The SFPD should provide supervisors with the results of timely data analyses regarding the E-585 traffic stop incident report activity of their officers that allow them to identify and proactively intervene when outlier officers are identified.

Recommendation 30.4

Until the data are electronic, supervisors should be provided with monthly paper reports regarding the E-585 traffic stop incident report activity of officers under their command.

Recommendation 30.5

SFPD supervisors must be trained (pursuant to recommendation 27.1) to review and assess E-585 traffic stop incident report data for disparate outcomes, particularly in relation to peer groups within the unit.

Recommendation 30.6

The SFPD should implement the data collection recommendations regarding improving traffic stop data provided in appendix F. The timing of the implementation needs to be identified in the technology plan.

Finding 31

African-American and Hispanic drivers were disproportionately searched and arrested compared to White drivers. In addition, African-American drivers were more likely to be warned and less likely to be ticketed than White drivers.

The racial disparity in traffic stops and post-stop outcomes appears to be large and statistically significant.

Recommendation 31.1

The SFPD needs to analyze the data and look for trends and patterns over time to reduce the racial and ethnic disparities in post-stop outcomes.

Finding 32

Not only are African-American and Hispanic drivers disproportionately searched following traffic stops but they are also less likely to be found with contraband than White drivers.

Recommendation 32.1

As stated in finding 31, the SFPD should complete recommendations 31.1.

Recommendation 32.2

The SFPD needs better training on the Fourth Amendment and applicable state laws on search and seizure.

Finding 33

The current E-585 traffic stop incident report does not collect sufficient or appropriate information to allow for a robust analysis of possible bias by SFPD officers.

Recommendation 33.1

The SFPD should implement the data collection recommendations in appendix F to allow for better information and analysis of stop data.

Finding 34

The SFPD does not routinely collect or analyze data on stops involving pedestrian and nonmotorized conveyances.

Recommendation 34.1

The SFPD should prioritize the collection, analysis, and reporting of all nonconsensual stop data, including pedestrian and nonmotorized conveyances.

Recommendation 34.2

The SFPD should mandate the collection of stop report data on any stop or detention of a pedestrian or person riding a nonmotorized conveyance, such as a bicycle, skateboard, or scooter. This should begin immediately and not wait until AB 953 requires such action in April 2019.

Recommendation 34.3

The SFPD should consider expanding the functionality of the E-585 traffic stop incident report data collection system to include data collection for all pedestrian and nonmotorized conveyances.

Finding 35

The SFPD does not have sufficient systems, tools, or resources needed to integrate and develop the appropriate data required to support a modern, professional police department.

Many of the department's technology and information sharing systems are outdated and not integrated and do not support ready access for analysis to inform management decisions. Progressive police supervision requires timely access to accurate information regarding officer activity, traffic and pedestrian stops, use of force, and resident complaints to help analyze officers' actions and trends. The SFPD must

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

conduct an assessment across the whole organization and determine how to prioritize the implementation of IT solutions for key management and operational practices.

Recommendation 35.1

The SFPD should adopt new policies and procedures for collecting traffic and pedestrian stop data, public complaints, and enforcement actions. Information for these events should be recorded accurately.

Recommendation 35.2

The SFPD should analyze its existing technology capacity and develop a strategic plan for how data are identified, collected, and used to advance sound management practices.

Recommendation 35.3

SFPD leadership should make a concerted effort to focus on data collection and to create systems and analysis protocols that will inform supervisors where incidents of potential bias or disparate treatment occur or where patterns in officer behavior exist that warrant further examination or monitoring.

Recommendation 35.4

The SFPD should continue participating in the White House Police Data Initiative and seek to expand its data collection and reporting consistent with those recommendations and the goals of the initiative.

Finding 36

The SFPD does not have an organizational performance approach to evaluating the impact of policies, practices, and procedures aimed at reducing bias within the department.

Recommendation 36.1

The SFPD should develop an audit practice to evaluate the impact on the department of the implementation of new training programs.

Recommendation 36.2

The SFPD should incorporate ongoing review and audit of anti-bias programs into a quarterly report that includes promising practices and lessons learned.

Recommendation 36.3

The SFPD should review all of its policies, procedures, manuals, training curricula, forms, and other materials to eliminate the use of archaic or biased language. For example, the SFPD should review the use of the word "citizen" in policies and forms, such as the Citizen Complaint Form (SFPD/OCC 293). This assessment should be completed within 120 days of the issuance of this report.

Finding 37

The policy for the use of Field Interview cards fails to outline sufficient guidance on when they should be completed.

Recommendation 37.1

The SFPD should establish policy that specifically governs when and how Field Interview cards are completed. This should be accomplished within 180 days of the issuance of this report.

Recommendation 37.2

The SFPD needs to reassess its use, storage, and collection of Field Interview cards to ensure data retention and collection are in accord with legal requirements. Annual audit of Field Interview cards should be part of the data retention practices.

Finding 38

There is a strong perception among community members that the SFPD is not committed to the principles of procedural justice.

The assessment team heard from community members who expressed concerns over being treated unfairly, not being given a voice, or not being able to participate in policing decisions that affect the community.

Recommendation 38.1

The SFPD needs to expand its outreach to its communities in a manner designed to demonstrate its commitment to procedural justice.

Recommendation 38.2

SFPD leadership should take an active and direct role in community engagement at the neighborhood level.

Recommendation 38.3

The SFPD should engage community members in the implementation of the recommendations in this report.

Finding 39

The SFPD does not have a department-wide strategic plan that articulates a mission and identifies the goals and objectives necessary to deliver overall policing services.

Recommendation 39.1

The SFPD needs to develop a comprehensive organizational strategic plan with supporting plans for the key reform areas identified within this report specifically directed at community policing, bias, and maintaining diversity within the department.

Recommendation 39.2

SFPD leadership should lead, mentor, and champion a community-based strategic planning initiative.

Recommendation 39.3

The SFPD should establish a Strategic Planning Steering Committee composed of representatives from the community and various sections of the department within 90 days of the issuance of this report. This

committee should collaborate to develop policies and strategies for policing communities and neighborhoods disproportionately affected by crime and for deploying resources that aim to reduce crime by improving relationships and increasing community engagement.

Recommendation 39.4

A training needs analysis must be conducted to support the training requirements recommended in this assessment. The SFPD must conduct an analysis of the needs across the organization, identify the benchmark for training, and develop a prioritized training plan based on the needs analysis. This will require solid support from the Office of the Chief of Police and the command staff if it is to succeed in strengthening the content, quality, and timeliness of the department's training. This should be completed within nine months of the issuance of this report.

Recommendation 39.5

A technology needs analysis must be conducted on how to address the technology gaps identified in this assessment. Organizational needs should be identified, and a structured plan supported by budget forecasting should be in place to address the development of the IT enterprise for the SFPD. Existing systems should be integrated to ensure full value of the data already in place in the SFPD and that IT systems and practices remain up to date.

The SFPD must analyze and expound its information technology capabilities that provide the right management information to drive key decisions on officer misconduct and overall employee performance.

Recommendation 39.6

The SFPD must conduct a gap analysis comparing the current state of the department's information gathering, analyzing, and sharing assets and capabilities with the established modern best practices. This should be completed within six months of the issuance of this report.

Recommendation 39.7

The SFPD must conduct a portfolio management assessment to identify opportunities for consolidating platform and product offerings, providing enterprise solutions across the organization instead of silos or one-off product sets. This should be completed within six months of the issuance of this report.

Recommendation 39.8

The SFPD must create a five-year technology initiative roadmap to facilitate migrating current platforms to the modern state architecture. This should be completed within 12 months of the issuance of this report.

Recommendation 39.9

The SFPD must establish clear life-cycle management policies and procedures for enterprise application maintenance, support, and replacement strategies for sustaining improved data collection, analysis, and dissemination technologies. This should be completed within 12 months of the issuance of this report.

Finding 40

The SFPD does not formalize community engagement in support of community policing practices.

The SFPD does not have a comprehensive, strategic community policing plan that focuses priorities, resources, programs, and activities for the department. Community policing involves partnerships, problem solving, and organizational transformation. In order to be a true community policing department, the SFPD needs to ensure the entire department is following the tenets of community policing systematically and strategically.

The SFPD needs to bring the community to the table in order to establish comprehensive community policing resources, programs, and activities.

Recommendation 40.1

As part of the Strategic Plan (recommendation 39.1), the SFPD should develop a strategic community policing plan that identifies goals, objectives, and measurable outcomes for all units.

Recommendation 40.2

As part of recommendation 39.3, the SFPD should direct the Strategic Planning Steering Committee to develop a strategic plan within six months of the issuance of this report that clearly defines the following:

- The department's vision, mission, and values statements. Once these statements are in place, the committee should establish agency-wide objectives and individual goals as the guiding principles that codify the SFPD's collective beliefs.
- The department's strategic framework for the planning process. This framework will ensure that the process results in a plan that supports the coordination of priorities and objectives across individuals, work groups, and key operating divisions.
- The department's strategy to engage the community, obtain community input, and develop support for the plan and its success.
- The department's strategy to drive the plan down to the officer level by creating objectives that allow for individual goals that contribute to the overall plan.
- The department's measurement processes for individual performance and participation towards accomplishing departmental goals.

Recommendation 40.3

As part of its plan, the SFPD should consider the role of the beat and its place within its priorities. Prioritizing beat-aligned policing would require some realignment of dispatch priorities and directed patrol.

Recommendation 40.4

The SFPD should evaluate whether implementation of foot patrol and bicycle patrol would bridge the trust gap and effectively solve crime problems in San Francisco's communities.

Recommendation 40.5

The SFPD should develop specific measurable goals for community policing engagement within six months of the issuance of this report and ensure these measurements are incorporated into the department's CompStat processes.

Recommendation 40.6

The SFPD should develop and implement a community policing practices review and development process within 90 days of the issuance of this report so SFPD units can collaborate regarding community policing efforts.

Recommendation 40.7

The SFPD should develop strategic partnerships on key community issues such as homelessness and organizational transparency to work in a collaborative environment to problem solve and develop coproduced plans to address the issues.

Recommendation 40.8

The SFPD should publish and post its annual review of progress toward the community policing goals and objectives.

Finding 41

The SFPD's community policing order Department General Order 1.08 – Community Policing (effective 9/28/11) and its Community Policing and Problem Solving manual are out of date and no longer relevant.

These overarching directives do not sufficiently reflect the vision, plan, or goals of the SFPD with regard to community policing. They need to be updated and maintained as living documents that guide the community policing activities of the organization.

Recommendation 41.1

The SFPD should work with the newly convened Strategic Planning Steering Committee (recommendation 40.2) to draft a new community policing and problem solving manual for SFPD members within 12 months of the issuance of this report

Recommendation 41.2

The SFPD should work with the Police Commission to draft a new community policing order that reflects the priorities, goals, and actions of the department.

Finding 42

The SFPD conducts community policing in silos but does not ensure community policing is systematically occurring across the department.

Without an overall strategy, the SFPD's community policing activities represent only a collection of programs aimed at engaging with the community. Some SFPD district captains are creatively engaging the community and identifying promising practices; however, by not systematically identifying these

practices they are working in silos. Every unit in the SFPD must have a community policing plan that is measurable and also coordinates with, supports, and is accountable to the organizational strategic plan. Ensuring that the whole of the organization is actively engaged with the community supports community policing goals, develops a culture that is consistent with true police-community partnerships, and allows the department to more effectively respond to community needs.

Recommendation 42.1

The SFPD should continue to grant district captains the authority to serve the diverse populations represented in their districts within the tenets of community policing. However, the department needs to provide structure and support to these initiatives in accordance with the proposed strategic community policing plan.

Recommendation 42.2

The SFPD should create an overall structure to manage the department's approach to community policing driven by a committee of senior leaders and district captains.

Recommendation 42.3

The SFPD should recognize those district captains engaged in best practices and use them as peer trainers for other captains.

Recommendation 42.4

The SFPD should provide information technology support to districts to help develop newsletters that are easily populated and more professional in appearance. Creating a uniform newsletter architecture and consistent format that allows for easy data and content uploading would create efficiencies and help develop a greater sense of community.

Finding 43

The SFPD engages in a range of successful activities, programs, and community partnerships that support community policing tenets, particularly those coordinated through the Youth and Community Engagement Unit.

The SFPD partners on a variety of projects and is to be commended. As the department expands its work with the local communities, it must continue to ensure cultural sensitivity to projects it is implementing and when seeking to partner with additional members of the community. Public perception and community customs need to be at the forefront of the decision process.

Recommendation 43.1

The SFPD should continue to actively support the programs aimed at community engagement, including Coffee with a Cop, the San Francisco Police Activities League, San Francisco Safety Awareness for Everyone, and The Garden Project.

Recommendation 43.2

The SFPD should expand its partnership with and further support neighborhood organizations that work to provide art, sports, educational, and leadership development opportunities for young people in the community.

Recommendation 43.3

The SFPD should consider reinvigorating its community police academy program to educate the community about the department's policing practices. The training should range from basic police orientation to ride-alongs with district police officers.

Recommendation 43.4

The SFPD needs to reach out to members of activist groups and those groups who are not fully supportive of the department to seek to develop areas of mutual concern and work towards trust building and resolution of shared issues.

Finding 44

The Professional Standards and Principled Policing Bureau's mission, role, and responsibilities as they relate to community policing are not clearly defined or implemented.

In the absence of structured goals and objectives, the Professional Standards and Principled Policing Bureau has little influence in guiding the community policing-related activities.

Recommendation 44.1

The chief of police should give the deputy chief of Professional Standards and Principled Policing Bureau the responsibility of advancing community policing throughout the entire department and the communities of San Francisco.

Recommendation 44.2

The chief of police should empower the deputy chief of the Professional Standards and Principled Policing Bureau to create a strategy and plan to implement, with urgency, the Final Report of the President's Task Force on 21st Century Task Force recommendations contained in Pillar Four and the recommendations in the CRI-TA assessment.

Recommendation 44.3

The SFPD should adequately resource the Professional Standards and Principled Policing Bureau to reflect the diversity of the community it serves and the officers of the SFPD in order to effectively coordinate community policing efforts throughout the city.

Recommendation 44.4

The SFPD, through the Principle Policing and Professional Standards Bureau, should engage and support all units by facilitating quarterly meetings among supervisors and managers to discuss cross-organizational goals and community policing plans and outcomes. These meetings should be supported by routine electronic engagement through a shared platform for sharing information.

Finding 45

The SFPD is not focused on community policing efforts across the entire department.

Recommendation 45.1

The SFPD should expand community policing programs throughout the entire agency and ensure each unit has a written strategic plan embracing community policing and measurable goals and progress, regardless of the unit's specialty.

Recommendation 45.2

SFPD leadership should provide short video messages on the importance of the entire agency understanding and embracing community policing.

Recommendation 45.3

The SFPD should consider mandating annual community policing training to the entire agency.

Finding 46

The SFPD does not collect data around community policing nor measure success within community policing functions and programs.

Recommendation 46.1

The SFPD needs to prioritize data collection practices measuring community policing and should consider reinstituting Form 509 or other such instruments to allow for consistency in data collection and reporting.

Recommendation 46.2

The SFPD should regularly assess existing community engagement programs to ensure effectiveness in a framework predicated upon sound measurement practices. Assessments should include input from participants and trusted community partners.

Recommendation 46.3

The SFPD should establish formal mechanisms to measure and support information sharing and the development of shared good practice among SFPD members, particularly district captains.

Recommendation 46.4

The SFPD should create a feedback mechanism for community engagement events to determine efficacy, replicability, and depth of relationship with community partners. A community survey could be one feedback mechanism.

Recommendation 46.5

The SFPD should publish and post any community survey results.

Finding 47

The SFPD does not consistently seek out feedback or engage in ongoing communication with the community relative to its policing practices and how the community perceives its services.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

The Bay Area is home to several academic institutions, and a partnership arrangement should be considered not only for the community survey but also as a means to measure overall progress of the department's reform efforts. Such an arrangement would allow for ongoing transparent evaluation of the reforms that have been publicly promised to the residents of San Francisco.

Recommendation 47.1

The department should conduct periodic surveys to measure whether the SFPD is providing fair and impartial treatment to all residents and to identify gaps in service (see recommendation 46.5).

Recommendation 47.2

The department should create easy points of access for community feedback and input, such as providing "community feedback" or "talk to your captain" links on its website and social media pages.

Recommendation 47.3

The role of the Director of Community Engagement should be aligned with organizational communication and outreach to enhance overall messaging and community awareness of the SFPD's community policing initiatives and ongoing programs.

Finding 48

The SFPD needs to develop a robust, broad-based community forum for input on policing priorities across all communities.

Recommendation 48.1

The chief's community forum groups—African American, Arab American, Asian Pacific Islander, Business, Hispanic, Interfaith, LGBT, Young Adults, Youth, and Youth Providers—need to be reestablished and structured to engage in problem solving and action regarding issues affecting the groups they represent.

Recommendation 48.2

The department needs to develop an annual reporting and measurement process of the issues raised at the forum and the progress made by the group in resolving them.

Finding 49

Many in the SFPD lack an understanding of current and emerging community policing practices such as procedural justice.

Recommendation 49.1

The SFPD should ensure that all department personnel, including civilians, undergo training in community policing as well as customer service and engagement.

Recommendation 49.2

Consideration should be given to using Field Training Officers to help develop and deliver training in the field regarding key community policing concepts as a way to augment and expand the training currently provided at the Training Academy.

Recommendation 49.3

The SFPD's training needs to expand beyond traditional community policing and include the foundation and concepts of procedural justice as related concepts.

Finding 50

The SFPD does not require agency personnel to read the Final Report of the President's Task Force on 21st Century Policing.

Recommendation 50.1

The SFPD should require all agency personnel to read the Final Report of the President's Task Force on 21st Century Policing.

Recommendation 50.2

The SFPD should encourage supervisors and captains to continue conversations on the Final Report of the President's Task Force on 21st Century Policing through roll calls, in-service training, and community meetings.

Finding 51

Training curricula do not address the complex emerging community issues in the current law enforcement environment.

Recommendation 51.1

The SFPD should provide procedural justice and explicit and implicit bias training to all department personnel including civilian staff. This training should become a permanent part of the Academy's curriculum and should be reviewed with each officer during the department's annual officer training sessions.

Recommendation 51.2

The SFPD should engage in peer-to-peer training exchanges for exposure to other departments' training curricula to identify areas for potential improvement. Areas of focus should include de-escalation training, use of force training with a focus on the sanctity of life, impartial policing, and procedural justice.

Finding 52

The SFPD has not fully engaged with all institutional and community partners to coordinate service provision to the homeless community.

Significant amounts of SFPD resources are directed at responding to issues involving the homeless community. The SFPD needs to assess and ensure that these resources are being used to their greatest value.

Recommendation 52.1

The SFPD should review and strategically align resources to support the Homeless Outreach Teams, which are currently providing service to the homeless community.

Recommendation 52.2

The SFPD should engage with the City and County of San Francisco to conduct joint strategic planning with all of its appropriate federal, state, and local partners to clearly define roles, responsibilities, and goals in continuing to address the issue of homelessness and ensure a more consistent and coordinated response to the needs of this growing segment of the city's population.

Recommendation 52.3

The SFPD should engage in data collection and analysis to measure the effectiveness of strategies aimed at all community policing issues, particularly its response to the homeless community. The analysis should be part of an ongoing review and publication and reflect the commitment to greater transparency and community engagement.

Finding 53

The SFPD does not incorporate the tenets of community policing in its evaluation of employee performance.

The President's Task Force on 21st Century Policing has recommended that law enforcement culture adopt a "guardian" mindset, which means strengthening the department's resolve to engage proper exercise of discretion and authority.

Recommendation 53.1

Performance evaluations should include officers' behaviors and efforts to meet the SFPD's community policing goals of community engagement, positive police-community interaction, and problem resolution. Establishing consistent performance evaluations is covered under recommendation 79.1.

Finding 54

The SFPD does not have multi-levels of awards and recognition that reward organizational values and goals, such as community engagement and recognition, discretion under duress, and strategic problem solving.

Rewarding behaviors and actions that reflect the values of a guardian mindset is one way to institutionalize the department's community policing goals.

Recommendation 54.1

The SFPD should support and recognize proper exercise of power and authority with good community outcomes in addition to traditionally recognized acts of bravery.

Recommendation 54.2

The SFPD should implement department-wide recognition for an officer of the month as one way to begin to advance a culture of guardianship and reward good community policing practices.

Finding 55

The SFPD is not transparent around officer discipline practices.

During the community listening sessions and interviews with community members, there was a consistently stated belief, especially in the African-American and Hispanic communities, that officers are not held accountable for misconduct.

Recommendation 55.1

The SFPD should expand its current reporting process on complaints, discipline, and officer-involved shootings to identify ways to create better transparency for the community regarding officer misconduct.

Recommendation 55.2

Consistent with the current practice on Early Intervention System data, the SFPD should develop and report aggregate data regarding complaints against Department members, their outcome, and trends in complaints and misconduct for both internal and external publication.

Finding 56

The SFPD does not engage in community outreach and information regarding the discipline process and rights of the community.

The absence of information and education about the complaint system and its outcome contributes to the negative perceptions of the SFPD by residents.

Recommendation 56.1

The SFPD should work with the OCC and Police Commission to minimize obstacles to transparency as allowed by law to improve communications to complainants and the public regarding investigation status, timeliness, disposition, and outcome.

Recommendation 56.2

The SFPD should allocate appropriate staff and resources to enhance community outreach initiatives and to incorporate customer service protocols for periodic follow-up and status communications with complainants for the duration of their open cases.

Recommendation 56.3

The SFPD should work with the OCC to facilitate the same actions and outreach to the community as best suits the independence of the OCC.

Recommendation 56.4

The SFPD should ensure that the OCC public complaint informational materials are readily available in the community and in particular prominently displayed in district stations for access by the public. These materials should be designed to educate the public about confidentiality limitations on sharing investigative information to inform residents of the type of feedback they may reasonably expect, and they should be provided in multiple languages.

Recommendation 56.5

The SFPD should work with the OCC and the Police Commission to conduct community workshops on the complaint process and the roles and responsibilities of each agency relative to the overall process within nine months of the issuance of this report.

Recommendation 56.6

The SFPD should encourage the OCC and IAD to identify obstacles that interfere with optimal complaints investigations and accountability, with a goal of implementing changes to better support their intended missions.

Finding 57

The SFPD does not provide leadership in its role with respect to complaints against SFPD personnel.

Promising practices emphasize the role of effective investigation of complaints in building community trust. Procedural justice informs us that members of the public are more likely to trust law enforcement agencies when they believe their issues are handled with dignity and respect.

Recommendation 57.1

The SFPD needs to update its policies and educate personnel to appropriately recognize the importance of the first interaction between police personnel and members of the public who have complaints against the police.

Recommendation 57.2

The SFPD should institutionalize the process of explaining and assisting community members who file complaints against officers.

Recommendation 57.3

The SFPD should ensure that all personnel are trained and educated on the public complaint process and the location for the appropriate forms.

Recommendation 57.4

The SFPD should develop "next steps" and "know your rights" handouts for complainants who file complaints at department facilities.

Finding 58

The SFPD does not have a tracking system for complaints received at a district station.

Recommendation 58.1

The SFPD should establish a record system for ensuring that complaints received at a district station are forwarded properly and in a timely matter to the OCC. E-mail and fax should be considered for ensuring delivery and creating a record.

Finding 59

SFPD Internal Affairs Administrative Investigations and Internal Affairs Criminal Investigations are not effectively collaborating.

In meeting with members of IAD, the team learned that there was a lack of clarity as to roles within IA Criminal and IA Administrative, and unit members often felt that they did not have sufficient direction. Members of IAD acknowledged that they seldom meet to discuss investigations or common issues such as how to develop an effective database for case management and archival purposes. They also referenced a lack of administrative and technical resources, especially data systems, as impediments to the effective and efficient performance of their duties. However, absent protocols field assignments are subject to variance, and therefore so is the overall focus and quality of the investigative process.

Recommendation 59.1

Members, including investigators, of the IA Administrative Unit and IA Criminal Investigations Unit should meet regularly to discuss processes, practices, and the flow of assigned cases to ensure that administrative violations are timely and properly addressed.

Finding 60

Internal Affairs case tracking is insufficient to ensure the timely progression of investigations and achieving key deadlines.

Recommendation 60.1

The SFPD and OCC should jointly develop a case tracking system with sufficient security protections to assure independence that would identify each open investigation, where it is assigned, and the date the case expires for the purposes of compliance with California Government Code Section 3304(d)1, which requires the completion of an administrative investigation into misconduct within one year of the agency discovery.

Recommendation 60.2

The SFPD and OCC should establish an investigative protocol within 120 days of the issuance of this report that allocates specific time parameters for accomplishing investigative responsibilities and transfer of cases if criminal allegations are made against SFPD officers.

Recommendation 60.3

Supervisors should be held accountable for ensuring timely transfer of cases to SFPD Internal Affairs Administrative Investigations from SFPD Internal Affairs Criminal investigations when appropriate.

Finding 61

The SFPD's Internal Affairs Division does not have standard operating procedures or templates for investigation reporting.

By not having specific protocols and templates, miscommunication is occurring with the investigations.

Recommendation 61.1

The SFPD should develop a Standard Operating Procedures Manual detailing the scope of responsibility for all functions within the IAD. Standard operating procedures should provide guidance and advice on conflict reduction, whether internal or external to the SFPD.

Recommendation 61.2

The SFPD must establish clear responsibilities and timelines for the progression of administrative investigations, and supervisors should be held to account for ensuring compliance.

Finding 62

Files stored with the SFPD's Internal Affairs Division are secured, but compelled statements are not isolated.

During the file reviews, the assessment team did not find any compelled statements isolated.

Recommendation 62.1

The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.

Finding 63

The SFPD does not fully support members performing internal affairs functions.

SFPD officers identified a department culture that is hostile and in some cases detrimental to the accountability role of the IAD, thereby limiting the effectiveness of the process.

At present, the culture of the SFPD is not directed toward building an environment of accountability. Policies are disregarded, and investigations are not robust. The lack of coordination between institutional partners for investigations is a real challenge to building trust within the community. Even IAD members perceive a lack of support from the department as a whole. According to these members, not all SFPD line officers and supervisors support the need for internal investigations in ensuring transparency and building effective community relationships. IAD personnel reported arriving at a district to interview an officer and encountering district personnel, including supervisors, who would protect or conceal the officer from the investigators. From the perspective of leadership and management communications, all SFPD members need to feel valued and supported by the organization. Internal Affairs should be seen as a rewarding assignment, one that is valued by the organization.

Recommendation 63.1

The SFPD should clearly define the authority of IAD and reinforce that cooperation and collaboration with IAD is mandatory.

Recommendation 63.2

The SFPD should continue to implement the tenets of procedural justice and ensure training include instruction on the importance of the IAD's functions to the integrity of the department and connection to the community.

Recommendation 63.3

SFPD leadership should demonstrate its support of the IAD's role and responsibility within the department and provide recognition and support for good investigative practices.

Finding 64

The SFPD does not routinely collaborate with the Office of Citizen Complaints.

The transparency of the complaint and disciplinary process is negatively affected by the working relationship between SFPD IAD and OCC. The lack of engagement undermines the effectiveness of both in fulfilling their respective roles and responsibilities. Issues with respect to information sharing between the two entities, timeliness of complaint investigations, and bases for recommending progressive discipline potentially impede the investigative and adjudication processes, potentially eroding the overall integrity of the public complaint resource.

Recommendation 64.1

The SFPD should convene a joint review process within 90 days of the issuance of this report, co-chaired by OCC and SFPD senior staff, to evaluate existing complaint and disciplinary processes, policies, and liaison relationships to enhance trust and legitimacy around these issues.

Recommendation 64.2

The SFPD should immediately accept OCC's recommendation, as reported in the First Quarter 2016 Sparks' Report, to convene quarterly meetings between OCC staff and SFPD staff.

Recommendation 64.3

The SFPD should seek to improve interagency communications and identify ways of improving collaboration on investigative practices to ensure timely conclusion of investigations, shared information on prior complaints and finding of misconduct, and appropriate entry of discipline, designed to improve the overall discipline system that holds officers to account.

Recommendation 64.4

The SFPD should work with OCC to develop standards within 120 days of the issuance of this report regarding timeliness of complaint investigations, and consistency of investigative findings and practices to ensure progressive discipline is appropriately recommended.

Recommendation 64.5

The SFPD should engage with OCC to ensure that the classification for complaints and their findings are reported consistently between the two agencies to ensure better transparency.

Finding 65

The SFPD does not sufficiently analyze Office of Citizen Complaints reports and analyses of its complaints, investigations, and case dispositions.

This information is shared with the SFPD and largely available publicly on the OCC website. However, the SFPD rarely uses complaint information or aggregated data to inform change management priorities in areas such as professional conduct, community and police relations, training, and policy.

Recommendation 65.1

The SFPD should develop a department-internal priority to regularly review and analyze OCC complaint reporting to identify priorities for intervention in terms of workforce culture, training, policy clarification, or leadership development.

Recommendation 65.2

The SFPD should raise district captains' awareness of this information by requiring IAD to present a trends analysis report of OCC case activity, emerging issues, and concerns at CompStat meetings every quarter.

Finding 66

The SFPD is not required to take action on the recommendations put forth in the Office of Citizen Complaints Sparks Report.

OCC provides the Sparks Report quarterly to the Police Commission. The Sparks Report provides recommendations on policy and revisions.

Recommendation 66.1

The SFPD should meet with OCC on a quarterly basis following the release of the Sparks Report to discuss the recommendations.

Recommendation 66.2

The SFPD should make it mandatory for the Professional Standards and Principled Policing Bureau to review the Sparks Report and direct action where appropriate.

Recommendation 66.3

The SFPD should provide twice-yearly reports to the Police Commission regarding actions resulting from the Sparks Report, including whether the OCC recommendation is supported and a timeline for implementation or correction to existing practice and policy.

Finding 67

The SFPD does not analyze trends in complaints, situations that give rise to complaints, or variations between units or peer groups in relation to complaints and misconduct.

In part, this is because the SFPD does not have appropriate data systems to allow for data-led management and policing decisions.

Recommendation 67.1

The SFPD must work to develop practices that measure, analyze, and assess trends in public complaints and employee misconduct.

Recommendation 67.2

Supervisors should be provided with quarterly reports that integrate individual actions, as is currently reported by the Early Intervention Systems Unit, with aggregated information that provides complaint and misconduct data trends for the watch, district, and city.

Finding 68

The SFPD has poor data collection and analysis, which significantly impacts effective overall organization management and accountability.

The technology in the SFPD requires significant updating. However, poor data collection practices, including lack of supervisory review and accountability for improperly completed reports and form sets, contributes to the poor data environment.

Recommendation 68.1

As part of its technological capacity improvement strategy, the SFPD should develop a plan to advance its capacity to digest information it currently possesses in a consistent, easily accessible format such as a template containing key data points including officer performance indicators and crime indicators that could provide management with real-time information to inform their practice.

Recommendation 68.2

Supervisors and officers who fail to properly collect and enter information must be held accountable through discipline. Absent proper collection of data, little to no analysis can occur.

Recommendation 68.3

The SFPD should increase transparency by collecting and providing data, policies, and procedures to the public in multiple languages relevant to the local community through official SFPD website and municipal open data portals.

Finding 69

The SFPD does not consistently apply the principles of procedural justice.

Recommendation 69.1

SFPD leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. The Police Commission, OCC, IAD, and POA leadership should be partners in this process.

Albeit conclusions are drawn from a small sample, the assessment team is concerned that in review of some investigations, the officers who received discipline were primarily ethnic or racial minorities or women. In an organization where very few officers received suspensions for misconduct, this discrepancy stood out.

Recommendation 69.2

The SFPD should task a committee to review internal discipline on a quarterly basis to assure the fairness and impartiality of the process overall and particularly to ensure that there is not bias in determination and application of discipline. This analysis should be multi-levelled to include aggregate data, trend analysis, and outcome impact on officer demographics including prior discipline and adherence to the discipline matrix.

Recommendation 69.3

The SFPD should report annually to the Police Commission the analysis of discipline including officer demographics and prior discipline histories.

Finding 70

The process to update Department General Orders is overly protracted and does not allow the SFPD to respond in a timely manner to emerging policing issues.

As a result, many of the Department General Orders are from the mid-1990s and do not fully reflect current policing practices.

Recommendation 70.1

The SFPD should work with the Police Commission to develop a nimble process for reviewing and approving existing and new Department General Orders that supports policing operations with codified, transparent policies.

Recommendation 70.2

The SFPD should commit to updating all Department General Orders in alignment with current laws and statutes, community expectations, and national best practices every three years.

Recommendation 70.3

Prior to promulgation of policies and procedures, the SFPD should ensure that comments are sought from members and units most affected by any practice, policy, or procedure during the initial stages of development.

Recommendation 70.4

Input and review from external stakeholders must be completed before implementation of the practice, policy, or procedure.

Finding 71

The SFPD does not have an effective process for the development and distribution of Department General Orders and Bulletins.

Clearly articulated policies are needed to help SFPD personnel make the right decisions.

Recommendation 71.1

The SFPD needs to work with the Police Commission to create a process to make timely and necessary updates to key policies.

Recommendation 71.2

The SFPD should develop a general order review matrix predicated upon area of risk, operational need, and public concern to allow for timely update and review of prioritized orders.

Finding 72

Department Bulletins are used as a workaround for the Department General Order approval process.

Recommendation 72.1

The SFPD should present all Department Bulletins that substantively change or countermand a Department General Order to the Police Commission before implementation and publish them on their website after approval is received.

Recommendation 72.2

All Department Class A Bulletins and any Department Bulletin that modifies an existing Department General Order should be posted on the SFPD's website.

Recommendation 72.3

The SFPD should limit the use of Department Bulletins to short-term direction and eliminate the authority to continue a Department Bulletin after two years.

Finding 73

The SFPD does not have an effective mechanism for determining whether an officer has accepted a policy and therefore could be held to account for its provisions.

Recommendation 73.1

The SFPD should develop a mechanism by which to track when a Department General Order or Department Bulletin has been accessed and acknowledged by a SFPD member.

Recommendation 73.2

Once a mechanism is established, the SFPD should create a protocol for notification, noncompliance, and accountability.

Finding 74

The SFPD does not provide sufficient training, supervision support, and guidance when releasing new Department Bulletins.

Training is critical, particularly when associated with risk issues such as use of force, bias, stop and seizure. It was rare that any training accompanied new policies outlined in Department Bulletins, as evidenced in the

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

lack of training development before the introduction of the mandatory requirement to carry the 36-inch baton.

Recommendation 74.1

The SFPD should conduct a thorough and structured approach when creating new policies and procedures via Department Bulletins.

Recommendation 74.2

The SFPD should ensure that Bulletins are accompanied by appropriate training, supervision, and consistent reinforcement of the intended purpose of the policies.

Finding 75

The SFPD does not devote sufficient administrative or command-level resources to the process of creating, implementing, maintaining, and updating Department General Orders and Bulletins.

The team found that Department Bulletins updating provisions within Department General Orders were repeatedly renewed to meet the two year sunset, often without receiving any substantive updates and in place of addressing the issue within the appropriate Department General Order.

Recommendation 75.1

The SFPD should task the Principled Policing and Professional Standards Bureau with overall responsibility for development, maintenance, training, and implementation planning for Department General Orders.

Recommendation 75.2

The Written Directives Unit should be tasked to work with subject matter experts from OCC and the Police Commission to ensure policies are adopted in a timely manner and appropriately updated.

Recommendation 75.3

The Written Directives Unit should be sufficiently staffed with personnel and resources to enable the unit to function as the project managers for Department General Orders at the direction of the Police Commission.

Finding 76

Although the SFPD internally provides Department General Orders and Department Bulletins that are electronically available, the documents are not easily accessible.

Absent an easily cross-referenced system, particularly one where Department Bulletins can supersede a Department General Order, policy failure or incorrect action can occur.

Recommendation 76.1

Department General Orders and Department Bulletins should be stored in a searchable digital central repository for ease of access by officers and for administrative purposes.

Recommendation 76.2

The SFPD should provide department members access to an online electronic system for Department General Orders and Department Bulletins to provide timely updates, cross-referencing, and reporting and monitoring capabilities for managers.

Finding 77

The SFPD does not conduct routine, ongoing organizational audits, even where such practices are established in policy.

Recommendation 77.1

The SFPD should prioritize auditing as a means to ensure organizational accountability and risk management and develop mechanisms to support such practices.

Recommendation 77.2

The SFPD should develop an auditing plan and schedule for both routine and risk audits within 90 days of issuance of this report. Staffing, resources, and training need to be allocated to the process to ensure an active and robust auditing schedule.

Finding 78

The SFPD does not engage in any outside evaluations of its practices, data, or reporting.

Recommendation 78.1

The SFPD should consider partnering with local academic institutions to evaluate its reform program, particularly as it seeks to implement the recommendations in this report.

Finding 79

Evaluation of employee performance is not an institutionalized practice in the SFPD.

SFPD personnel interviewed did not recall having or conducting a performance evaluation within the department.

Recommendation 79.1

The SFPD should adopt a policy and implement the practice of completing regular performance evaluations of all department employees tailored to goals and objectives, job functions, and desired behavior and performance indicators.

Recommendation 79.2

SFPD leadership needs to create a system to ensure that all personnel are being evaluated at least twice a year.

Recommendation 79.3

The SFPD should use performance evaluations as an evaluation factor in promotions.

Finding 80

The SFPD does not have internal protocols for collaboration with regard to criminal investigations conducted by the district attorney or the United States Attorney's Office for the Northern District of California.

Police misconduct uncovered during any type of covert investigation should be reported pursuant to established protocols and protect the integrity of the investigating officers. In situations with shared areas of jurisdiction or responsibility for officer conduct, there should be protocols for roles and responsibilities for all partners.

Recommendation 80.1

The SFPD should create a policy governing the reporting of criminal activity and administrative misconduct uncovered during any type of covert investigation. Such policies will prepare the department for complex legal situations with multijurisdictional responsibilities for either criminal or administrative investigations into officer conduct.

Recommendation 80.2

Clear communication protocols, responsibilities, and roles need to be established among the key partners responsible for investigations into criminal conduct and address administrative misconduct by officers.

Recommendation 80.3

The SFPD should develop clear and defined policies and protocols to address reporting and confidentiality requirements for officers investigating criminal activity and administrative misconduct of other police officers uncovered during any type of investigation.

Finding 81

Despite a relatively good record in hiring diverse candidates, perception remains in the community that the SFPD seeks to eliminate diverse candidates from its hiring pool.

A lack of community engagement perpetuates this perception over hiring requirements.

Recommendation 81.1

The SFPD should clearly articulate its hiring and background standards as a matter of building community trust and ensuring applicants are prepared.

Recommendation 81.2

The SFPD should publish annual statistics on the demographics of applicants for each stage of the hiring process.

Recommendation 81.3

The SFPD should develop and implement applicant tracking and hiring data collection and reporting procedures to capture information such as

recruitment sources for applicants who are hired and not hired;

- whether applicants are the result of personal referral, Internet, career center, print media, job fair, community or other outreach event, school career center, radio, television, outplacement service, or social media;
- passage rate by gender, race, and ethnicity for each major selection hurdle including written test, physical abilities, oral interview, polygraph, psychological assessment, hiring panel, and medical:
- selection rates by race, gender, and national origin;
- attrition rates by race, gender, national origin, and phase in training.

Finding 82

The SFPD does not fully engage its applicants throughout the hiring process.

Given the lengthy and intensive process for hiring, the SFPD needs to develop a program for engaging quality candidates early on and keeping them interested in and involved with the department.

Recommendation 82.1

The SFPD should develop an active social media and website presence to entice qualified candidates and keep them engaged throughout the application process.

Recommendation 82.2

The SFPD should consider creating information boards and "applicant only" websites and providing ongoing updates and department information to applicants during the hiring process.

Finding 83

The SFPD is not administering a physical ability test (PAT)

The SFPD sought to update or eliminate the PAT requirement to repeatedly pull a firearm trigger. As a result, the entire PAT must be redesigned and validated. As of the date of this report, the PAT is not part of the selection process and was therefore not a part of the assessment. However, a selection process that does not include a physical abilities test is not optimal because physical skills are important for police officers. PATs are supposed to ensure a police officer's ability to perform effectively and simulate police officer work. However, some elements of the test for SFPD applicants may be outdated and inconsistent with emerging practices.

Recommendation 83.1

The SFPD should work with City HR to reinstitute a valid PAT that is aligned with current policing and state POST requirements within 180 days of this report.

Recommendation 83.2

The SFPD should continuously evaluate the PAT process to ensure no unintended impact for any of the diverse candidates it seeks to hire

Finding 84

SFPD recruitment and hiring practices are disjointed.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

The SFPD currently has three separate units within two bureaus that handle recruitment and hiring practices, each reporting to different organizational chains of command. The SFPD's recruitment and hiring functions are spread across two different bureaus and several chains of command. The Professional Standards and Principled Policing Bureau oversees the Recruitment Unit, which has the responsibility to market the department to attract qualified, diverse candidates.

Thereafter, SFPD's Administration Bureau, under the command of a deputy chief, has primary responsibility for the majority of the functions related to the hiring process and training recruits. The Background Investigation Unit, a component of the Staff Services Division of the Administration Bureau, is responsible for investigating and adjudicating the backgrounds of employment applicants.

The Personnel Unit of the Staff Services Division of the Administration Bureau is responsible for human resources functions including the appointment and processing of new hires, promotions, and separations. Finally, the Training and Education Division of the Administration Bureau is responsible for all formalized training functions for the Department and includes the Academy, the Field Training Office, the Office of Education and Training, and the Firearms Range.

Each of these units, divisions, and bureaus plays a critical role in advancing diversity in the SFPD. However, by splitting up the chains of command, recruitment and hiring practices become disjointed.

Recommendation 84.1

The SFPD should reorganize its recruitment and hiring practices under one bureau to provide cohesion and ensure resources are strategically used toward recruiting and hiring goals.

Recommendation 84.2

The SFPD should establish a recruiting and hiring committee to continuously improve and streamline processes for applicants. The process should be as user-friendly as possible.

Finding 85

The SFPD's Recruitment Unit has implemented an active recruitment program focused on diversity and targeted recruiting throughout San Francisco but does not measure or validate the effectiveness of their outreach and events.

Recommendation 85.1

The SFPD should continue supporting and overseeing this initiative and ensure the Recruitment Unit continues to implement best practices for recruitment, training, and outreach to improve diversity and cultural and linguistic responsiveness of the SFPD.

Recommendation 85.2

The SFPD should consider assigning more resources, by way of community outreach and recruiting officers, to further engage underrepresented communities.

Recommendation 85.3

The SFPD should expand its community partnerships and outreach to create a community ambassador program to identify and train community leaders to aid in the SFPD's recruitment process.

Recommendation 85.4

The SFPD should explore approaches to measure or validate the effectiveness of their recruitment outreach and events. The SFPD could do a community satisfaction survey or conduct GIS analysis to see whether all communities have access to these events.

Finding 86

The Background Investigation Unit is staffed by part-time investigators and is comprised of a mix of modified duty officers and retired officers.

Recommendation 86.1

The SFPD should staff the Background Investigation Unit with full-time investigative personnel who have the required training and requisite experience and who are invested in the area of investigations.

Recommendation 86.2

The SFPD should ensure that there is diversity within the investigators that comprise the Background Investigation Unit.

Finding 87

The Background Investigation Unit lacks valid performance measures to evaluate background investigators.

Recommendation 87.1

The Background Investigation Unit should continue the process of developing and implementing performance measures to evaluate the unit's investigators in terms of outcomes such as length of investigations, timeliness of investigations, numbers of contacts with the applicant, consistency of investigative approach, and hiring recommendations.

Recommendation 87.2

The SFPD should evaluate the overall background investigation process including the demographics of candidates interviewed and progressed for hiring decisions.

Finding 88

Gender, racial, and ethnic minority recruits were terminated at a higher rate from recruit training than White male recruits.

Gender, racial, and minority candidates accounted for 68.1 percent of all recruit terminations.

Recommendation 88.1

The SFPD should conduct ongoing review and analysis of release rates and their impact on diversity and identify mitigation measures to support the success of diverse candidates.

Recommendation 88.2

The SFPD should evaluate why recruits are failing and develop additional training mechanisms to assist recruits in successfully completing California POST requirements.

Recommendation 88.3

The SFPD should evaluate whether orientation for recruits has positively impacted disproportionate termination rates related to Emergency Vehicle Operations Training failure. If not, the SFPD should identify other strategies to assist recruits.

Recommendation 88.4

The SFPD should continually audit and review each phase of the hiring process to ensure there are no unintended consequences that limit the advancement of its diversity goals.

Finding 89

The SFPD lacks a strategic plan for diversity including recruitment, retention, and advancement.

The SFPD is to be commended for its diversity in overall staffing.

Recommendation 89.1

As part of the Strategic Plan (recommendation 39.1), the SFPD should develop a comprehensive diversity strategic plan that articulates the department's vision and commitment to organization-wide diversity initiatives including recruiting, hiring, and retaining a diverse and high-performing workforce. For this recommendation, the diversity strategic plan should

- identify specific diversity recruiting priorities that are informed by empirical data that identify areas of underrepresentation;
- identify specific recruiting activities and targets for diversity recruiting emphasis;
- establish specific responsibilities for implementing and supporting action items for diversity program staff;
- establish performance measures to track progress, solidify commitment, and ensure accountability across the organization for diversity in all ranks and units.

Finding 90

The SFPD does not have representative diversity within all its ranks in the organization, especially in the supervisory and leadership ranks.

Through visible commitment to diversity at all ranks of the department, the SFPD can establish itself as a welcoming organization for all communities.

Recommendation 90.1

The SFPD should regularly and systematically capture and report the demographic composition of its supervisory, management, and senior leadership ranks to establish an ongoing mechanism to conduct comparative analyses against the overall workforce composition.

Recommendation 90.2

The SFPD should commit to ensuring transparency and diversity in key assignments predicated on advancing and developing a talented and diverse pool of leaders.

Finding 91

The promotion process is not transparent.

The lack of transparency has created a level of distrust of the process in segments of the department.

Recommendation 91.1

The SFPD should increase the level of transparency of the promotion process and should clearly outline the qualifications required to advance for promotion.

Recommendation 91.2

The SFPD should consider providing feedback to unsuccessful candidates for promotion as a means of advancing institutional knowledge and performance improvement.

Recommendation 91.3

The SFPD should ensure that there is diversity on the panel that oversees promotions and should consider adding community members or outside observers (or both) to the panel.

Finding 92

The SFPD does not require the *Final Report of the President's Task Force on 21st Century Policing* as required reading for the promotional exam.

Recommendation 92.1

The SFPD should require the Final Report of the President's Task Force on 21st Century Policing as reading for all promotions.

Recommendation 92.2

The SFPD needs to require this assessment report as reading for all promotions.

Finding 93

The SFPD's Police Employee Groups (PEG) have a perception that their input and contributions to the department are not seriously considered.

Recommendation 93.1

The SFPD and the Police Employee Groups should look for ways to better institutionalize and incorporate their input into department operations where appropriate. Opportunities may include using members of the PEGs to

- serve on department panels and committees;
- help address issues of bias as part of the department's ongoing training by bringing forth their experience and perspective;
- work as community ambassadors for community members or as recruiters for hiring;
- address areas of institutional practices that could be considered biased.

Finding 94

The SFPD does not maintain, analyze, or use data to support and forecast human resource needs, including diversity staffing, succession, or basic demographics.

The SFPD cannot readily identify basic demographic data on its employees or readily access training records, separation records, and other human resource data for analysis and development in the department.

Recommendation 94.1

The SFPD should identify its data needs for personnel and human resource analysis, including organizational diversity, succession and forecasting, training records, and separation data. The collection of data should allow the agency to conduct a barrier analysis.

Recommendation 94.2

The SFPD should prioritize the personnel and human resource data to better inform and support management decisions and practices.

Appendix B. Background on San Francisco

The San Francisco Police Department (SFPD) serves the City and County of San Francisco, a consolidated city-county covering 47 square miles at the northern tip of the San Francisco Peninsula in northern California. The densely settled city's population of 829,072²³² swells to approximately 950,000 during the business day.²³³ Although the Bay Area, as the peninsula and surrounding environs are called, is frequently in the news for its growing high technology and start-up industry, San Francisco's economy also depends on tourism, financial services, and health care.²³⁴ More than 24 million visitors visited San Francisco in 2015, including 18.9 million leisure visitors and 5.8 million business travelers.²³⁵

Table B.1. San Francisco demographic data, 2014

Race and ethnicity	Population
American Indian or Alaskan Native	0.2%
Asian	33.3%
Black or African American	5.5%
Hispanic or Latino (of any race)	15.3%
Native Hawaiian or other Pacific Islander	0.4%
White (not Hispanic or Latino)	41.4%
Other/Two or more races	3.9%

Source: American FactFinder, "County: San Francisco County, California." Selected table was "Selected Characteristics of the Native and Foreign-Born Populations."

Demographic data from the 2014 US Census Bureau's American Community Survey reflect a population comprised of 41.4 percent White, 33.3 percent Asian, 15.3 percent Hispanic or Latino (of any race), and 5.5 percent African American (see table B.1 on page 257).²³⁶ Men represent 50.8 percent of residents and the city's median age is 38.6.²³⁷ In 2010 there were 345,811 households, 43.7 percent of which were family households (with an average family size of 3.11). Only 16.0 percent of households, however, included children under age 18.²³⁸

San Francisco frequently makes national headlines for its rising rents, disparity among income levels, and sizable homeless population. Table B.2 on page 258 lists the top 10 cities in the U.S. with the greatest income disparity as of 2014. As of June 2016, a median one-bedroom apartment rented for \$3,590 per month.²³⁹ The median household income for 2014 was \$78,378 according to 2014 American Community Survey estimates.²⁴⁰

^{232.} American FactFinder, "Place within State: San Francisco city, California." Selected table was "Total Population."

^{233.} U.S. Census Bureau, "Commuter Adjusted Daytime Population: 2006—2010 5-year ACS Table 3."

^{234.} Labor Market Information Division, San Francisco Bay Area Region's Economy; Forbes, "The Best Places for Business and Careers: San Francisco, CA."

^{235.} San Francisco Travel Association, "San Francisco Travel Reports Record-Breaking Year."

^{236.} American FactFinder, "County: San Francisco County, California." Selected table was "Selected Characteristics of the Native and Foreign-Born Populations."

^{237.} American FactFinder, "County: San Francisco County, California." Selected table was "Selected Characteristics of the Native and Foreign-Born Populations."

^{238.} Bay Area Census, "San Francisco City and County."

^{239.} O'Brien, "Zumper National Rent Report."

^{240.} American FactFinder, "County: San Francisco County, California." Selected table was "Selected Characteristics of the Native and Foreign-Born Populations."

Table B.2. Top 10 cities with the largest income disparity, 2014

City	20th percentile income	95th percentile income	95/20 ratio
Boston, Massachusetts	\$14,942	\$266,224	17.8
New Orleans, Louisiana	\$11,466	\$203,383	17.7
Atlanta, Georgia	\$16,057	\$281,653	17.5
Cincinnati, Ohio	\$10,454	\$164,410	15.7
Providence, Rhode Island	\$12,795	\$196,691	15.4
New Haven, Connecticut	\$12,293	\$187,984	15.3
Washington, D.C.	\$21,230	\$320,679	15.1
Miami, Florida	\$12,262	\$184,242	15.0
San Francisco, California	\$26,366	\$383,202	14.5
New York, New York	\$17,691	\$249,609	14.1

Source: Holmes and Berube, "City and Metropolitan Inequality on the Rise."

According to the Brookings Institution, the three California cities of San Francisco, Oakland, and Hayward combined represent the nation's third most financially unequal metro area as measured by comparing the 95th and 20th percentile of household income of other metro areas across the United States.²⁴¹ Table B.3 reflects the racial composition of each of these three metro areas. As of 2014, San Francisco residents in the 95th percentile earned \$353,486, while those in the 20th percentile earned \$31,761.²⁴² The number of individuals living below the poverty line also reflects this income disparity. According to the American Community Survey for the period 2006–2010, there were 92,600 individuals, or 11.9 percent of the population, living below the poverty line in San Francisco.²⁴³

Table B.3. Racial composition across the metro Bay Area, 2014

Race	San Francisco, Cali- fornia	Oakland, Cali- fornia	Hayward, California
American Indian or Alaskan Native	0.2%	0.4%	0.3%
Asian	33.3%	16.4%	23.6%
Black or African American	5.5%	25.6%	11.2%
Hispanic or Latino (of any race)	15.3%	25.9%	40.6%
Native Hawaiian or Other Pacific Islander	0.4%	0.6%	2.2%
White (not Hispanic or Latino)	41.4%	26.5%	18.0%
Other/Two or More Races	3.9%	4.6%	4.1%

Source: American FactFinder, "County: San Francisco County, California." Selected table was "Selected Characteristics of the Native and Foreign-Born Populations."

Economic disparity contributes to police-community issues, especially as it relates to the homeless population in San Francisco. As of January 29, 2015, there were 7,539 homeless persons in San Francisco, including those living on the street and those in shelters.²⁴⁴ The Coalition Against Homelessness notes that the criminalization of homelessness disproportionately affects people of color, those with mental illnesses,

^{241.} Holmes and Berube, "City and Metropolitan Inequality on the Rise."

^{242.} Holmes and Berube, "City and Metropolitan Inequality on the Rise."

^{243.} Bay Area Census, "San Francisco City and County."

^{244.} Applied Survey Research, San Francisco Homeless.

and gender nonconforming people.²⁴⁵ Although issues facing the homeless are complex and require a variety of services, the assessment team learned that SFPD officers are often the first responders to calls for assistance involving the homeless as well as to public complaints regarding homeless individuals or communities.

San Francisco Police Department

The SFPD is guided by the vision of aspiring to serve as a "world-class police department and a leader among urban police departments by hiring and promoting talented officers and professional staff, employing the highest standards of performance, best practices in policing, and accountability, and reflecting the values of the world-class city it serves." ²⁴⁶ Its vision statement cites San Francisco's "international reputation for its commitment to human values: compassion, fairness, diversity, human rights, and justice." ²⁴⁷ Calling upon communities and members of the department to unite in a "commitment to addressing crime, violence, and quality-of-life issues by engaging one another and all city agencies in problem-solving partnerships," the SFPD promises "accurate, timely and reliable information supplied by current and emerging technologies and supported by the Department's systematic engagement of all of San Francisco's diverse neighborhoods" as drivers of departmental strategies and tactics. ²⁴⁸

The SFPD's mission is to "provide service with understanding, response with compassion, performance with integrity and law enforcement with vision" in order to "protect life and property, prevent crime and reduce the fear of crime."²⁴⁹ The department lists an eight-point statement of values:²⁵⁰

- 1. Our highest priority is the protection of human life.
- 2. We believe that while crime prevention is our principal goal, we should vigorously pursue those who commit serious crimes.
- 3. We treat members of the public with respect and dignity. We maintain the highest levels of integrity and professionalism in all actions.
- 4. We recognize that the department members are its greatest asset and assume responsibility to treat them professionally and support their professional development.
- 5. We are committed to solving neighborhood problems. We care about the quality of life in the city's neighborhoods and believe that our services must answer their needs.
- 6. We maintain open communication with all the communities we serve. Their input helps to determine police policies, priorities, and strategies.
- 7. We believe that policing strategies must preserve and advance democratic values.
- 8. We are committed to managing our resources in a careful, efficient, and effective manner.

^{245.} Coalition on Homelessness, "Punishing the Poorest."

^{246.} City and County of San Francisco, "Police Department Vision Statement."

^{247.} City and County of San Francisco, "Police Department Vision Statement."

^{248.} City and County of San Francisco, "Police Department Vision Statement."

^{249.} City and County of San Francisco, "Police Department: Mission Statement."

^{250.} City and County of San Francisco, "Police Department: Mission Statement."

Funding and staffing

The City and County of San Francisco's fiscal year starts on June 1. According to Mayor Ed Lee's proposed budget, the SFPD operated with a total budget of \$548,458,371 for 2015–2016 and will see a budget increase to \$566,270,469 for 2016–2017.²⁵¹ On May 1, 2016, Lee presented a proposed budget for 2016–2017 and 2017–2018 and identified \$4.6 million over the next two years to be invested in fundamentally re-engineering the way police officers use force. The additional police officer training included as part of the proposal will focus on implicit bias, cultural competency, and crisis intervention while enhancing police reforms already underway. In addition to the training dollars, the city will invest in capital, equipment, and the development of less lethal options for the SFPD. This investment provides critical funding to enhance de-escalation techniques used by frontline law enforcement officers. The budget also fully funds the department's new body-worn camera program over the next two years, which will equip every patrol officer with a body-worn camera.

Departmental oversight will also be increased with \$1.8 million in new funding for the Office of Citizen Complaints (OCC) over two years, which will support a 25 percent increase in investigators. ²⁵² OCC investigates complaints against police officers made by a member of the public. OCC was recently granted the authority and responsibility to investigate every officer-involved shooting. ²⁵³

The SFPD's sworn staffing levels are established by local legislation. In 1994, San Francisco voters passed proposition D, which amended the Charter of the City and County of San Francisco to require the SFPD to maintain a minimum 1,971 full-duty sworn officers on the force at all times.²⁵⁴ On June 23, 2015, the San Francisco Board of Supervisors voted in favor of establishing a population-based police staffing policy, but the resolution was returned unsigned by Mayor Lee on July 3, 2015.²⁵⁵ As a result, the 1994 staffing level continues to be the goal of the SFPD.

On February 22, 2016, Mayor Lee announced plans for police department reforms, including creating the Professional Standards and Principled Policing Bureau; adopting new policies and initiatives to train officers, especially with regard to use of force; expanding and funding crisis intervention teams; and accelerating the hiring of 250 new police officers between 2016 and 2018.²⁵⁶ As of December 31, 2015, the SFPD had 2,220 sworn officers and 500 civilian employees for a total force of 2,720.²⁵⁷ From February 2013 through December 2015, 619 officers were hired by the SFPD for a total of 28 percent of the overall sworn strength, making the SFPD a relatively young department in terms of seniority.

^{251.} Lee, Mayor's 2015—2016 & 2016—-2017 Proposed Budget.

^{252.} Office of the Mayor, "Mayor Lee Presents Proposed Balanced Budget."

^{253.} Ballotpedia, "San Francisco, California, Citizen Complaints Office."

^{254.} City and County of San Francisco Board of Supervisors, *Policy Analysis Report*.

^{255.} Bay City News, "SF Supervisors Establish Population-Based Police Staffing;" City and County of San Francisco Board of Supervisors, Policy Analysis Report.

^{256.} Office of the Mayor, "Mayor Lee Announces Comprehensive Police Department Reforms."

^{257.} San Francisco Police Department, "PRA Personnel Data."

To the extent that the proposed plans correspond with the recommendations contained in this report, the Collaborative Reform Initiative for Technical Assistance (CRI-TA) team will monitor their implementation.

Organization

The SFPD is currently led by Interim Chief Toney Chaplin, who was appointed on May 19, 2016. He replaced Chief Gregory P. Suhr, who filled the position from April 2011 through his resignation on May 19, 2016, following an officer-involved shooting incident that resulted in the death of an unarmed civilian, Jessica Williams, on that same date.²⁵⁸

The City and County of San Francisco has engaged in a search for a new chief. Collecting community and SFPD member input in the form of surveys is part of the selection process. Even under an aggressive timeline, Police Commission President Suzy Loftus indicated it is unlikely that a new chief will be selected before the end of the year. Because the selection of a new chief and the subsequent future vision of the organization will be established during the implementation phase of this project, this process will be tracked and reported upon by the CRI-TA assessment team as it impacts the goal and objectives of the collaborative reform project.

SFPD command staff includes six sworn deputy chiefs, five of whom lead a departmental bureau and one who oversees the day-to-day operations of the Office of the Chief of Staff and provides administrative support to the police chief. The SFPD's five bureaus are Airport, Administration, Operations, Professional Standards and Principled Policing, and Special Operations. Each of these five bureaus is divided into several divisions, and each bureau has a distinct policing responsibility. ²⁶¹ Of the six deputy chiefs, one is a White woman. The remaining deputy chiefs are men and include one Asian, one African American, one Hispanic, and one White. The deputy chief position in the Airport Bureau remains vacant and is led, as of the release of this report, by an acting deputy chief who is Asian. See figure B.1 on page 262 for SFPD's organization chart.

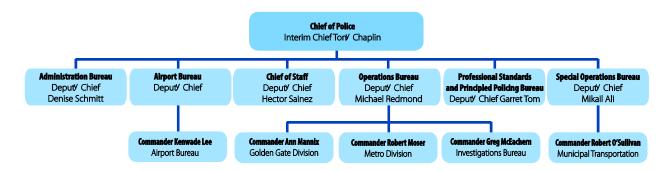
^{258.} Lamb and Sabatini, "Police Chief Greg Suhr Resigns."

^{259.} City and County of San Francisco, "Police Department: Search For Next Chief of Police Questionnaire."

^{260.} San Francisco Police Commission, July 13, 2016 Agenda; City and County of San Francisco, "Police Commission — July 13, 2016 — Minutes."

^{261.} City and County of San Francisco, "Police Department: Bureaus."

Figure B.1. SFPD organization chart



The Airport Bureau provides law enforcement services for San Francisco International Airport, and the Administration Bureau provides budget management, information technology, legal research and counsel, personnel service, and logistical support to the department. Most SFPD officers are assigned to the Operations Bureau, which manages the patrol and investigative policing practices and includes the Investigations Division as well as the Patrol Division. The Patrol Division's two groups, the Metro and the Golden Gate Divisions, oversee 10 district stations (see figure B.2 on page 263).

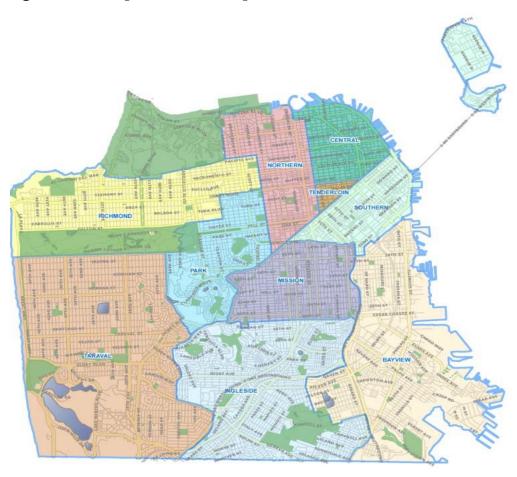
Pursuant to Department Bulletin 16-019, effective February 13, 2016, the SFPD established the Professional Standards and Principled Policing Bureau.²⁶² The Professional Standards and Principled Policing Bureau was established to provide support to the entire department in the implementation of community policing reforms.²⁶³ Last, Special Operations provides support to the basic patrol functions of the SFPD through deployment of supplemental tactical, traffic, homeland security, motorcycle, mounted, and marine assets and serves as the command center for planned and unplanned events.²⁶⁴

^{262.} San Francisco Police Department, *Professional Standards and Principled Policing Bureau*.

^{263.} Barba, "New SFPD Bureau."

^{264.} City and County of San Francisco, "Police Department: Bureaus."

Figure B.2. SFPD patrol district map



Recent key events

As noted earlier, San Francisco prides itself on being an open and engaging city of great diversity. However, various events have influenced San Francisco's police-community relationship over the last few years. A changing socioeconomic environment has created friction across communities, and a growing racial disparity within San Francisco has impacted police-community relations. Among major cities, San Francisco has the one of the lowest percentage rates of African-American residents compared to the total population. In particular, the SFPD has recently come under scrutiny for a number of incidents related to use of force, accountability, and oversight.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Two killed as the result of officer-involved shootings; police chief resigns

On April 8, 2016, San Francisco's Department of Public Health's Homeless Outreach Team observed Luis Góngora appear to be swinging a knife indiscriminately and called the SFPD.²⁶⁵ The SFPD reported the responding officers issued commands to drop the knife in both English and Spanish and deployed four beanbag rounds to subdue Mr. Góngora. According to the department, when Mr. Góngora ran at an officer with the knife, officers responded by firing at him, killing him.

On May 19, 2016, Jessica Williams was attempting to flee in a suspected stolen car, according to the SFPD. Ms. Williams, who was not armed, was shot and killed by SFPD officers during this incident.²⁶⁶

The same day as Ms. Williams' death, San Francisco Mayor Ed Lee requested that Chief Greg Suhr resign. Suhr's resignation was effective that day, May 19, 2016. His replacement, Interim Chief Chaplin, was named to the post and remains in that position as of the date of this report. The COPS Office provided technical assistance to Chaplin during the transition by bringing together a cadre of peers who have been through similar situations for a one-day peer-to-peer exchange. A nationwide search for the SFPD's new chief is ongoing.²⁶⁷

Community issues regarding credibility, transparency, and accountability

In June 2016, following a five-month investigation, the City and County of San Francisco Civil Grand Jury released a report entitled *Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings.* The civil grand jury found, in part, that as long as the SFPD retains jurisdiction over officer-involved shooting investigations, the public will have the perception that the investigations are biased.²⁶⁸

In May 2015, the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement was convened in response to the 14 SFPD officers who were found to have been exchanging racist and homophobic text messages. The Blue Ribbon Panel was tasked with answering whether the racial and homophobic bias demonstrated by the texts reflects institutionalized bias in the SFPD and, if so, to what extent. The panel released its report on July 11, 2016, and found that "SFPD is in need of greater transparency; lacks robust oversight; must rebuild trust with the communities it serves; and should pay greater attention to issues of bias against people of color, both officers and members of the public. In short, the Panel concludes that the SFPD is in urgent need of important reforms." ²⁶⁹

^{265.} Wong, "San Francisco Police Release Details."

^{266.} Schultz, Ho, and Veklerov, "No Sign of Weapon on Woman."

^{267.} De Graaf and Robinson, "Named: The Unarmed Black Woman."

^{268.} City and County of San Francisco Civil Grand Jury, Into the Open.

^{269.} Cordell, Reynoso, and Tevrizian, Report of the Blue Ribbon Panel.

San Francisco crime statistics

The SFPD's 2014 annual report identified a steep drop in the number of reported robberies and burglaries but a sharp increase in reported aggravated assaults.²⁷⁰ Unlike the trend in some other major city police departments, 2014 also marked the city's eighth consecutive year of declining gun violence.

Table B.4. San Francisco Police Department Uniform Crime Report statistics

Offense	2015	2014	2013	Percentage change from 2014 to 2015
Homicides	52	45	48	+15.56%
Rapes	344	355	161	-3.10%
Robberies	3,610	3,224	4,202	+11.97%
Aggravated Assaults	2,703	3,137	2,653	-13.83%
Burglaries	5,186	5,237	5,931	-0.97%
Larceny/Theft	40,918	33,730	36,527	+21.31%
Auto Thefts	6,915	6,126	5,866	+12.88%
Arsons	272	241	227	+12.86%
Total	60,000	52,095	55,615	+15.17%

Source: San Francisco Police Department, San Francisco Police Department Year End Crime Statistics 2015.

Although relatively free from violent crime, the city has the highest property crime rate per capita among the nation's top 50 cities.²⁷¹ Between 2014 and 2015 there was a 30.62 percent increase in smash-and-grab car break-ins. In 2015, victims reported more than 25,000 car break-ins, an average of approximately 70 per day.²⁷² See table B.4 for a breakdown of offenses committed from 2013–2015 and table B.5 for violent and property crime statistics for 2012–2015.

Table B.5. Violent and property crimes reported to the Federal Bureau of Investigation

Year	Population	Violent crime*	Property crime*
2015	-	6,709	53,291
2014	850,294	6,761	45,334
2013	833,863	7,064	48,551
2012	820,363	5,777	39,105

^{*}The Federal Bureau of Investigation provides a total count of violent crime reporting as a combination of four offenses: (1) murder and non-negligent manslaughter, (2) forcible rape, (3) robbery, and (4) aggravated assault. Property crime totals combine four offenses: (1) burglary, (2) larceny—theft, (3) motor vehicle theft, and (4) arson.

Source: 2015—San Francisco Police Department, San Francisco Police Department Year End Crime Statistics, 2015.

Source: 2012–2014—FBI, "California: Offenses Known to Law Enforcement, by City, FBI, 2012," "California: Offenses Known to Law Enforcement, by City, FBI, 2013," "California: Offenses Known to Law Enforcement, by City, FBI, 2014."

^{270.} San Francisco Police Department, San Francisco Police Department 2014 Annual Report.

^{271.} Fuller, "San Francisco Torn."

^{272.} Barmann, "SF Now Has Highest Per Capita Property Crime Rate."

Appendix C. Methods

In order to understand the San Francisco Police Department (SFPD) and the community it serves, the assessment team employed four modes of inquiry: (1) document review; (2) interviews, meetings, and focus group sessions with department members and community stakeholders; (3) direct observation, including ride-alongs; and (4) data analysis. The team's approach is inductive, or "bottom up." Rather than assessing the department against a preconceived theory or explanation, the team listened closely to the SFPD and community stakeholders—and observed operations on the ground—before identifying patterns. Next, team members worked collaboratively to develop findings and recommendations informed by national standards, promising practices, research, and the experience and expertise of the team members.

Throughout this process, the assessment team strove for flexible and innovative recommendations that reflect the particular needs and interests of the SFPD and San Francisco. The success of the assessment and the depth, significance, and applicability of the findings and recommendations are due in large part to the cooperation and collaborative attitude of SFPD members, government leaders, and community stakeholders.

The assessment team conducted numerous site visits. Before and after site visits, the team requested data sets and documents for review both on-site and electronically. During the course of the site visits, team members conducted hundreds of interviews, dozens of observations, and multiple ride-alongs.

The assessment phase concluded on August 1, 2016.

Document review

The team began by submitting an initial request for written documents that provide an overall context of the SFPD's operations. This request included the following:

- Mission, vision, and values statements
- Organization charts
- Annual reports (three years)
- Community-based strategic plan and reports (three years)
- Duty manual and general orders manual
- Collective bargaining agreement
- Policies, procedures, and special orders related to the goal and objectives of the assessment including:
 use of force, officer-involved shootings investigation, practices and oversight; procedural justice;
 courtesy and demeanor; code of conduct; racial profiling; crime investigation; community complaints,
 discipline records, and Internal Affairs processes; traffic pursuits; stop and frisk; homeless outreach
 teams procedures; interaction and information sharing with the public

- All reports generated by San Francisco city or governmental entities, and any civilian review
 committee over the last three years that address SFPD Collaborative Reform Initiative for Technical
 Assistance (CRI-TA) issues of concern including use of force, investigations, complaints, improved
 policing, community engagement, and other appropriate documents
- Copies of reports or any internal SFPD assessments including those currently underway or completed, inclusive of drafts, which address CRI-TA areas of concern, including those regarding community policing, use of force, procedural justice, leadership, supervision, and training
- SFPD annual and ad hoc training logs and reports documenting training for SFPD personnel for last three years
- SFPD training materials and lesson plans for the following topics: use of force, internal affairs, patrol
 operations, criminal intelligence or CompStat, community policing, crisis intervention training, deescalation techniques, procedural justice and bias-free policing, leadership and management training,
 performance appraisals
- The Office of Citizen Complaints (OCC) and Police Commission Procedures and Policies manuals

In addition, the assessment team requested and received reports generated by the City and County of San Francisco, the Office of the Mayor, OCC, and the San Francisco Human Rights Commission.

Documents were first reviewed using standardized evaluation criteria. For example, assessment team members reviewed the SFPD's use of force and complaint files against a list of standard questions. Quality control was assured through several redundant data checks as well as holistic oversight of the data collection, entry, and analysis process.

Interviews and focus groups

The assessment team worked with the SFPD to ensure that interview, meeting, and focus group participants were generally representative of the department. The team spoke with SFPD personnel at all levels, including a selection of patrol officers, internal affairs investigators, violent crime detectives, the former chief, interim chief, command staff, and supervisors; members of the department's Firearm Discharge Review Board (FDRB) and the Police Commission; the leadership of the Police Officers Association (POA); and other police employee groups representing a range of diversity that exists in the SFPD.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

In addition, the assessment team spoke with stakeholders including the following:

- Individuals from the Office of the Mayor
- Members of the Board of Supervisors
- Other elected officials
- Officials of the OCC
- Officials of the Mayor's Office of Disability
- Individuals from the Human Rights Commission
- San Francisco's City Attorney
- San Francisco's District Attorney and staff
- San Francisco's Public Defender and staff
- Individuals from the U.S. Attorney's Office of the Northern District of California
- Leaders from other federal, state and local law enforcement agencies in San Francisco

Finally, the assessment team conducted outreach to the San Francisco community to identify key community stakeholders to interview, including leaders from faith-based organizations, school districts, nonprofit organizations, and social service organizations. Team members spoke with leaders and members of a variety of community groups.

The assessment team distributed flyers throughout the city, including at schools, churches, city and other government agencies, retail stores, and libraries and on various SFPD and government agencies' and community groups' websites. These flyers provided an e-mail address community members who wished to be interviewed could contact and advertised three community town hall listening sessions.

The first community listening session occurred at Thurgood Marshall High School in the Bayview neighborhood; the second at Mission High School in the Mission neighborhood; and the third at Gateway High School in the Western Addition neighborhood. Nearly 300 people attended these sessions.

In each of these community listening sessions, the U.S. Department of Justice explained the CRI-TA model and invited community members to share their viewpoints on the SFPD and police-community relations in San Francisco in person and via anonymous, electronic polling tools.

In addition to these listening sessions, the assessment team met with community stakeholders and interviewed community members individually. In general, team members sought to understand community members' perception of the SFPD; its operations, strengths, and weaknesses; and whether the department was meeting community expectations.

The assessment team employed a snowballing technique, which meant inviting engaged community stakeholders to direct team members to additional potential participants. Interviews, meetings, and focus group sessions with community members and SFPD civilian and sworn personnel were designed to be semi-structured, allowing conversations to develop naturally. In other words, such sessions were guided by a set of questions and allowed to digress. For all interviews, meetings, and focus group sessions, participants' comments were documented anonymously, and subjects could terminate the process at any time.

In order to contextualize and help explain any racial or ethnic disparities in traffic, bicycle, and pedestrian stop outcomes identified from statistical analyses of stop data, the team of researchers conducted focus group interviews with selected officers from several SFPD divisions and units engaged in street-level policing. These focus groups drew from patrol officers, foot beat officers, Gang Task Force officers, homeless outreach team officers, housing officers, and other street-level enforcement officers (for example, street crimes unit). Focus groups consisted of six to eight participants gathered for approximately 90 minutes. With the consent of all participants, these sessions were audio recorded, transcribed and systematically coded, and analyzed using scientifically rigorous, qualitative data analytic techniques. Focus group members were selected based on several criteria, including being proactive, engaging in a high frequency of traffic or pedestrian stops (as measured against other officers), and generally perceived as fair and equitable, or as "good" officers, by their supervisors and peers.

The focus group comments were anonymized and the recordings destroyed upon completion of anonymous transcriptions. Moreover, analysis and reporting of findings included only aggregate information regarding the gender, race, experience, training, assignment, and rank of officers involved in the focus groups and do not disclose any information or combination of data that may, in effect, identify any individual officers.

Observations

Whenever possible, the assessment team observed SFPD operations directly in real-time by conducting ride-alongs, accompanying officers on foot patrol beats, and attending critical incident reviews, including the review of the officer-involved shooting of Jessica Williams. These activities gave team members a first-hand experience of the operating environment for SFPD officers. In addition, team members attended community meetings and forums to understand issues important to community members and their relationship with the SFPD.

Data analyses

The assessment team collected, cleaned, coded, and analyzed data provided by SFPD and other partners including the Department of Emergency Management, the San Francisco Sheriff's Department, the Controller's Office, and the city's Human Resource Office. Data analyzed included use of force data; data related to traffic stops, bicycle stops, and pedestrian stops; arrest data; data regarding community policing programs; complaint and outcomes data; and recruitment, hiring, and promotion data.

Appendix D. Use of Force Data and Methodology

This report examines San Francisco Police Department's (SFPD) use of force incidents from a three-year period (May 1, 2013–May 1, 2016) to assess whether there were racial or ethnic disparities in the severity of force used in these incidents. Two primary questions were the focus of this use of force analysis: (1) Were racial or ethnic minorities subjected to more severe force than their White counterparts? and (2) Were racial or ethnic minorities more likely to be injured during use of force incidents than their White counterparts?²⁷³ To answer these questions, specific analyses explored whether racial or ethnic minorities were subjected to higher levels of force, greater force relative to individual resistance, or more injuries than to their White counterparts. These outcomes were examined using a variety of analytic methods to provide general conclusions regarding the use of force by SFPD officers. To conduct these analyses, data were drawn from several sources, including a random sample of SFPD use of force incident reports (provided by the SFPD), the 2010 American Community Survey (compiled by the U.S. Census Bureau), and reported crime data (provided by the SFPD).

Data

The primary source of data used for the analyses that follow was three years of SFPD use of force incident reports. Between May 1, 2013 and May 1, 2016, 2,578 use of force incidents were reported by SFPD officers. During most of this three-year time period, the SFPD captured only basic information about use of force incidents, which was handwritten on a Use of Force Log kept at each district station. These logs, together with the accompanying incident reports completed by the officers, were faxed twice a month to the SFPD Academy where data from the logs and information from the incident reports were entered into an electronic database (Automated Information Management, or AIM). However, the electronic data entry was unsystematic according to interviews with SFPD personnel.

Beginning in spring 2016, the Risk Management Office assumed responsibility for entering use of force information into the AIM database, but the data available in this system at the point that the assessment team's analysis took place did not extend back in time to May 2013. Consequently, team members used the AIM system only to obtain a list of all use of force incidents recorded by the SFPD over the three-year period from May 2013 to May 2016. The team then chose a random sample of 600 use of force cases²⁷⁴ from the 2,578 represented in the database (23 percent) and obtained from the SFPD scanned copies of the incident reports corresponding to those cases. Drawing from best practices and accepted norms outlined in previous research on use of force, the senior research team member examined the use of force

^{273.} It is also important to assess whether force was used more often against minorities during an arrest when compared to White individuals. However, this type of analysis requires data that permit the analyst to clearly identify which arrests resulted in the use of force and which did not. Reliable in-custody arrest data are maintained by the San Francisco Sheriff's Department (rather than the SFPD), and the assessment team was unable to match many of the use of force incidents reported by the SFPD to those in the sheriff's arrest database. This precluded the team from analyzing whether minority individuals arrested by the SFPD were subjected to force more often (or more frequently) than White individuals who were arrested. In the future, the team highly recommends that the SFPD collect arrest and use of force data in a manner that allows for this type of analysis.

^{274.} This sample size was selected based on a power analysis. The SFPD's recent data revealed that about 43 percent of use of force incidents involved African-American individuals. Accordingly, the team required a sample size of about 500 to maintain a 4 percent margin of error and 95 percent confidence. The final sample size of 600 was selected based on the assumption that some of the cases would be dropped in the analysis because of missing data. Thus, the results reported here contain a margin of error between 3–4 percent at a 95 percent confidence level.

incident reports and constructed a database and detailed codebook²⁷⁵ that would allow for the coding of relevant variables from the incident reports.²⁷⁶ The senior team member then trained a group of coders who were responsible for reading each of the 600 incident reports and coding the variables into a database that was used for the analyses that follow. It took an average of 30 minutes to complete the coding for a single use of force incident report.

Prior to analysis, three incidents were removed because they did not fit the assessment team's inclusion criteria (i.e., use of force incidents in San Francisco during the three-year period). An additional 37 cases were removed that involved more than one individual having force used against him or her. It was necessary to drop multiple-individual incidents because they are relatively rare and would have inhibited the exploration of racial or ethnic disparities in use of force severity (e.g., accounting for the race of an individual would be difficult if an incident involved multiple individuals from different races). Finally, 12 cases that took place at the airport were excluded from the analysis. Inclusion of airport incidents would preclude accounting for contextual factors such as the demographic composition of the community and the district-level violent crime rate, both of which may influence use of force outcomes.²⁷⁷ Accordingly, the use of force data used in this analysis was a sample of 548 incidents involving force used against a single individual that occurred during the three-year period.

U.S. Census data were tapped to account for community characteristics that may influence use of force outcomes. Specifically, the 2010–2014 American Community Survey five-year estimates, compiled by the U.S. Census Bureau, were used to gather census tract-level characteristics. In some locations, the SFPD districts overlap with census tracts. Accordingly, ArcGIS was used to apportion the census tract variables to the corresponding police district. Last, crime data were provided by the SFPD that allowed the construction of a monthly violent crime rate. These data represent all violent crimes known to the SFPD during the three-year observation period. The Census and violent crime data were merged into the use of force database discussed earlier.

Use of force analysis variables

Use of force outcomes

Several outcomes were examined to determine whether racial or ethnic disparities exist in the severity of force used and injuries related to such incidents. SFPD incident reports that document uses of force against individuals do not contain specific fields related to the force used by officers or the resistance offered by individuals. Instead, officers document their actions and the circumstances surrounding the incident in word-processed narratives. Officers are trained to record in these narratives all types of force used against an individual, any resistance offered by an individual, and injuries (if any) sustained by the

^{275.} The senior researcher developed a detailed codebook and database to facilitate the extraction and coding of information from the use of force incident reports. The codebook included definitions for all variables collected, and the senior researcher trained the data coders on the use of the codebook. The senior researcher and coders worked together on a small sample of files to ensure that data were coded accurately and consistently across the entire sample of 600 cases.

^{276.} All variables are described in detail in the sections that follow.

^{277.} As a robustness check, the team re-estimated all multivariate models presented here after including the 12 use of force incidents that occurred at the airport. All substantive findings remained unchanged. Accordingly, the findings are not sensitive to the exclusion of the airport cases from the analyses.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

officer(s) or individual(s). Using the codebook developed by the senior research team member, coders read the narratives written by SFPD officers and recorded their uses of force, which were then rank-ordered on a continuum drawn from the use of force literature: (1) verbal commands (N = 4), (2) pointing a firearm (N = 52), (3) soft hand control (N = 287), 278 (4) oleoresin capsicum (OC) spray (pepper spray) (N = 26), (5) hard hand control (N = 123), 279 (6) baton strikes (N = 43), (7) less lethal projectiles (N = 11), 280 (8) K-9 (N = 2), and (9) deadly force (N = 0). 281

The first outcome examined—highest level of force—represented the most serious type of force that the officer(s) used during an incident. It was necessary to consider the highest level of force because multiple types could be used in a single incident and recorded in the use of force report. For the highest force (table D.8 on page 282) and the force factor analyses (described in the following section and shown in table D.9 on page 284), incidents were recategorized into one of three groups based on the highest level of force used: (1) low force (i.e., verbal commands and pointing a firearm), (2) medium force (i.e., soft hand control and OC spray), and (3) high force (i.e., hard hand control, baton use, less lethal projectiles, and K-9 bites). No incidents in the use of force sample involved deadly force. This coding strategy allowed for a determination of whether racial or ethnic minorities were more likely than White individuals to experience more serious forms of force.

The second outcome used to assess severity of force is referred to as the force factor (Alpert & Dunham 1997). ²⁸² This variable was created by taking the individual's highest level of resistance and subtracting it from the highest level of force used by the officer (as described earlier in the force severity variable). Initially, SFPD officer-reported individual levels of resistance were rank-ordered in the following manner: (0) no resistance (N = 51), (1) verbal noncompliance (N = 33), (2) passive resistance (N = 90), ²⁸³ (3) defensive resistance (N = 248), ²⁸⁴ (4) active aggression (N = 111), ²⁸⁵ and (5) aggravated active aggression (N = 15). ²⁸⁶ These actions were then grouped them into one of three categories: low resistance (i.e., no resistance and verbal noncompliance; coded 1), medium resistance (i.e., passive resistance and defensive resistance; coded 2), and high resistance (i.e., active aggression and aggravated active aggression; coded 3). Individual resistance was coded in this manner to mirror the officer force categories. Accordingly, the force-factor variable captures the difference between the highest level of force used by an officer and the individual's resistance. Force-factor values greater than 0 generally indicate a higher level of force used relative to individual resistance, while force-factor values less than 0 generally indicate lower levels of force used relative to individual resistance. For example, an officer who used high force (coded 3) against an

^{278.} Soft hand control included such things as pushing or pulling against a subject, joint locks or control holds, or mild pain compliance techniques that did not involve striking a subject.

^{279.} Hard hand control included strikes, punches, or kicks of a subject by an officer.

^{280.} Less lethal projectiles included shotgun-delivered beanbag rounds or foam baton rounds.

^{281.} Deadly force included discharge of a firearm at a subject.

^{282.} The force factor is derived from the coding of officer force and suspect resistance. Officer force was captured as an eight-item scale ranging from verbal commands to deadly force. Suspect resistance was captured on a five-item scale that ranged from verbal resistance to aggravated active aggression. The codebook contained definitions for all levels of force and resistance, and coders were trained to read the files and extract data from them using the definitions provided.

^{283.} Passive resistance included lying down or going limp.

^{284.} Defensive resistance included tensing, pushing, or pulling against an officer or grabbing onto a fixed object to avoid control.

^{285.} Active aggression included assault or battery (or both) against an officer.

^{286.} Aggravated active aggression included assault or battery (or both) against an officer with the intent or apparent ability to cause death or great bodily injury.

individual providing low resistance (coded 1) would receive a force factor value of +2. On the other hand, an officer who used low force (coded 1) against an individual who was providing high resistance (coded 3) would receive a force factor value of -2. The force-factor scale, therefore, ranged from -2 to 2, with values of 0 generally indicating a proportionate amount of force used relative to individual resistance.

The final outcome variable captured whether the individual was injured during the use of force incident. This variable was dichotomously coded so individuals who received some type of injury were coded "1" and those who were not injured were coded "0." This allowed for an examination of whether there were racial or ethnic disparities concerning injuries sustained to individuals in the use of force incidents.

Individual characteristics

Police use of force research reveals that individual resistance is one of the strongest predictors of (1) whether force is used and (2) the severity of that force (Alpert and Dunham 1997; MacDonald et al. 2003; MacDonald et al. 2009; Terrill 2003). As discussed earlier, SFPD use of force incident reports indicate the level of resistance the officer encountered from the individual. Individual resistance is an ordered categorical variable (0 = no resistance, 1 = verbal noncompliance, 2 = passive resistance, 3 = defensive resistance, 4 = active aggression, and 5 = aggravated active aggression) and was accounted for in each of the models presented here.

The SFPD use of force reports contain key information on the individual's demographic characteristics. The multivariate models presented here considered individual race and ethnicity with a series of dummy variables: African American (1 = yes, 0 = no), Hispanic (1 = yes, 0 = no), and other race (1 = yes, 0 = no). 287 Non-Hispanic White individuals served as the reference category (i.e., they were omitted from the multivariate equations). Accordingly, all race or ethnicity coefficients are interpreted in relation to non-Hispanic White individuals. The team also accounted for individual gender (1 = male, 0 = female; the variable is labeled male in the tables that follow) and age, which was measured continuously.

Several other individual variables were accounted for in the multivariate models including the number of warrants and number of charges for which the individual was arrested. Individual intoxication can cause poor decision making and impact the severity of force they experience. Intoxicated is a dichotomous variable that is coded "1" if the individual appeared to be drunk or under the influence of drugs during the incident (coded "0" if the individual was sober). Last, individual height (measured continuously in inches) and weight (measured continuously in pounds) were also considered.

Offense characteristics

The nature of the offense may partially explain use of force outcomes. For example, more serious offenses (e.g., violent crimes) may indicate greater propensity for resistance on the part of the individual or cause an officer to be more cautious or fearful during the encounter. Accordingly, the type of offense was accounted for during the use of force incidents with a series of dichotomously coded variables: violent

^{287.} Only 13 subjects were identified in the use of force reports as "other race" (anything other than African American, Hispanic, White, or Asian). Accordingly, the team combined this category with Asians (N = 33) to create the "other" race or ethnicity group.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

offense (1 = yes, 0 = no), weapon offense (1 = yes, 0 = no), and other offense (1 = yes, 0 = no). "Other offense" was used as the omitted reference category. It is important to note that all of these variables were mutually exclusive. That is, if the offense involved some type of violence it was coded "1" for violent offense. Incidents were coded "1" for weapon offense only if a weapon was involved in the offense but no violent crime occurred (e.g., carrying a concealed firearm). Incidents were coded "1" for other offense only if the crime did not involve violence or a weapon (e.g., burglary).

Time of day of the incident was represented with a dichotomous variable—night—coded "1" if it occurred during the night and "0" if it occurred during the day. This variable was created using the 2016 sunrise/sunset tables provided by the U.S. Naval Observatory (Astronomical Applications Department 2016). Using the times listed for the first of each month, use of force incidents that occurred between sunset and sunrise were coded as having occurred at night (e.g., use of force incidents that occurred in January were coded "night" if they occurred between 5:01 p.m. and 7:25 a.m.). Last, the number of individuals who were present in the incident but did not have force used against them was considered.

Officer characteristics

Officer characteristics were also included in the use of force analyses. Given that many of the incidents involved more than one officer and officer characteristics may partially explain use of force outcomes, variables were created that accounted for the characteristics of the groups of officers. First, officer race or ethnicity was coded with a series of dichotomous variables: all White officers (coded 1 if all officers involved in the incident were White; coded 0 otherwise), all minority officers (coded 1 if all officers involved in the incident were a racial or ethnic minority; coded 0 otherwise), and mixed race officers (coded 1 if the officers involved in the incident were a combination of racial or ethnic minorities and White officers; coded 0 otherwise). All White officers were excluded as the reference category. Second, officer gender was accounted for with a dichotomous variable coded "1" if all officers involved in the incident were male (coded 0 if the involved officers were all women or a mixture of men and women; the variable is labeled all male officers in the following tables). Third, officer assignment was coded "1" if the primary officer was a patrol officer and "0" for all other assignments. Last, the number of officers present at the incident was included in all multivariate equations presented here.

District-level characteristics

The use of force severity analyses also controlled for district-level structural characteristics. As indicated earlier, the district-level violent crime rate was calculated by taking the number of violent crimes (i.e., homicide, rape, robbery, and aggravated assault) in each district and dividing by 36 to create the average number of violent crimes per month in each location. These values were then divided by the area's total population and multiplied by 1,000.

^{288.} Only 5 incidents involved all female officers. Accordingly, these incidents were grouped with those that involved a mixture of male and female officers (these incidents were coded 0 for the all male officers variable).

U.S. Census data at the census-tract level were also apportioned to each of the SFPD districts to account for the structural features in the communities. Research has demonstrated that the sociodemographic characteristics of a community partially explain officer use of force outcomes (Garner, Maxwell, and Heraux 2003; Klinger et al. 2015; Smith 1986; Terrill and Reisig 2003). Within each of the multivariate models presented here, the racial or ethnic composition of the district in which the use of force incident took place was accounted for by controlling for the percentage of the district population that was African American (% African American) and Hispanic (% Hispanic). The White and Asian percentages of the district population were excluded because they caused problematic collinearity (they are highly and inversely correlated with % African American and % Hispanic). The percentage of the population that is unemployed (% unemployment) was also considered as a proxy for community disadvantage, which is a key predictor of use of force severity (Terrill and Reisig 2003). The percentage of the population living in poverty could not be included in the multivariate models because of high levels of collinearity (poverty is highly correlated with % African American, % Hispanic, and % unemployment).

Analytic strategy

The use of force analysis proceeded in a series of steps to determine whether racial or ethnic minorities were subjected to more severe force than their White counterparts. The first step of the analysis involved an examination of the descriptive statistics including the racial or ethnic makeup of the use of force for the full sample and by each of the 10 SFPD districts.

The second step of the analysis examined the impact of race and ethnicity on the highest level of force, net of the statistical control variables. Multinomial logistic regression was used to address this question because the dependent variable was coded categorically (i.e., low, medium, and high force). The multinomial models presented here treated low force as the reference category. Accordingly, two comparisons are presented in table D.8 on page 282: (1) high force versus low force and (2) medium force versus low force. The interpretation of the results is guided by the relative risk ratios (RRR) presented in the table. The RRRs indicate the risk of a particular group (e.g., Black individuals compared to White individuals) being in the high force and medium form groups relative to the low force group, respectively. The values are interpreted in a similar fashion as odds ratios where values higher than 1.00 correspond with greater risk and values less than 1.00 correspond with lower risk.

The third step of the analysis explored whether individual race or ethnicity predicted the force factor value. Recall that the force factor ranged from -2 to +2 and was calculated by subtracting the highest levels of individual resistance from the highest level of force used by the officer (based on the three use of force categories). At the extreme ends of the force factor (i.e., -2 and +2), problems in estimating the multivariate models were encountered because of rare events. For example, in the +2 group, there were no incidents involving female individuals. To rectify this problem, the force factor was recoded into three groups in the

^{289.} Originally, the entire use of force severity scale (ranging from 1 to 8) was planned to be used as an ordered-categorical variable and examined for racial or ethnic disparities using ordered logistic regression. However, the Brant test for the parallel lines assumption was violated (i.e., estimated coefficients differed across values of the dependent variable; Brant 1990; Long and Freese 2006). Furthermore, the low and high ends of the force types—verbal and K-9, respectively—were very rare in the sample data. Accordingly, the use of force types were recoded into the low, medium, and high categories, which allowed the use of multinomial logistic regression as the appropriate analytic strategy.

following manner: less force than resistance (i.e., values of -1 and -2 on the original force factor scale), force equal to resistance (i.e., force factor values of 0), and more force than resistance (values of +1 and +2 on the original force factor scale). Multinomial logistic regression models (see table D.9 on page 284) were then estimated to assess the race or ethnicity effects, net of statistical controls, in two comparisons using: (1) less force than resistance versus force equal to resistance and (2) more force than resistance versus force equal to resistance. Once again, RRRs are used to guide the interpretation of the results.

The final stage of the analysis examined whether individual race or ethnicity predicted whether an injury was sustained during the use of force incidents. Logistic regression addressed this issue because the dependent variable—injured—is dichotomously coded (1 = yes, 0 = no). The odds ratios presented in Table D.13 on page 288 indicates the odds of an injury for each unit increase in the independent variables. For example, the odds ratio for African American individuals is interpreted as the odds of being injured in a use of force incident relative to White individuals.

Results

Descriptive analysis

Table D.1 reports the racial or ethnic makeup of the use of force sample. Thirty-seven percent of the use of force incidents recorded during the three-year observation period involved an African-American individual, while 18.4 percent of use of force incidents involved a Hispanic individual. White individuals comprised slightly more than one-third (35.4 percent) of the use of force cases. Caution must be used when comparing the racial or ethnic composition of use of force incidents to population characteristics because such comparisons fail to account for a host of factors that may explain disparities in such outcomes. In short, these descriptive statistics cannot be used to draw conclusions about whether there is bias in the frequency with which SFPD officers use force against African-American and Hispanic individuals. As noted previously and because of problems with how SFPD use of force and arrest data are captured, the assessment team was not able to analyze whether force was used more frequently against minorities as compared to White individuals.

Table D.1. Racial or ethnic makeup of the use of force sample (N = 548)

	Individual race or ethnicity	N	Percent
White		194	35.4%
African American		203	37.0%
Hispanic		101	18.4%
Other		46	8.4%
Unknown		4	0.7%
Total		548	100.0%

Table D.2 on page 277 presents the racial or ethnic breakdown of the use of force incidents by SFPD district. This table reveals that a majority of officer force in Bayview (54.7 percent) and Tenderloin (56.1 percent) was used against African-American individuals, while Hispanic individuals were most frequently involved in use of force incidents in the Mission (30.0 percent) and Taraval (27.6 percent) districts. White

individuals were most often the targets of force in the Central (52.0 percent), Park (61.5 percent), and Richmond (50.0 percent) districts. Again, caution must be used in concluding that force was used disproportionately against a particular racial or ethnic group based solely on that group's representation in the population of a particular district. As noted earlier and because of limitations in SFPD use of force and arrest data, the assessment team was unable to analyze whether race or ethnicity predicted the frequency with which force was used among those arrested by the SFPD.

Table D.2. Racial or ethnic makeup of the use of force sample by district

District	White	African American	Hispanic	Other	Missing	Total
Bayview	9	35	12	7	1	64
Percent of Bayview total →	14.1%	54.7%	18.8%	10.9%	1.6%	100.0%
Central	26	12	5	7	0	50
Percent of Central total →	52.0%	24.0%	10.0%	14.0%	0.0%	100.0%
Ingleside	14	18	15	6	0	53
Percent of Ingleside total →	26.4%	34.0%	28.3%	11.3%	0.0%	100.0%
Mission	34	24	27	4	1	90
Percent of Mission total \rightarrow	37.8%	26.7%	30.0%	4.4%	1.1%	100.0%
Northern	23	19	9	3	0	54
Percent of Northern total →	42.6%	35.2%	16.7%	5.6%	0.0%	100.0%
Park	16	6	3	0	1	26
Percent of Park total →	61.5%	23.1%	11.5%	0.0%	3.9%	100.0%
Richmond	7	2	1	4	0	14
Percent of Richmond total \rightarrow	50.0%	14.3%	7.1%	28.6%	0.0%	100.0%
Southern	38	33	7	7	1	86
Percent of Southern total →	44.2%	38.4%	8.1%	8.1%	1.2%	100.0%
Taraval	9	8	8	4	0	29
Percent of Taraval total →	31.0%	27.6%	27.6%	13.8%	0.0%	100.0%
Tenderloin	18	46	14	4	0	82
Percent of Tenderloin total →	22.0%	56.1%	17.1%	4.9%	0.0%	100.0%
Total	194	203	101	46	4	548
Percent of cumulative total \rightarrow	35.4%	37.0%	18.4%	8.4%	0.7%	100.0%

Highest level of force analysis

This section of the analysis explored whether there were racial or ethnic disparities in the severity of force used against individuals. To begin, table D.3 on page 278 provides a frequency breakdown of the different types of force that appeared in the assessment team's sample of use of force incidents. These numbers represent the highest level of force used during the incident. The data showed that a majority of the force used by SFPD officers involved soft hand control (52.4 percent) or hard hand control (22.5 percent). A firearm was pointed at an individual in 9.5 percent of the incidents, and a baton was used against 7.9 percent of the individuals. Verbal commands (0.7 percent), OC spray (4.7 percent), less lethal munitions (2.0 percent), and K-9s (0.4 percent) were relatively rare types of force in the sample data. No individual was shot at in this random sample of use of force incidents. ²⁹⁰

^{290.} Although the SFPD had 22 officer-involved shooting incidents for the time frame of the data analysis, there were no instances of deadly force in the randomly generated sample of 600 cases that were reviewed and coded.

Table D.3. Highest level of force used by officers

Highest level of force	N	Percent
Verbal command	4	0.7%
Pointing firearm	52	9.5%
Soft hand control	287	52.4%
OC spray	26	4.7%
Hard hand control	123	22.5%
Baton	43	7.9%
Less lethal munition	11	2.0%
K-9	2	0.4%
Gunshot	0	0.0%

Table D.4. Highest level of force used by officers by individual race or ethnicity

Highest level of force	White	African American	Hispanic	Other	Unknown	Total
Verbal command →	2	2	0	0	0	4
Verbal command as percent of total UOF	1.0%	1.0%	0.0%	0.0%	0.0%	0.7%
against individuals of each racial group						
Pointing firearm →	17	23	9	3	0	52
Pointing firearm as percent of total UOF	8.8%	11.3%	8.9%	6.5%	0.0%	9.5%
against individuals of each racial group						
Soft hand control →	105	103	51	25	3	287
Soft hand control as percent of total UOF	54.1%	50.7%	50.5%	54.4%	75.0%	52.4%
against individuals of each racial group						
OC spray →	9	10	3	3	1	26
OC spray as percent of total UOF against	4.6%	4.9%	3.0%	6.5%	25.0%	4.7%
individuals of each racial group						
Hard hand control →	45	44	24	10	0	123
Hard hand control as percent of total UOF	23.2%	21.7%	23.8%	21.7%	0.0%	22.5%
against individuals of each racial group	12	1.0	1.0			42
Baton →	12	16	10	5	0	43
Baton as percent of total UOF against	6.2%	7.9%	9.9%	10.9%	0.0%	7.9%
individuals of each racial group Less lethal munition →	3	5	3	0	0	11
Less lethal munition → Less lethal munition as percent of total UOF	3 1.6%	5 2.5%	3.0%	0.0%	0.0%	2.0%
against individuals of each racial group	1.0%	2.5%	5.0%	0.0%	0.0%	2.0%
K-9 →	1	0	1	0	0	2
K-9 as percent of total UOF against individuals	0.5%	0.0%	1.0%	0.0%	0.0%	0.4%
of each racial group	0.570	0.070	1.070	0.070	0.070	0.470
Gunshot →	0	0	0	0	0	0
Gunshot as percent of total UOF against	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
individuals of each racial group	0.070	3.070	0.070	3.070	0.070	0.070
Total →	194	203	101	46	4	548
Total UOF against individuals	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
of each racial group	· · · ·			/ -		· · ·

Table D.4 on page 278 presents the racial makeup of the use of force incidents across the different types of force. The table reveals no significant differences in the highest levels of force used across racial or ethnic groups. Nearly 9 percent of White individuals and 11.3 percent of African-American individuals had a firearm pointed at them as the highest level of force applied. About 54 percent of White individuals experienced soft hand control as the highest level of force compared to 50.7 percent of African-American individuals. Similar to the assessment team's earlier discussion, one must be cautious when interpreting such findings because this descriptive analysis did not account for factors that may explain any racial disparities observed. Table D.8 on page 282 considers whether the race or ethnicity of an individual influenced the degree of force used by SFPD officers.

As discussed earlier, one of the strongest predictors of police use of force is the level of individual resistance. Table D.5 provides a frequency distribution of the highest levels of resistance offered by individuals in the sample. The most common form of resistance was defensive (45.3 percent). However, a sizable portion of the use of force incidents involved passive resistance (16.4 percent) or active aggression resistance (20.3 percent). Verbal noncompliance was the highest level of resistance offered by 6 percent of individuals. Aggravated active aggression was the least common form of resistance offered by individuals (2.7 percent). It is also worthy of note that more than 9 percent of incidents in the sample involved no resistance on the part of the individual.

Table D.5. Highest level of resistance offered by individual

Highest level of resistance	N	Percent
No resistance	51	9.3%
Verbal noncompliance	33	6.0%
Passive	90	16.4%
Defensive	248	45.3%
Active aggression	111	20.3%
Aggravated active aggression	15	2.7%
Total	548	100.0%

Table D.6 on page 280 breaks down the highest level of resistance by individual race or ethnicity. The results of this analysis revealed no large disparities in the levels of resistance offered by individuals across the racial and ethnic groups. However, 11.8 percent of African Americans and 9.3 percent of White individuals offered no resistance during the use of force incidents. A higher percentage of White individuals (46.9 percent) than African Americans (39.4 percent) offered defensive resistance.

Table D.6. Highest level of resistance by individual race or ethnicity

Level of resistance	White	African American	Hispanic	Other	Unknown	Total
No resistance → No resistance as percent of total resistance by individuals of each racial group	18	24	6	2	1	51
	9.3%	11.8%	5.9%	4.4%	25.0%	9.3%
Verbal noncompliance → Verbal noncompliance as percent of total resistance by individuals of each racial group	10	14	7	2	0	33
	5.2%	6.9%	6.9%	4.4%	0.0%	6.0%
Passive → Passive resistance as percent of total resistance by individuals of each racial group	31	33	17	8	1	90
	16.0%	16.3%	16.8%	17.4%	25.0%	16.4%
Defensive → Defensive resistance as percent of total resistance by individuals of each racial group	91	80	51	24	2	248
	46.9%	39.4%	50.5%	52.2%	50.0%	45.3%
Active aggression → Active aggression as percent of total resistance by individuals of each racial group	39	47	17	8	0	111
	20.1%	23.2%	16.8%	17.4%	0.0%	20.3%
Aggravated active aggression → Aggravated active aggression as percent of total resistance by individuals of each racial group	5	5	3	2	0	15
	2.6%	2.5%	3.0%	4.4%	0.0%	2.7%
Total → Total resistance by individuals of each racial group	194	203	101	46	4	548
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Table D.7 on page 281 considers the racial or ethnic breakdown of the number of warrants an individual had leading up to the use of force encounter. Individuals with warrants may have greater reason to resist officers and therefore be at greater risk of experiencing higher levels of force. If warrants are more common among certain racial or ethnic groups, this may partially explain any disparities in use of force. The analysis showed that about 84 percent of both White individuals and African Americans, respectively, in the sample had zero warrants. About 7.4 percent of African Americans in the use of force sample had one warrant whereas only 3.6 percent of White individuals had one warrant during the time of the incident. However, 12.4 percent of White individuals had 2 or more warrants compared to 8.9 percent of African American individuals in the sample. Hispanic individuals were less likely to possess warrants compared to White individuals and African Americans.

Table D.7. Number of warrants, by individual race or ethnicity

Number of warrants	White	African American	Hispanic	Other	Missing	Total
0	163	170	93	43	4	473
Percent of each racial group with 0 warrants	84.0%	83.7%	92.1%	93.5%	100.0%	86.3%
1	7	15	2	1	0	25
Percent of each racial group with 1 warrant	3.6%	7.4%	2.0%	2.2%	0.0%	4.6%
2 or more	24	18	6	2	0	50
Percent of each racial group with 2 or more warrants	12.4%	8.9%	5.9%	4.4%	0.0%	9.1%
Total	194	203	101	46	4	548
Percent of each racial group with warrants	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

While informative, the bivariate comparisons (tables D.4 on page 278, D.6 on page 280, and D.7) were limited to considering only two variables at a time. To overcome this shortcoming, multivariate models were estimated that examined whether there were racial or ethnic disparities in the severity of force used against individuals after accounting for relevant factors that predict such outcomes. Table D.8 on page 282 presents the multinomial logistic equation that regressed the highest level of force onto individual race or ethnicity and the statistical control variables. The two columns contrast the likelihood of experiencing high force compared to low force and medium force compared to low force. In both comparisons, individual resistance had the largest impact on level of force. For every one-unit increase in the individual resistance scale (which ranges from 0 to 5), individuals were 5.74 times more likely to have experienced high force relative to low force (p < 0.01). Similarly, the risk of being in the medium force category compared to the low force category increased by a factor of 3.35 for every one-unit increase in the individual resistance scale (p < 0.01). In other words, individuals who offered greater resistance were more likely to experience higher amounts of force by SFPD officers. This was expected and consistent with the literature (Alpert and Dunham 1997). Only one other individual characteristic had a statistically significant effect in this model number of charges (RRR = 0.91, p < 0.05). For each additional charge, individuals were about 9 percent less likely to be in the medium force category compared to the low force group, net of controls. Importantly, the results demonstrate that there were no racial or ethnic disparities in the severity of force experienced by individuals in this random sample. African-American, Hispanic, and other race individuals received similar levels of force as White individuals.

Table D.8. Multinomial logistic model predicting highest level of force applied by officers (N = 518)

	High force versus Low force			Medium force versus Low force			
	Ь	Ζ	RRR	Ь	Z	RRR	
Individual characteristics							
Individual resistance	1.75	6.31 [‡]	5.74	1.21	4.87 [‡]	3.35	
African American	0.05	0.09	1.05	0.03	0.06	1.03	
Hispanic	0.30	0.51	1.34	-0.33	-0.56	0.72	
Other race	0.42	0.42	1.52	0.38	0.38	1.46	
Male	-0.05	-0.08	0.95	-0.65	-1.19	0.52	
Age	0.01	0.55	1.01	-0.01	-0.53	0.99	
Number of warrants	-0.13	-0.75	0.88	-0.20	-1.35	0.82	
Number of charges	-0.06	-1.28	0.94	-0.09	-2.06 [†]	0.91	
Intoxicated	0.60	0.86	1.82	0.55	0.94	1.73	
Height	0.03	0.55	1.03	-0.01	-0.11	0.99	
Weight	0.00	-0.19	1.00	0.00	0.76	1.00	
Offense characteristics							
Violent offense	0.32	0.36	1.37	0.15	0.22	1.17	
Weapon offense	-0.09	-0.28	0.92	-0.43	-0.77	0.65	
Night	-0.38	-0.78	0.68	-0.65	-1.59	0.52	
Number of individuals	-0.10	-0.45	0.90	-0.18	-0.79	0.84	
Officer characteristics							
All minority officers	1.77	1.92*	5.85	0.73	0.82	2.07	
Mixed race officers	-0.28	-0.75	0.76	-0.33	-0.91	0.72	
All male officers	0.39	0.57	1.47	0.50	0.91	1.65	
<u>Patrol</u>	0.55	1.40	1.74	0.50	1.22	1.64	
Number of officers	-0.19	-1.90*	0.82	-0.30	-4.02 [‡]	0.74	
District characteristics							
Violent crime rate	0.13	1.70	1.14	0.03	0.37	1.03	
% African American	-0.01	-0.25	0.99	-0.01	-0.20	0.99	
% Hispanic	-0.08	-2.56 [†]	0.92	-0.04	-1.51	0.96	
% Unemployed	0.16	0.72	1.17	-0.04	-0.20	0.96	
Intercept	-4.79	-1.38	0.01	2.35	0.68	10.52	
McFadden's R ²			0.24	4			

Reference category is "low force" (i.e., verbal commands or pointing firearm). RRR = Relative risk ratio.

None of the offense characteristics had statistically significant effects on the highest level of force, but several officer characteristics emerged as meaningful. Individuals in use of force incidents that involved all minority officers were 5.85 times more likely to have experienced the highest level of force compared to incidents involving all White officers (b = 1.77, p < 0.10, RRR = 5.85). This suggests that among this sample of use of force incidents, groups of all minority officers were more likely to use higher amounts of force compared to incidents that involved all White officers. This was an interesting finding and worthy of further analysis. Given that minority officers are distributed fairly evenly throughout SFPD districts, it does not appear that district assignment of minority officers explains this finding. Minority officers are not disproportionately assigned to higher crime districts where higher levels of force might be expected.

^{*} $p \le 0.10$

[†]p ≤ 0.05

 $p \le 0.01$

The number of officers present at the use of force incident was negatively related to level of force in both comparisons. For each additional officer involved in a use of force incident, the odds of being in the high force category versus the low force category decreased by 18 percent (p < 0.10), and the odds of being in the medium force category versus the low force category decreased by 26 percent (p < 0.01). This finding suggests that lower levels of force were used against individuals when more SFPD officers were present during the incident.

Last, there was one district-level variable that emerged as a statistically significant predictor. The percentage of the population that is Hispanic (% *Hispanic*) was negatively associated with use of force severity. Each percentage increase in the Hispanic population corresponded with an 8 percent reduction in the risk of being in the high force group compared to the low force group (p < 0.05). Use of force incidents in parts of San Francisco with higher concentrations of Hispanic residents involved less severe force on average.

Force factor analysis

The next stage of the analysis focused attention on the force factor. Recall from earlier discussion that the force factor represents the difference between the highest level of force used by the SFPD officer and the highest level of resistance offered by the individual. Positive values are associated with more officer force relative to individual resistance. Negative force factor values correspond with less officer force relative to individual resistance. Table D.9 on page 284 presents the results of the multinomial logistic regression that compared (1) the risk of experiencing less force than resistance relative to equal force and (2) the risk of experiencing more force than resistance relative to equal force. The estimated coefficients appear in the respective columns in table D.9 on page 284. The results suggest that there were no racial or ethnic disparities in the amount of force applied relative to individual resistance. In other words, African-American, Hispanic, and individuals of other racial or ethnic groups were likely to receive the same level of force as White individuals. This finding echoes the results presented in table D.8 on page 282. Several other individual characteristics had statistically significant effects on the force factor categories. Each additional charge corresponded with a 5 percent reduction in the risk of experiencing more force than resistance relative to equal force (p < 0.10). This is similar to the previous analysis—more charges were associated with less force. Interestingly, intoxicated individuals were more likely to fall into the less force than resistance category compared to equal force. Intoxicated individuals were about 153 percent more likely to have lower levels of force used against them compared to sober individuals (p < 0.05). Last, height was associated with the force factor (p < 0.10). For each additional inch of height, individuals' risk of having less force used against them compared to equal force was reduced by 4 percent. In other words, taller individuals were more likely to receive an equal amount of force from officers relative to their own resistance versus experiencing less force. It is important to note that height was not associated with experiencing more force than resistance (i.e., positive force factor values).

Table D.9. Multinomial logistic model predicting force factor (N = 518)

	Less force than resistance			More force than resistance			
		versus Equal force to resistance					
	versu	is Equal force	to resistance	versus	Equal force t	o resistance	
	b	Z	RRR	b	Z	RRR	
Individual characteristics							
African American	0.39	1.40	1.47	0.16	0.67	1.18	
Hispanic	-0.11	-0.36	0.90	0.50	1.10	1.64	
Other race	-0.70	-0.78	0.50	-0.18	-0.35	0.83	
Male	-0.02	-0.06	0.98	0.51	1.02	1.67	
Age	-0.02	-1.17	0.98	-0.01	-0.39	0.99	
Number of warrants	0.08	0.58	1.08	0.09	0.90	1.09	
Number of charges	0.04	0.75	1.04	-0.05	-1.72*	0.95	
Intoxicated	0.93	2.43†	2.53	0.34	0.99	1.41	
Height	-0.04	-1.65*	0.96	0.03	0.86	1.03	
Weight	0.00	-0.22	1.00	0.00	-0.92	1.00	
Offense characteristics							
Violent offense	0.37	0.87	1.44	-0.63	-4.02‡	0.53	
Weapon offense	-0.53	-0.63	0.59	-0.02	-0.08	0.98	
Night	-0.37	-1.00	0.69	0.16	0.55	1.18	
Number of individuals	-0.31	-1.08	0.73	-0.15	-0.84	0.86	
Officer characteristics							
All minority officers	0.35	0.65	1.42	0.93	2.69 [‡]	2.54	
Mixed race officers	-0.05	-0.12	0.95	-0.27	-1.34	0.76	
All male officers	0.08	0.25	1.08	0.05	0.16	1.06	
Patrol	-0.38	-0.90	0.69	-0.47	-2.10 [†]	0.62	
Number of officers	-0.04	-0.49	0.96	-0.05	-0.96	0.95	
District characteristics							
Violent crime rate	-0.15	-4.30 [‡]	0.86	0.01	0.24	1.01	
% African American	0.05	3.26 [‡]	1.05	0.03	1.21	1.03	
% Hispanic	0.03	2.40 [†]	1.03	-0.02	-1.98 [†]	0.98	
% Unemployed	-0.25	-4.27 [‡]	0.78	0.02	0.28	1.02	
Intercept	4.38	2.11 [†]	79.78	-2.15	-0.78	0.12	
McFadden's R ²			0.07	-			

Note: The reference category is "equal force to resistance" (the officer applied a level of force on par with the individual's level of resistance; force factor = 0). RRR = Relative risk ratio.

Regarding offense characteristics, individuals who committed a violent offense had lower odds of being in the more force than resistance category compared to the equal force category (p < 0.01). Specifically, violent offenders were 47 percent less likely than individuals who committed other offenses to experience a greater level of force relative to their level of resistance. While this finding seems counterintuitive, it is possible that officers dealing with an individual charged with a violent offense might be more cautious or more likely to point a firearm at the individual (or both), which might explain the low relative risk ratio associated with this variable. This finding also warrants further investigation and analysis in the future.

^{*} $p \le .10$

[†]p ≤ .05

 $p \le .01$

Several officer characteristics also were related to the force factor. Incidents that involved all minority officers were 2.54 times more likely than incidents with all White officers to involve levels of force that were disproportionate to the level of individual resistance (p < 0.01). This finding mirrors the result from table D.8 on page 282—incidents involving all minority officers were more likely to result in more severe force than those involving all White officers. Patrol officers were 38 percent less likely than SFPD officers from other assignments to use a disproportionate amount of force (p < 0.05).

Each of the district-level characteristics was significantly associated with the force factor. The violent crime rate, for instance, was negatively correlated with the risk of an individual experiencing less force than resistance (p < 0.01). For every one-unit increase in the violent crime rate, the odds of an individual experiencing a lower amount of force relative to his resistance decreased by about 14 percent. This finding was in the expected direction and suggests that the level of violence in a district was associated with increased, but not disproportionate force, relative to individual resistance. However, violent crime rates were not associated with disproportionate force. The percentage of the district population that was African American (p < 0.01, RRR = 1.05) and Hispanic (p < 0.05, RRR = 1.03) were positively associated with less force. A higher percentages of Hispanic individuals was also negatively associated with the odds of an individual experiencing excessive force (p < 0.05, RRR = 0.98). Use of force incidents that occurred in areas with greater concentrations of racial or ethnic minorities were more likely to involve less officer force relative to individual resistance. Lower levels of force may occur in such areas for a number of reasons including officers being more hesitant to use high levels of force in minority communities (Nix and Wolfe 2015; Nix and Wolfe 2016; Wolfe and Nix 2016) or officers being more likely to report higher levels of individual resistance in such neighborhoods (which would artificially reduce the force factor values). The current data cannot speak to the cause of this relationship. Last, the percentage of residents in a district who were unemployed was negatively associated with the experience of lower levels of force relative to individual resistance (p < 0.01, RRR = 0.78). Accordingly, SFPD officers were more likely to use proportionate levels of force as opposed to less than necessary force in areas marked by greater disadvantage. Unemployment levels did not predict excessive force.

Individual injury analysis

The last section of the analysis considered whether there were racial or ethnic disparities in individual injuries. Table D.10 on page 286 provides a cross-tabulation of injury status across the racial or ethnic groups. Out of the 548 use of force incidents analyzed in this report, 51.8 percent resulted in an individual injury of some type (N = 284). There were no significant differences across the individual racial or ethnic groups regarding whether an injury was sustained (p = 0.52).

Table D.10. Injury sustained, by individual race or ethnicity

Injury	White	African American	Hispanic	Other	Missing	Total
No injury →	93	101	47	21	2	264
Percent of individuals in each	47.9%	49.8%	46.5%	45.7%	50.0%	48.2%
racial group with no injury						
Injury →	101	102	54	25	2	284
Percent of individuals in each	52.1%	50.3%	53.5%	54.4%	50.0%	51.8%
racial group with injuries						
Total →	194	203	101	46	4	548
Percent of individuals in each racial group	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Some column percentages may not sum to precisely 100 percent because of rounding.

Table D.11 presents a frequency distribution of the highest level of injury sustained by individuals within the use of force sample. Complaints of pain or discomfort (17.2 percent) and scrapes (18.8 percent) were the most common types of injuries sustained by individuals in the use of force sample. In fact, these types of injuries accounted for 69.4 percent of the 284 incidents involving some type of individual injury. About 6 percent of all use of force incidents resulted in individual bruising or swelling or a laceration, respectively. Eight individuals received a broken or dislocated bone and two suffered internal bleeding. Overall, these results indicate that a significant majority of use of force incidents resulted in either no injury or only minor injuries to individuals.

Table D.11. Highest level of injury sustained by individual

	N	Percent of entire sample ($N = 548$)	Percent of those injured ($N = 284$)
No injury	264	48.2%	_
Pain/discomfort	94	17.2%	33.1%
Scrape	103	18.8%	36.3%
Bruise/swelling	32	5.8%	11.3%
Sprain/strain	4	0.7%	1.4%
Laceration	35	6.4%	12.3%
Bite	2	0.4%	0.7%
Puncture	3	0.6%	1.1%
Burn	0	0.0%	0.0%
Broken/dislocated bone	8	1.5%	2.8%
Internal bleeding	2	0.4%	0.7%
Gunshot wound	0	0.0%	0.0%
Other	1	0.2%	0.4%
Total	548	100.0%	100.0%

For comparison purposes, table D.12 on page 287 provides a distribution of the highest level of injury sustained by officers involved in the use of force incidents. A vast majority of use of force incidents did not result in an officer injury (86.5 percent). About 3 percent of officers complained of pain or discomfort and 4.7 percent received a scrape. Only four officers received a broken or dislocated bone—the most severe

injury sustained in the sample. Like the individual findings discussed earlier, these results indicate that most use of force cases did not involve injuries to officers, and when injuries did occur, they were usually minor.

Table D.12. Highest level of injury sustained by officers involved

	N	Percent of entire sample ($N = 548$)	Percent of those injured ($N = 74$)
No injury	474	86.5%	_
Pain/discomfort	16	2.9%	21.6%
Scrape	26	4.7%	35.1%
Bruise/swelling	8	1.5%	10.8%
Sprain/strain	4	0.7%	5.4%
Laceration	11	2.0%	14.9%
Bite	2	0.4%	2.7%
Puncture	3	0.6%	4.1%
Burn	0	0.0%	0.0%
Broken/dislocated bone	4	0.7%	5.4%
Internal bleeding	0	0.0%	0.0%
Gunshot wound	0	0.0%	0.0%
Other	0	0.0%	0.0%
Total	548	100.0%	100.0%

Table D.13 on page 288 presents the results from a logistic regression model predicting whether the individual was injured during the incident. Consistent with the aforementioned analyses, race or ethnicity was not significantly associated with being injured during the use of force incidents. African-American, Hispanic, and individuals of other racial or ethnic groups were no more or less likely to be injured compared to their White counterparts. As expected, individual resistance was highly correlated with individual injury (p < 0.01, OR = 2.14). The odds ratio demonstrates that the likelihood of an individual being injured during a use of force incident increased by 114 percent for every one-unit increase in the individual resistance scale. For example, an individual who offered the highest level of resistance to an officer (coded 5 on the assessment team's scale) would be over 10 times more likely to be injured than an individual who offered the least amount of resistance (coded 0 on the team's scale). This finding was consistent with the police use of force literature. Male individuals were 68 percent less likely to be injured than female individuals (p < 0.05, OR = 0.32), an interesting gender effect that bears further investigation with subsequent use of force samples. Age was positively associated with the risk of injury (p < 0.05, OR =1.03), where each additional year of individual age corresponded with a 3 percent increase in the odds of injury. This suggests, for example, that an average 50-year-old individual would be about 90 percent more likely to be injured during a use of force incident than an average 20-year-old individual. Last, individual height was positively associated with the odds of injury (p < 0.05, OR = 1.06). An additional inch of height increased the chances of injury to an individual by 6 percent. Weight, however, was negatively associated with the risk of injury (p < 0.05, OR = 0.95). Every 10-pound increase in individual weight corresponded with a 5 percent decrease in the odds of injury.

Table D.13. Logistic regression model predicting whether individual was injured (N = 518)

	Ь	SE	OR
Individual characteristics			
Individual resistance	0.76 [‡]	0.13	2.14
African American	0.13	0.20	1.14
Hispanic	0.54	0.34	1.72
Other race	0.32	0.38	1.38
Male	-1.14 [†]	0.48	0.32
Age	0.03	0.01	1.03
Number of warrants	0.19	0.15	1.21
Number of charges	-0.06	0.04	0.95
Intoxicated	0.42	0.36	1.52
Height	0.06 [†]	0.13	1.06
Weight x 10*	-0.05 [†]	0.02	0.95
Offense characteristics			
Violent offense	-0.43	0.28	0.65
Weapon offense	0.29	0.35	1.34
Night	0.19	0.27	1.21
Number of citizens	-0.20	0.23	0.82
Officers characteristics			
All minority officers	0.79 [†]	0.39	2.21
Mixed race officers	0.19	0.14	1.21
All male officers	-0.30	0.24	0.74
Patrol	-0.55 [†]	0.25	0.58
Number of officers	0.00	0.03	1.00
District characteristics			
Violent crime rate	-0.01	0.04	0.99
% African American	0.03	0.02	1.03
% Hispanic	-0.02	0.01	0.98
% Unemployed	0.04	0.07	1.05
Intercept	-4.77 [‡]	1.80	
McFadden's R ²		0.17	

^{*} The weight coefficient, SE, and OR are multiplied by 10.

None of the offense characteristics were associated with the risk of individual injury, but several officer characteristics were. Consistent with the previously discussed findings, use of force incidents involving all minority officers were 2.20 times more likely to result in individual injury compared to similarly situated incidents involving all White officers (p < 0.05, OR = 2.21). Incidents where the primary officer was assigned to patrol were about 42 percent less likely to result in individual injury compared to incidents involving a primary officer from another assignment (p < 0.05, OR = 0.58). None of the district-level characteristics were associated with the risk of individual injury.

 $[†] p \le .05$

 $p \le .01$

Conclusion

This analysis used a sample of 548 use of force cases recorded by SFPD over a three-year period (May 2013–May 2016) to investigate whether racial aor ethnic minorities in San Francisco were subjected to greater (or more severe) levels of force compared to White individuals and whether minority individuals were more likely than White individuals to be injured during a use of force encounter with the police. Overall, African Americans constituted the largest racial group against whom force was used (37 percent) followed by White individuals (35.4 percent) and Hispanic individuals (18.4 percent). Persons of other races, including Asian, constituted 8.4 percent of the use of force sample. These percentages have a margin of error of 3–4 points at a confidence level of 95 percent. While it is tempting to compare these percentages to the census populations of these groups in San Francisco, such comparisons should not be made because they do not take into account the nature of the underlying offenses associated with the use of force incidents or the levels of resistance offered by the individuals, among other important factors. Unfortunately and because of limitations in the manner in which use of force and arrest data were collected by SFPD, the assessment team was unable to perform a multivariate frequency analysis, which would have shed light on whether minority individuals were subjected to force more often than White individuals during an arrest.

The results do indicate, however, that minority individuals were not subjected to higher or more severe levels of force than White individuals. This is an important finding and suggests that higher levels of force are not being applied in a racially disproportionate manner by the SFPD. Instead, the level of individual resistance was by far the strongest predictor of the severity of force used by the police across the use of force sample. However, the presence of all minority officers (compared to all White officers) during a use of force event was associated with an increase in the severity of force used. Although a plausible explanation for this finding is that a greater concentration of minority officers may be assigned to higher crime districts where force may be used at higher levels, this does not appear to be the case. Minority officers are, in fact, distributed fairly evenly throughout the SFPD districts and are not disproportionately assigned to higher crime districts. This finding regarding higher force levels and the presence of minority officers warrants further examination and analysis in the future.

In addition, officers did not disproportionately use greater force relative to individual resistance against minority individuals when compared to White individuals. This mirrored the severity analysis and reinforces that compared to White individuals, SFPD officers did not use higher levels of force against minorities (African Americans and Hispanics) relative to the resistance offered by those individuals. Again, though, when force was used by only minority officers (singularly or in groups), more force relative to individual resistance was evident when compared to force used by only White officers.

Finally, minority individuals were not injured at the hands of the police more often than White individuals. Rather, the presence of only minority officers was the strongest predictor of individual injury followed by the level of individual resistance. As noted, the consistent finding of increased force and individual injury when only minority officers were present requires further examination in future use of force analyses.

In addition, the SFPD should begin collecting use of force information in a manner that is linkable to its arrest data so that a multivariate frequency analysis can be conducted to determine whether minority individuals are more likely than White individuals to have force used against them during an arrest. This analysis should also explore the effect that minority officers have on the frequency with which force is used and whether force is used more often during an arrest by minority officers than White officers.

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Appendix E. Traffic Stop Data Statistical Analysis

Stop data and methodology

This report offers an assessment of the decision-making practices of San Francisco police officers over a three-year period. In particular, two decision points were examined. First, the initiation of a traffic stop by an officer was examined to assess whether there were any racial or ethnic disparities in the composition of those incidents. The second area of interest was the actions taken by an officer once a traffic stop had been initiated (i.e., post-stop outcomes). These may include the issuance of a warning or citation, an arrest of the individual, a search of the individual or vehicle, or a combination of these. These two decision points were examined using a variety of analytic methods to arrive at some general conclusions regarding the actions of San Francisco officers during this three-year period. Data to inform these analyses were drawn from a variety of sources including the E-585 traffic stop incident reports (i.e., stop data) completed by the San Francisco Police Department (SFPD). Data on all SFPD officers who initiated traffic stops during the study period (i.e., officer characteristics) were provided by SFPD. Finally, the 2010 American Community Survey compiled by the U.S. Census Bureau provided contextual information (i.e., district characteristics).

Stop data

The stop data were provided by the SFPD and reflect all E-585 traffic stop incident reports collected between May 1, 2013 and May 1, 2016. SFPD officers are required to complete an E-585 traffic stop incident report each time they make a self-initiated traffic stop. Officers capture basic demographic information about the driver, the reason for the stop, and any outcomes from the stop and enter the data on their mobile computers in their vehicles or on a hand-held device in the case of motorcycle officers assigned to the Traffic Unit. Three years of stop data provided a sufficient amount of data to produce reliable results and minimize the impact of any seasonal effects on stop activity. Furthermore, three years of data helped minimize the potential impact of random changes in stop activity from one year to the next.

The E-585 traffic stop incident report collects information on the driver involved in the stop including the individual's gender, race or ethnicity, and age. The reason for the stop (e.g. moving violation, non-moving violation, "be on the lookout" (BOLO), etc.) is also recorded on the E-585 traffic stop incident report. This form also summarizes the resolution of the stop including whether it resulted in a warning, citation, arrest, or search. Finally, the SFPD district where the stop took place is recorded on the form. As summarized in table E.1 on page 293, White drivers constituted a plurality (37.7 percent) of the stops, with male drivers accounting for nearly three-quarters (71.8 percent) of the stops. The average age of drivers stopped by the SFPD was 39 years. The overwhelming majority of stops were initiated because of moving (68.3 percent) or non-moving (30.5 percent) violations. These stops most frequently resulted in a traffic citation (72.6 percent), with searches occurring in approximately 3.9 percent of all stops and arrests occurring in less than 1 percent of all stops (0.8 percent). Finally, Southern (18.4 percent) and Taraval Districts (12.6 percent) represented the most active locations.

Table E.1. Traffic stop data descriptive statistics (N = 331,829)

	Percent/Average	SD	Range
Driver characteristics			
White (non-Hispanic)	37.7	0.48	0-1
African American (non-Hispanic)	14.8	0.36	0-1
Hispanic	13.0	0.34	0–1
Asian	17.8	0.38	0-1
Other *	16.7	0.37	0-1
Male	71.8	0.45	0-1
Average age	39.2	13.94	15-99
Reason for the stop			
Moving violation	68.3	0.47	0-1
Non-moving violation	30.5	0.46	0-1
DUI	0.2	0.04	0-1
PC violation	0.4	0.06	0-1
MPC violation	0.6	0.08	0-1
BOLO/Warrant	0.2	0.04	0-1
Stop outcomes			
No action taken	0.3	0.05	0-1
Report taken	0.8	0.09	0-1
Warning	25.6	0.44	0-1
Citation	72.6	0.45	0-1
Arrest	0.8	0.09	0-1
Search (any type)	3.9	0.19	0-1
Districts			
Bayview	10.4	_	_
Central	9.6	_	_
Ingleside	10.1	_	_
Mission	8.6	_	_
Northern	8.5	_	_
Park	6.7	_	_
Richmond	9.9	_	_
Southern	18.4	_	_
Taraval	12.6	_	_
Tenderloin	5.2	_	_

^{* &}quot;Other" race or ethnicity is not defined in the E-585 data but presumably is any race or ethnicity not otherwise captured.

SFPD officers

Table E.2 on page 294 provides the demographic characteristics of the officers involved in the traffic stops across the three-year period. These values were derived from the stop-level database, which means that many of the stops in the analysis were initiated by the same officer. In other words, individual officers account for multiple stops within the data base. Unfortunately, the SFPD did not provide a database that would have allowed identification of individual officers or account for multiple stops by the same officers.²⁹¹ On average, 50.4 percent of traffic stops were conducted by a White officer, 9.5 percent by an

^{291.} The E-585 data received from the SFPD already had officer data attached, so no unique identifier codes were present in the data.

African-American officer, 17.4 percent by an Asian officer, and 15.3 percent by an officer of Hispanic ethnicity. Approximately 93 percent of all traffic stops were conducted by a male officer with an average age of 39.7 years and 9.9 years of experience in law enforcement. A vast majority of the traffic stops were initiated by an officer assigned to patrol (93.1 percent). Almost three-quarters (72.9 percent) of stops were conducted by an officer assigned as a "district officer" and 24.2 percent were conducted by a "traffic officer." These data will be used in subsequent stop and post-stop analyses.

Table E.2. Officer characteristics by SFPD district

District*	% White	% African American	% Asian	%Oth- er	%His- panic	% Male	Avg. age	Avg. years of service	% Officer	% District assign	% Traffic assign
Citywide	50.4%	9.5%	17.4%	7.3%	15.3%	92.6%	39.7	9.9	93.1%	72.9%	24.2%
Bayview	49.5%	11.1%	8.6%	9.2%	21.6%	92.2%	36.4	7.3	95.7%	82.8%	13.9%
Central	48.1%	7.4%	20.8%	11.4%	12.3%	93.6%	40.0	10.7	94.9%	71.6%	24.6%
Ingleside	39.7%	16.8%	13.7%	12.0%	17.8%	90.5%	38.0	8.5	94.1%	88.6%	10.4%
Mission	45.6%	7.8%	15.6%	8.6%	22.3%	91.8%	36.5	6.4	95.5%	81.4%	16.3%
Northern	58.4%	7.8%	16.1%	3.2%	14.5%	91.9%	40.5	11.5	92.8%	57.9%	37.1%
Park	47.3%	10.7%	21.3%	7.1%	13.6%	90.5%	38.5	8.6	94.3%	87.7%	11.0%
Richmond	61.9%	3.0%	21.2%	4.9%	8.8%	92.0%	41.4	8.7	94.1%	92.7%	6.9%
Southern	52.4%	15.9%	9.5%	3.5%	18.7%	96.7%	43.9	14.8	88.0%	36.7%	58.7%
Taraval	43.7%	2.3%	35.0%	8.9%	10.0%	90.9%	39.3	8.8	93.0%	85.5%	14.0%
Tenderloin	64.6%	6.6%	14.5%	4.8%	9.5%	91.2%	37.5	8.7	93.2%	76.6%	15.5%

^{* 623} cases in the dataset (0.2%) were missing information on the district where the stop occurred.

City characteristics

Table E.3 on page 296 provides the population characteristics for San Francisco and the 10 police districts in the SFPD. The 2010 American Community Survey compiled by the U.S. Census Bureau was used to gather census tract-level community characteristics. In some locations, the SFPD districts overlap with census tracts. Accordingly, ArcGIS was used to apportion the census tract variables to the corresponding police district.

San Francisco's population of 824,834 residents is composed of 49.3 percent White, 5.8 percent African American, 33.7 percent Asian, and 11.2 percent from another racial group. Approximately 15 percent of the population self-identified as Hispanic. These population characteristics varied across the 10 police districts. The largest district had 159,647 people (Taraval), whereas the smallest district had 23,941 residents (Tenderloin). With respect to racial composition, Park district had the highest percentage of White residents (71.2 percent). In comparison, Bayview had the highest percentage of African-American residents (20.1 percent). Taraval district had the highest percentage of Asian residents (48.8 percent), while Mission had the largest proportion of Hispanic individuals (30.1 percent). Approximately 10 percent of the residents are between the age of 15 and 29.

From a socioeconomic standpoint, 13.1 percent of San Francisco residents lived in poverty, and the mean income across the city was \$77,509. Approximately two-thirds (63.3 percent) of households were occupied by renters, and roughly 3 percent of households were headed by single women with children. The unemployment rate for the city at the most recent Census was 7.5 percent. At the district level, poverty rates ranged from a high of 32.1 percent in the Tenderloin to a low of 9.5 percent in Park.

Crime data were also provided by the SFPD that allowed for the construction of a violent crime rate for the city and each of the police districts. Calculation of this rate involved taking the number of violent crimes (i.e., homicide, rape, robbery, and aggravated assault) in the city and each district and dividing by 36 to create the average number of violent crimes per month in each location. These values were then divided by the area's total population and multiplied by 1,000. Therefore, the violent crime rate in table E.3 on page 296 represents the average number of violent crimes per month per 1,000 residents across the three-year observation period. San Francisco as a whole experienced an average of 1.84 violent crimes per month per 1,000 residents. The violent crime rate varied dramatically across the districts. The lowest violent crime rate was in Taraval (0.48 per 1,000 people). The most violent district—the Tenderloin—experienced an average of 8.04 violent crimes per month per 1,000 residents.

The city and district crime and sociodemographic characteristics represent important factors to include in subsequent stop and post-stop analyses. For example, accounting for the violent crime rate in post-stop analyses was critical given that any relationship discovered between individual race or ethnicity and officer behavior may be partially a function of crime levels in a given community.

Table E.3. City and SFPD district characteristics

An Assessme	ent	of t	ne	Sar	1 Fr	and	CISC	OΡ	Olic	e L)ep
Violent crime rate	1.84	2.73	2.36	1.15	3.38	1.66	0.91	0.58	4.83	0.48	8.04
Unemp. rate	7.5%	10.4%	%6'9	9.4%	7.1%	2.6%	%0.9	6.2%	6.3%	8.4%	9.4%
*HH4	3.3%	10.2%	1.7%	5.3%	3.3%	2.1%	1.8%	2.0%	3.2%	2.9%	2.8%
% Renter	63.3%	48.7%	84.8%	39.1%	%0.79	%0.67	%9.79	63.9%	69.4%	43.4%	95.7%
Mean in- come	\$77,509.07	\$68,858.45	\$67,774.40	\$72,921.91	\$80,125.17	\$98,697.32	\$75,841.30	\$98,911.69	\$49,555.11	\$92,319.89	\$18,060.20
% Pov- erty	13.1%	16.8%	17.8%	%9.6	12.6%	12.3%	%5'6	10.9%	18.3%	11.7%	32.1%
% Age 15–29	%6'6	10.3%	%8′6	%2′6	7.9%	%9:9	10.4%	9.4%	8.7%	13.6%	7.8%
% His- panic	15.3%	19.8%	8.0%	26.0%	30.1%	8.5%	%6.6	7.8%	14.2%	%8′6	19.7%
% Other	11.2%	15.2%	7.0%	16.6%	17.9%	6.3%	8.4%	7.4%	10.7%	9.1%	15.6%
% Asian	33.7%	36.0%	44.1%	37.4%	12.1%	18.9%	14.9%	37.7%	35.3%	48.8%	37.6% 15.6%
% African American	5.8%	20.1%	2.3%	4.7%	2.7%	7.7%	2.6%	1.9%	7.5%	3.7%	10.5%
% White	49.3%	28.7%	46.7%	41.3%	67.4%	67.1%	71.2%	53.1%	46.5%	38.3%	36.3%
Total popu- lation	824,834	65,283	70,362	139,360	80,340	96,336	62,169	85,564	41,832	159,647	23,941
District	Citywide	Bayview	Central	Ingleside	Mission	Northern	Park	Richmond	Southern	Taraval	Tenderloin

*FHH refers to percent female-headed households.

Stop analysis analytic strategy

The initial question to be addressed was the extent to which African American, Hispanic, and Asian drivers were more likely to be stopped compared to White drivers or drivers of "Other" races. To accomplish this goal, the racial or ethnic composition of stops is initially described in the sections that follow (see tables E.4 on page 300 and E.5 on page 300 for specific results). While useful as a descriptor, the racial or ethnic composition of stops is only meaningful when compared against a value expected if there was no racial bias (i.e., a benchmark). For example, if 30 percent of all traffic stops involve Asian drivers, this statistic is only interpretable when compared against the benchmark of what is expected if no bias is present. Frequently, the Census population of a jurisdiction is used as a benchmark; however, simple comparisons of the racial composition of stops to the Census population of San Francisco are naïve to a host of potential predictors of officer stop actions that may account for any racial disparity, including the driving population (as opposed to the residential population) that is available to be stopped. Using the census population as a benchmark for traffic stops is not recommended or appropriate (Alpert, Smith, and Dunham 2004; Fridell 2004; Fridell 2005). Therefore, the assessment team progressed through a series of benchmark comparisons in the second stage of the stop analysis.

Collision data benchmark

The assessment team's first benchmarking method used traffic collision data for comparison to SFPD traffic stop data. The use of information about drivers in two-vehicle collisions to estimate the driving or at-risk (violating) populations in a given area has its roots in the traffic safety literature from the 1960s and 70s (Carr 1969; Haight 1970; Koornstra 1973). In the early 2000s, Alpert, Smith, and Dunham (2004) reconceptualized and extended this approach and applied it within a racial profiling context. Following the theoretical proposition from Stamatiadis and Deacon (1997) that not-at-fault drivers in two-vehicle crashes provide a reasonably reliable estimate of the driving population, Alpert et al. (2004) validated and used the racial composition of not-at-fault drivers as a benchmark for traffic stops made by the Miami-Dade (Florida) Police Department. Subsequently, the approach has been used in Mundelein, Illinois (Mundelein Police Department 2016) and the State of Washington (Loyrich et al. 2007), and it has been cited as a best practice in racial profiling research (McLean and Rojek 2016; Tillyer, Engel, and Calnon Cherkauskas 2010). Recently, Withrow and Williams (2015) extended the technique to at-fault drivers involved in collisions as a proxy for risky drivers or those more likely to violate traffic laws.

Unlike many states, the State of California's uniform traffic collision report (CHP 555) includes fields for the race or ethnicity of the drivers involved in traffic collisions. Moreover, California requires all law enforcement agencies in the state, including the SFPD, to report their traffic collision data centrally to the Statewide Integrated Traffic Records System (SWITRS) maintained by the California Highway Patrol (CHP). Traffic collision investigation by a California law enforcement agency and subsequent data reporting are required for any traffic crash that results in an injury or fatality. Although not mandated, the CHP also encourages agencies to submit their 555 forms for collisions involving only property damage. It is generally common practice in large agencies around California to submit their 555 forms for all collisions to the CHP for inclusion in the SWITRS database (Wolfe et al. 2015).

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

To benchmark the racial composition of at-fault and not-at-fault drivers involved in two-vehicle crashes against the racial composition of traffic stops made by the SFPD, 36 months of San Francisco traffic collision data reported to the California Highway Patrol by either the CHP or the SFPD were obtained.²⁹² These data involved more than 10,000 two-vehicle crashes that occurred from January 1, 2013 through December 31, 2015 (2016 SWITRS data were not used because they are not yet publicly available as of the writing of this report). Traffic crash data were compared to police stop data both citywide and by police district. Not-at-fault drivers served as an estimate of the driving population in the city, while at-fault drivers served as an estimate for those who violate traffic laws. If SFPD officers disproportionately stop minority drivers, a higher percentage of minority stops would be expected compared to the percentage of minority drivers involved in traffic collisions (please see tables E.6–E.11 on pages 301–305 for specific results).

Veil of darkness benchmark

Another benchmarking approach compares the racial composition of stops made under conditions where police reasonably could identify the race of the driver prior to the stop against the racial composition of stops where the police might be unable to determine the race of the driver before initiating the stop. In 2006, Grogger and Ridgeway pioneered a method in Oakland, California, employing this approach, which they labeled the "behind the veil of darkness" method for identifying racial disparities in police traffic stop practices. Ridgeway subsequently used this method in Cincinnati, Ohio (2009), and others have used it in Minneapolis, Minnesota (Ritter and bael 2009); Syracuse, New York (Worden, McLean, and Wheel 2010); and Greensboro and Raleigh, North Carolina (Taniguchi et al. 2016a; Taniguchi et al. 2016b).

Following Grogger and Ridgeway (2006) and others, an inspired version of the "veil of darkness" method was used to compare the racial composition of traffic stops made during daylight hours to the racial composition of stops made at night when, theoretically, San Francisco police may be less likely to see the race of the driver prior to initiating a traffic stop. The veil of darkness method makes use of natural changes in lighting, as well as daylight saving time, which occur over the course of a year. Using sunset and civil twilight (dusk) times published for San Francisco by the U.S. Naval Observatory, stops were coded as occurring either during the day (before sunset) or at night (after the end of civil twilight). For example, a stop made at 7:00 p.m. in December or January would be a nighttime stop, while a stop made at 7:00 p.m. in June or July would be a daytime stop because of the variation in daylight that takes place across the seasons. This method focuses on the "intertwilight" period of each day, or the period between 4:50 p.m. when the sun sets at its earliest during the year and 9:07 p.m. when civil twilight ends at its latest. Following Grogger and Ridgeway (2006), the roughly half-hour period after sunset but before the end of civil twilight when it is not clear if a stop occurred during daylight or at night was excluded. Limiting the analysis to the intertwilight period reduces the chances that the racial composition of the driving population might vary significantly between day and night.²⁹³ In sum, the veil of darkness method compares the racial composition of daytime stops to that of nighttime stops across the year and between

^{292.} Both law enforcement agencies have jurisdiction to investigate traffic collisions within the City of San Francisco, and both report their collision data to the CHP.

^{293.} Grogger and Ridgeway, 2006.

the hours of 4:50 p.m. and 9:07 p.m. If racial profiling is occurring, a higher percentage of minority drivers stopped during the day would be expected (when driver race or ethnicity is theoretically more visible) compared to at night (see table E.12 on page 307 for specific results).

In addition to reporting the racial percentages of stops conducted during the daytime and nighttime, a logistic regression equation was also estimated that predicted the odds that a traffic stop occurred during the day versus the night (1 = day stop, 0 = night stop). This equation is inspired by the Grogger and Ridgeway veil of darkness argument but is not an exact replication. Rather than predicting driver race as they did this model explored whether driver race or ethnicity was associated with the odds of being stopped during a particular time of day after controlling for other relevant factors. Specifically, a host of driver, officer, and district characteristics were considered that may partially explain day versus night stop behavior. Each of these variables is discussed in more detail in the "post-stop analysis" section. This logistic regression model offers an assessment of whether African Americans, Hispanics, or Asians were more or less likely to be stopped by the SFPD during the daytime than White drivers (consistent with a racial profiling hypothesis), net of other factors that may explain such an outcome (see table E.13 on page 308 for specific results).

Stop analysis results

Distribution of stops by driver race

Table E.4 on page 300 provides the distribution of traffic stops conducted by the SFPD across the three-year observation period by driver race. In total, there were 331,829 traffic stops conducted during this time period. About 14.8 percent of the stops involved African-American individuals, whereas 37.7 percent involved White individuals. Nearly 18 percent of the stops were conducted on an Asian driver and 13 percent involved a Hispanic driver. Although it appears that a higher percentage of African-American residents were stopped (14.8 percent) compared to their representation in the city population (5.8 percent), it is critical to understand that this does not necessarily imply that racial profiling exists in SFPD stops. As discussed earlier, a comparison of the racial composition of stops to the residential census population is naïve to variation in the racial distribution of African-American drivers on the road and officers in locations with higher crime rates, among other factors. The assessment team reports these figures merely to describe the racial distribution of traffic stops made by the SFPD and to set the stage for the benchmarking analyses that follow.

Table E.5 on page 300 examines the same racial breakdown of traffic stops, but this time across each of the 10 police districts. Not surprisingly, there is variation across the districts with respect to the percentage of traffic stops in each racial or ethnic category. While 14.8 percent of all traffic stops citywide were of an African-American driver, more than 42 percent of such stops in Bayview involved an African-American individual. Conversely, only 5.2 percent of stops in Richmond involved an African-American driver.

Table E.4. Distribution of stops by driver race

Driver race	Number of stops	Percent of stops
African American (non-Hispanic)	49,133	14.8
White (non-Hispanic)	124,898	37.7
Hispanic*	43,079	13.0
Asian	59,018	17.8
Other	55,523	16.7
Missing	178	<0.1
Total	331,829	100

^{*} Includes Hispanics of any race

These descriptive analyses provide a snapshot of the distribution of traffic stops across racial and ethnic groups. It is important to note, however, that these statistics tell the assessment team little about whether race is a contributing factor in officers' decisions to conduct traffic stops or whether drivers of certain racial or ethnic groups are stopped disproportionately to their estimated representation in the driving or violating populations. The team turns to this issue next.

Table E.5. Distribution of stops by driver race by SFPD district*

District	Percent of African- American stops	Percent of White stops	Percent of His- panic [†] stops	Percent of Asian stops	Percent of other stops
Bayview (N =34,298)	42.4%	18.7%	17.3%	13.8%	8.0%
Central (N = 31,701)	11.3%	38.1%	9.6%	17.2%	23.8%
Ingleside (N = 33,521)	11.7%	29.1%	26.4%	21.4%	11.3%
Mission (N = 28,457)	15.5%	39.6%	24.8%	9.0%	11.1%
Northern (N = 28,078)	13.3%	48.3%	9.4%	14.4%	14.6%
Park (N = 22,196)	9.2%	54.2%	8.5%	16.1%	12.1%
Richmond (N = 32,917)	5.2%	38.5%	5.4%	19.5%	31.3%
Southern (N = 60,819)	12.6%	41.0%	11.4%	13.4%	21.7%
Taraval (N = 41,895)	6.0%	39.1%	7.4%	35.3%	12.1%
Tenderloin (N = 17,196)	28.8%	32.5%	10.6%	12.0%	16.1%

Not-at-fault collision benchmark analysis.

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

[†] Includes Hispanics of any race.

Collision data

The second stage of the stop analysis involved a benchmark data comparison. As discussed earlier, a common technique in the racial profiling literature (Alpert et al. 2006) is to employ traffic collision data to serve as a benchmark against police stop activity. Traffic collision data from the California SWITRS, maintained by the CHP, were accessed to use as a benchmark. SWITRS data from January 1, 2013 to December 31, 2015 were used in the benchmark analyses because this approximates the same observation period as the stop data; 2016 SWITRS data were not used because they are not yet publicly available. Initially, examination of the collision data was restricted to only two-vehicle collisions where the driver was found to be not at fault (N = 10,145). This provided an estimate of the proportion of African-American, Hispanic, and Asian drivers on the road given that not-at-fault collisions should be randomly distributed across a population.

Not-at-fault collision benchmark results

Table E.6 compares the percentage of not-at-fault two-vehicle collisions that involved an African-American driver to the percentage of traffic stops involving an African-American individual. Across the entire city, 14.8 percent of traffic stops involved an African-American driver. This is compared to 12.3 percent of all not-at-fault collisions that involved an African-American driver. The difference between these percentages is statistically significant at the 0.01 level of significance (t = 7.43). This suggests that there is minimal probability the assessment team observed the resulting differences by chance. The result indicates that African-American drivers in San Francisco are about 24 percent more likely (see odds ratio = 1.24) to be stopped by the police than would be expected by their estimated representation in the driving population based on this benchmark.

Table E.6. Comparison of African-American traffic stops to African-American "not-at-fault" collisions*

District	% of African-American stops	% of African-American collisions	t	<i>p</i> -value	Odds ratio
Citywide	14.8	12.3	7.43	0.00	1.24
Bayview	42.4	28.2	6.67	0.00	1.87
Central	11.3	9.6	1.43	0.15	1.20
Ingleside	11.7	8.9	3.20	0.00	1.36
Mission	15.5	10.1	8.14	0.00	1.63
Northern	13.3	13.7	-0.36	0.72	0.97
Park	9.1	11.5	-1.42	0.16	0.77
Richmond	5.2	8.5	-2.59	0.01	0.59
Southern	12.6	14.5	-2.73	0.01	0.85
Taraval	6.0	7.2	-1.14	0.26	0.82
Tenderloin	28.8	21.6	2.05	0.04	1.47

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

The same pattern of results holds for many of the individual police districts. Most drastically, 42.4 percent of all traffic stops in Bayview were conducted on an African-American driver; however, an examination of the not-at-fault traffic collisions reveals that 28.2 percent of such incidents involved an African-American driver. The difference in percentages is large and statistically significant ($p \le 0.01$). Accordingly, African-American drivers in Bayview are about 87 percent more likely to be stopped by SFPD officers than would be expected based on their estimated representation of drivers in the population. Similar results are observed in Ingleside ($p \le .01$), Mission ($p \le 0.01$), and Tenderloin ($p \le 0.05$), where African Americans were 36 percent, 63 percent, and 47 percent, respectively, more likely to experience a traffic stop than the assessment team would expect given the estimated percentage of the African-American driving population in those districts.

It is important to note that the analysis also showed that the percentages of African-American traffic stops were similar to the representation of African Americans in the not-at-fault collision benchmark in Central, Northern, Park, and Taraval districts. Although some differences between the stops and the not-at-fault benchmark were observed in these districts, the percentage differences in these districts are not statistically significant. In fact, the data showed that African Americans experienced lower rates of traffic stops in the Richmond ($p \le 0.01$) and Southern ($p \le 0.01$) relative to their representation in not-at-fault collisions.

Table E.7 compares the percentage of not-at-fault Hispanic drivers in two-vehicle collisions to the percentage of traffic stops involving a Hispanic person. A very different pattern emerged in this analysis compared to the African-American collision benchmark noted earlier. Across all of San Francisco, Hispanic drivers were involved in 13 percent of traffic stops during the three-year observation period, but Hispanic drivers were involved in 15.8 percent of not-at-fault collisions from 2013 to 2015. This difference is statistically significant ($p \le 0.01$), and the odds ratio reveals that Hispanics are about 20 percent less likely to be stopped by SFPD officers than what would be expected given their representation in not-at-fault collisions. Simply put, this is the opposite finding than was observed for African-American drivers.

Table E.7. Comparison of Hispanic traffic stops to Hispanic "not-at-fault" collisions*

District	% of Hispanic stops	% of Hispanic collisions	t	<i>p</i> -value	Odds ratio
Citywide	13.0	15.8	-7.51	0.00	0.80
Bayview	17.3	22.5	-2.64	0.01	0.72
Central	9.6	12.0	-1.83	0.07	0.78
Ingleside	26.4	21.7	3.71	0.00	1.29
Mission	24.8	17.6	8.63	0.00	1.54
Northern	9.4	9.7	-0.31	0.76	0.97
Park	8.5	13.5	-2.77	0.01	0.60
Richmond	5.4	5.4	0.00	1.00	1.00
Southern	11.3	17.2	-7.95	0.00	0.61
Taraval	7.4	11.6	-3.22	0.00	0.61
Tenderloin	10.6	10.8	-0.08	0.94	0.98

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

The same pattern of results was observed in Bayview ($p \le 0.01$), Park ($p \le 0.01$), Southern ($p \le 0.01$), and Taraval ($p \le 0.01$). In each of these districts Hispanics were less likely to be stopped than would be expected given their estimated representation in the driving population. However, Hispanics were more likely to be stopped relative to their representation in not-at-fault collisions in Ingleside ($p \le 0.01$) and Mission ($p \le 0.01$). These mixed results suggest that Hispanics were less likely to be stopped by the SFPD when using the collision benchmark in most parts of the city. Yet this is not the case in Ingleside and Mission, where Hispanics were 34 percent and 59 percent, respectively, more likely to be stopped than the team would expect based on the benchmark data.

Table E.8 presents the findings from the same analysis for Asian drivers. Once again, across the entire city, the assessment team observed Asian drivers to be less likely to be stopped by the SFPD relative to their composition in not-at-fault vehicle collisions ($p \le 0.01$). The same trend emerged in most of the police districts where Asians were between 18 percent (Central) and 60 percent (Mission) less likely to be stopped by the police than team members would have expected based on the not-at-fault collision benchmark.

Table E.8. Comparison of Asian traffic stops to Asian "not-at-fault" collisions*

District	% of Asian stops	% of Asian collisions	t	<i>p</i> -value	Odds ratio
Citywide	17.8	21.4	-8.60	0.00	0.80
Bayview	13.8	17.0	-1.80	0.07	0.78
Central	17.2	20.3	-1.91	0.06	0.82
Ingleside	21.4	30.4	-6.39	0.00	0.62
Mission	9.0	19.7	-12.63	0.00	0.40
Northern	14.4	19.7	-4.11	0.00	0.69
Park	16.1	20.1	-1.89	0.06	0.76
Richmond	19.5	27.8	-4.04	0.00	0.63
Southern	13.4	17.1	-4.98	0.00	0.75
Taraval	35.3	35.8	-0.26	0.80	0.98
Tenderloin	12.0	16.6	-1.45	0.15	0.69

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information

At-fault collision benchmark analysis

A number of researchers (McKelvey and Stamatiadis 1988; Stamatiadis and Deacon 1997; Withrow and Williams 2015) argue that policing researchers also should consider using at-fault vehicle collisions in benchmark analyses. Withrow and Williams (2015) argued that at-fault collision experience may be a proxy for risky or poor driving behavior that may come to the attention of the police. Using the same SWITRS traffic collision data, this possibility was explored by analyzing two-vehicle collisions where the driver was found to be at fault (N = 10,893).

Table E.9 on page 304 compares the percentages of traffic stops and at-fault collisions involving African-American drivers. The same pattern of results emerged in this analysis as was evidenced in the traffic stop comparison with not-at-fault collisions. Citywide ($p \le 0.01$), and within Bayview ($p \le 0.01$), Mission ($p \le 0.01$), and the Tenderloin ($p \le 0.01$), African-American drivers were more likely to be stopped by the police

than would be expected given their representation in at-fault collisions. Yet other SFPD districts did not experience this trend. In Central, Ingleside, Northern, and Richmond districts, African Americans were no more likely to be stopped by the police than would be expected based on their representation in at-fault collisions. In fact, African-American drivers were statistically less likely to be stopped by the police compared to their representation in at-fault collisions in Park ($p \le 0.01$), Southern ($p \le 0.01$), and Taraval ($p \le 0.01$). This mirrors the findings from the not-at-fault analysis presented earlier. Overall, the districts that appeared to have the greatest racial disparity in traffic stops were those with the highest percentage of African-American residents. This underscores the need for multivariate analyses that account for district population composition by race and other characteristics.

Table E.9. Comparison of African-American traffic stops to African-American "at-fault" collisions*

District	% of African-American stops	% of African-American collisions	t	<i>p</i> -value	Odds ratio
Citywide	14.8	13.8	2.79	0.01	1.09
Bayview	42.4	34.3	3.82	0.00	1.41
Central	11.3	12.5	-0.95	0.35	0.89
Ingleside	11.7	13.3	-1.48	0.14	0.86
Mission	15.5	11.2	5.87	0.00	1.45
Northern	13.3	12.9	0.37	0.71	1.04
Park	9.1	13.5	-2.48	0.01	0.64
Richmond	5.2	6.3	-1.06	0.29	0.82
Southern	12.6	15.6	-3.92	0.00	0.78
Taraval	6.0	9.2	-2.89	0.00	0.63
Tenderloin	28.8	14.0	5.64	0.00	2.48

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

Table E.10 on page 305 presents the results from the at-fault collision benchmark analysis for Hispanic drivers. Across the entire city, 13 percent of all traffic stops involved a Hispanic driver, whereas 19.1 percent of at-fault collisions involved a Hispanic driver. This difference is statistically significant (p=0.01) and reveals that Hispanic drivers were 37 percent less likely to be stopped than would be expected based on the at-fault collision benchmark. The same result emerged across most of the SFPD districts. Hispanics were between 27 percent (Northern) and 54 percent (Southern) less likely to be stopped than would be expected based on their estimated representation in the at-risk or potential violator driving population. Mission was the only district that experienced a higher percentage of Hispanic stops compared to at-fault collisions, but the difference was not statistically significant.

Table E.10. Comparison of Hispanic traffic stops to Hispanic "at-fault" collisions*

District	% of Hispanic stops	% of Hispanic collisions	t	<i>p</i> -value	Odds ratio
Citywide	13.0	19.1	-14.99	0.00	0.63
Bayview	17.3	26.4	-4.64	0.00	0.58
Central	9.6	11.7	-1.71	0.09	0.80
Ingleside	26.4	27.5	-0.78	0.44	0.95
Mission	24.8	23.4	1.44	0.15	1.08
Northern	9.4	12.4	-2.83	0.01	0.73
Park	8.5	13.8	-2.97	0.00	0.58
Richmond	5.4	9.0	-2.95	0.00	0.58
Southern	11.3	21.8	-12.13	0.00	0.46
Taraval	7.4	9.3	-1.70	0.09	0.78
Tenderloin	10.6	13.4	-1.09	0.28	0.77

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

Table E.11 presents the final traffic collision benchmark analysis. Specifically, the table presents the results of the at-fault collision benchmark for Asian drivers. The citywide analysis revealed that Asian drivers were no more likely to be stopped by the police than the team would expect given their representation in atfault collisions (p = 0.18). The same result was found in the Northern (p = 0.23), Park (p = 0.96) and Southern (p = 0.34) districts. Asian drivers were stopped less often than the team would expect based on the benchmark in Central ($p \le 0.05$), Ingleside ($p \le 0.05$), Mission ($p \le 0.01$), Richmond ($p \le 0.05$), and the Tenderloin ($p \le 0.01$). Taraval was the only district that showed higher rates of Asian traffic stops (35.3 percent) than would be expected given their representation in at-fault collisions (32.3 percent). It is important to note, however, that this difference was only marginally significant at the 0.10 level ($p \le 0.10$).

Table E.11. Comparison of Asian traffic stops to Asian "at-fault" collisions*

District	% of Asian stops	% of Asian collisions	t	<i>p</i> -value	Odds ratio
Citywide	17.8	18.3	-1.33	0.18	0.97
Bayview	13.8	11.7	1.46	0.14	1.21
Central	17.2	20.6	-2.19	0.03	0.80
Ingleside	21.4	24.2	-2.06	0.04	0.85
Mission	9.0	16.1	-8.82	0.00	0.52
Northern	14.4	15.8	-1.19	0.23	0.90
Park	16.1	16.2	-0.52	0.96	0.99
Richmond	19.5	23.7	-2.31	0.02	0.78
Southern	13.4	14.1	-0.95	0.34	0.94
Taraval	35.3	32.3	1.67	0.10	1.14
Tenderloin	12.0	19.6	-2.55	0.01	0.56

^{*751} cases were excluded from the collision benchmarking analysis because of missing district and/or race information.

Daytime versus nighttime benchmark analysis

Daytime versus nighttime data

Grogger and Ridgeway (2006) proposed a benchmark for traffic stops based on the hypothesis that after dark, the police are less able to know the race of a driver prior to initiating the stop. As such, if the police stop more minorities in the daytime than they do in the nighttime, this could be evidence of racial profiling. Yet simply comparing daytime stops to nighttime stops is problematic because traffic patterns, driving behavior, and the racial distribution of drivers on the road (i.e., exposure to law enforcement) may vary by day and night. Grogger and Ridgeway, therefore, restricted their sample to stops made in the intertwilight period while controlling for daylight and darkness, as these hours vary in terms of daylight and darkness over the course of the year (e.g., 7:00 p.m. is light during the summer, but dark during the winter). Following this approach, and using the sunset and civil twilight tables published by the U.S. Naval Observatory, daytime stops are defined as those that occurred between 4:50 p.m. and sunset, and nighttime stops as those that occurred between the end of civil twilight and 9:07 p.m.

Daytime versus nighttime benchmark results

Table E.12 on page 307 provides the race distribution of drivers stopped during these times according to whether daylight or darkness had settled in. From May 1, 2013 to May 1, 2016, the SFPD stopped a total of 73,119 drivers between 4:50 p.m. and 9:07 p.m. Roughly two-thirds of these stops occurred in daylight. Among daylight stops, 38.8 percent of the drivers were White, 15.8 percent African American, 12.2 percent Hispanic, 17.2 percent Asian, and 15.9 percent some other race or ethnicity. The racial or ethnic breakdown of nighttime stops was fairly similar. However, t-tests indicated that some of the differences within driver race or ethnicity groups were statistically significant. Specifically, stop patterns differed significantly between daylight and darkness for drivers who were White, African American, or from another racial or ethnic group. Compared to the proportion of White drivers stopped during the day, a smaller proportion of White drivers were stopped when it was dark outside. The same pattern held true for drivers from "Other" racial or ethnic groups (drivers who were not White, African-American Hispanic, or Asian). Stops of African-American drivers showed an opposite pattern; these drivers were somewhat more likely to be stopped at night compared to their proportions among the population of drivers stopped during daylight hours. There was no statistical difference between day and night stops for Asian drivers. However, this simplistic analysis did not account for a host of other important factors, including characteristics of the driver (e.g., gender), the reason for the stop, officer characteristics, and characteristics of the area in which the stop was made.

Table E.12. Individual race in stops occurring during intertwilight period (N = 73,119)

Driver race or ethnicity	Day	Night	Total	t
White	17,838	10,340	28,178	1.93*
Percent of White drivers stopped at each time of day	38.8%	38.1%	38.5%	
African American	7,258	4,668	11,926	-4.97 [†]
Percent of African-American drivers stopped at each time of day	15.8%	17.2%	16.3%	
Hispanic	5,618	3,373	8,991	-0.81
Percent of Hispanic drivers stopped at each time of day	12.2%	12.4%	12.3%	
Asian	7,915	4,802	12,717	-1.62
Percent of Asian drivers stopped at each time of day	17.2%	17.7%	17.4%	
Other	7,302	3,943	11,245	4.93 [†]
Percent of drivers of other races stopped at each time of day	15.9%	14.5%	15.4%	
Missing	48	14	62	
Percent of drivers stopped at each time of day	0.1%	0.1%	0.1%	
where racial information is missing				
Total	49,979	27,140	73,119	_
Total percent of drives stopped at each time of day	100.0%	100.0%	100.0%	

Using the sunset and civil twilight tables published by the U.S. Naval Observatory, the team defined daytime stops as those that occurred between 4:50 p.m. and sunset. Nighttime stops were those that occurred between the end of civil twilight and 9:07 p.m. Stops that did not occur between 4:50 p.m. and 9:07 p.m. are not included in this analysis. $*p \le .10$

Table E.13 on page 308 displays the results of a logistic regression equation predicting whether the stop occurred in the daylight (again, defined as stops that occurred after 4:50 p.m. and before sunset). After considering the driver's age and gender, the nature of the infraction, several officer characteristics, and characteristics of the area in which the stop was made (the variables used in this analysis are discussed in greater detail in the post-stop analysis section), non-White drivers were not significantly more or less likely to have been pulled over during daylight hours than White drivers. As such, driver race or ethnicity did not appear to influence SFPD officers' decisions to initiate stops during daylight hours over the last three years.

The assessment team also re-estimated the logistic regression equation presented in table E.13 on page 308 separately for each of the 10 SFPD districts. This sensitivity analysis allowed the team to assess the robustness of the day-night multivariate model by determining whether the main findings were observed across each of the districts. Although the pooled logistic model presented here did not yield any significant race or ethnicity driver effects, several district-specific models did. In Bayview, African-American drivers were significantly more likely to be stopped during daylight hours compared to their White driver counterparts ($p \le 0.01$). A similar, albeit weaker, relationship emerged in Mission ($p \le 0.01$) and Park ($p \le 0.10$). Interestingly, African-American drivers were significantly less likely to be stopped during daylight relative to White drivers in Central ($p \le .10$) and Tenderloin ($p \le 0.01$). African-American drivers were no more or less likely to be stopped during the day relative to White drivers in the remaining districts.

 $[\]dagger p \le .01$ (two-tailed test)

Table E.13. Logistic regression predicting whether intertwilight stop occurred in daylight (N = 72,733)

	Ь	SE	OR
Driver characteristics			
African American	0.02	0.06	1.02
Hispanic	0.06	0.05	1.07
Asian	0.01	0.04	1.01
Other	-0.00	0.07	1.00
Male	-0.05 [§]	0.03	0.95
Age	0.00 [§]	0.00	1.00
Stop type*			
Moving violation	0.15**	0.03	1.17
DUI	-1.74**	0.34	0.18
PC violation	0.10	0.19	1.11
MPC violation	0.20	0.32	1.23
BOLO/Warrant	0.12	0.24	1.13
Officer characteristics			
African American [†]	0.09	0.13	1.10
Hispanic [†]	0.11**	0.04	1.12
Asian [†]	0.12**	0.03	1.13
Other [†]	0.04	0.08	1.04
Male	0.04	0.10	1.04
Years of service	0.02**	0.00	1.02
Rank - Officer	0.10	0.09	1.11
District assignment [‡]	-0.58**	0.16	0.56
Misc. assignment [‡]	-0.78**	0.18	0.46
# of officers deployed	-0.00	0.00	1.00
District characteristics			
% African American	0.02	0.01	1.02
% Hispanic	0.01	0.01	1.01
% Young	-0.03	0.03	0.97
Unemployment rate	-0.03	0.06	0.97
Violent crime rate	-0.05 [§]	0.02	0.95
Intercept	0.75 [§]	0.33	
McFadden's R ²		0.03	

Using the sunset and civil twilight tables published by the U.S. Naval Observatory, the team defined daytime stops as those that occurred between 4:50 p.m. and sunset. Nighttime stops were those that occurred between the end of civil twilight and 9:07 p.m. Stops that did not occur between 4:50 p.m. and 9:07 p.m. are not included in this analysis. Entries are unstandardized regression coefficients (*b*), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

[§] *p* ≤ .05

^{**} $p \le .01$ (two-tailed test)

A similar pattern of results emerged with respect to Hispanic drivers. Within Bayview ($p \le 0.01$), Park ($p \le 0.10$), and Southern ($p \le 0.01$), Hispanic drivers were more likely to be stopped during the day compared to White drivers. Within Taraval, however, Hispanic drivers were less likely to be stopped during the day ($p \le 0.10$).

With respect to Asian drivers, the findings are largely similar to those presented in table E.13 on page 308. However, within Central ($p \le 0.01$) and Richmond ($p \le 0.01$) Asian drivers were less likely than White drivers to be stopped during daylight. In the Tenderloin, Asian drivers were more likely to be stopped by the police during the day relative to White drivers ($p \le 0.10$).

Post-stop analysis data and methodology

Post-stop data

The post-stop portion of the analysis was designed to explore the types of outcomes that stemmed from SFPD traffic stops. Specifically, the assessment team explored the following question: Do African-American, Hispanic, or Asian drivers receive disproportionate sanctions and other negative outcomes related to traffic stops, net of other salient nonracial factors that may influence officer decision making during post-stop activities? The post-stop analysis builds upon the stop analysis presented earlier by determining whether race or ethnicity played a role in traffic stop outcomes after an SFPD officer had stopped an individual.

To address this question, the assessment team used several sources of data, many of which were described earlier. The team's primary source of data was three years of SFPD E-585 traffic stop incident reports that contain information on the types of actions taken by officers after a stop is initiated (from May 1, 2013 to May 1, 2016). Team members also used U.S. Census data, SFPD deployment information, and SFPD reported crime data within the analyses presented in the following sections. The specific variables used in the analyses are discussed in the next section.

Post-stop analysis variables

Post-stop outcomes

Once a traffic stop is initiated, several options are available to the officer to conclude the encounter. Some of these "outcomes" are dependent on and constrained by the law and SFPD policy. The range of options includes taking no action, writing an incident report, issuing the driver a warning, issuing the driver a citation, arresting the individual, or conducting a search of the individual or vehicle. Searches are categorized into three groups depending on the degree of discretion available to the officer. High discretion searches are those that were carried out without the consent of the driver (i.e., based on probable cause). Consent searches are those in which the driver consented to the officer's request to conduct a search. Finally, low discretion searches include searches incident to arrest, probation or parole-related searches, and vehicle inventories. Because officer discretion is constrained in low discretion searches, this category was not subjected to analysis for racial disparity. For the purposes of analysis, each of these variables were coded in a dichotomous fashion with each outcome given a yes/no (1 = yes, 0 = no) distinction depending on whether that specific outcome occurred within any single stop. It is

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

important to note that all these categories are mutually exclusive with the exception of a search. In other words, when the officer records the stop outcome, they are trained to record the most serious action taken. Thus, a traffic stop resulting in a citation and an arrest would be identified as an arrest in the subsequent analyses. Searches were recorded separately on the E-585 traffic stop incident report; as a result, a single traffic stop may indicate that an arrest and a search both occurred.

Driver characteristics

The E-585 traffic stop incident reports contain key information on the driver's demographic characteristics. The multivariate models presented here consider driver race and ethnicity with a series of dummy variables: African American (1 = yes, 0 = no), Hispanic (1 = yes, 0 = no), Asian (1 = yes, 0 = no), and other (1 = yes, 0 = no). Non-Hispanic White drivers served as the reference category (i.e., they were omitted from the multivariate equations). Accordingly, all race or ethnicity coefficients are interpreted in relation to non-Hispanic White individuals. The team also accounted for driver gender (1 = male, 0 = female; the variable is labeled male in the tables that follow). Driver age was measured as a continuous variable.

Reason for the stop

The traffic stop reports also contained pertinent information about the type of stop. Specifically, all SFPD traffic stops were categorized as either a moving violation, non-moving violation, DUI checkpoint, penal code (PC) violation, municipal penal code (MPC) violation, or BOLO/warrant. These designations tell the team why the officer initiated the traffic stop and may be a key predictor of post-stop activity. Accordingly, stop type was accounted for with a series of dummy variables in all multivariate equations: moving violation (1 = yes, 0 = no), DUI (1 = yes, 0 = no), PC violation (1 = yes, 0 = no), MPC violation (1 = yes, 0 = no), and BOLO/warrant (1 = yes, 0 = no). Non-moving violations was the omitted category for stop type. Therefore, all stop type coefficients in the regression models are interpreted in reference to non-moving violations.

Officer characteristics

The stop data also contained information about the characteristics of the officer who conducted the traffic stop. To account for the possibility that officer characteristics may partially explain post-stop behavior, several factors were considered. First, officer race or ethnicity was measured with a series of dummy variables: African American (1 = yes, 0 = no), Hispanic (1 = yes, 0 = no), Asian (1 = yes, 0 = no), and other (1 = yes, 0 = no). Non-Hispanic White officers served as the reference category. Male (1 = yes, 0 = no) was included in the models to control for officer gender. Years of service is a continuous variable that captures the number of years of law enforcement experience an officer had. ²⁹⁴ Officer rank was measured with a dummy variable coded "1" if the officer was at the rank of "officer" and "0" for otherwise (i.e., officers at the rank of sergeant, inspector, lieutenant, commander, captain, reserve, or miscellaneous). Officer assignment was accounted for with three dummy variables: district assignment (1 = yes, 0 = no), and miscellaneous assignment (1 = yes, 0 = no). The miscellaneous assignment category

^{294.} The team excluded officer age from the multivariate models because it introduced problematic collinearity and was highly correlated with years of service (r = 0.81).

included those officers assigned in the database to academy, airport, gang, narcotics, patrol, or miscellaneous. The "patrol" designation was rarely used in the data (0.2 percent of stops) and therefore was included in the miscellaneous category separate from district assignment that was typically used to denote prototypical patrol assignments. Traffic assignment was assigned to serve as the reference category, which allowed an examination of the relative influence of district assignments and miscellaneous assignments on post-stop activity compared to traffic officers. Last, the number of officers deployed during the date of the traffic stop was included. The SFPD supplied deployment data that was used to calculate the daily total number of officers working in a particular district during the date of each traffic stop.

District characteristics

The post-stop analysis also controlled for district-level structural characteristics. Recall from earlier discussion that U.S. Census data at the census-tract level was accessed to account for structural features of the districts. These data were then apportioned to the individual districts. It was important to account for structural features that might partially explain officer post-stop behavior. Within each model presented in the following pages, the racial or ethnic composition of the district in which the traffic stop took place was included by controlling for the percentage of the district population that was African American (% African American) and Hispanic (% Hispanic). The White and Asian percentages of the district population were not included because inclusion of such variables caused problematic collinearity (they are inversely correlated with the percentage African American and Hispanic). Accounting for the racial or ethnic makeup of the community was important because it assists in ruling out the possibility that any observed driver race or ethnicity effects on post-stop outcomes was a product of opportunity in the given district. In other words, this allowed an examination of the race or ethnicity effects on post-stop outcomes beyond the racial or ethnic composition of the district. The percentage of the district population between the ages of 15 and 29 (% young) and the unemployment rate were also considered in the subsequent models. Finally, the violent crime rate of the district in which the stop took place was included. Recall from earlier discussion that the violent crime rate represents the average number of violent crimes per month per 1,000 residents across the three-year observation period and was based on the SFPD's reported crime between May 1, 2013 and May 1, 2016. It was important to account for the percentage of the population that is young, the unemployment rate, and the violent crime rate because each factor may be associated with contextual risk during a traffic stop and shape officer post-stop behavior.

Table E.14 on page 312 provides the descriptive statistics for all variables used in the multivariate equations (Note that these are the same variables used in the logistic regression presented in table E.13 on page 308).

Table E.14. Post-stop descriptives

	Percent/Average	SD	Range
Post-stop Outcomes			
No action taken	0.3	0.05	0-1
Report taken	0.8	0.09	0-1
Warning	25.6	0.44	0–1
Citation	72.6	0.45	0–1
Arrest	0.8	0.09	0–1
Search (Any Type)	3.8	0.19	0–1
High discretion	1.1	0.10	0–1
Consent	0.5	0.07	0–1
Low discretion	2.2	0.02	0–1
Driver characteristics			
White (non-Hispanic)	37.7	0.48	0–1
African American (non-Hispanic)	14.8	0.36	0–1
Hispanic	13.0	0.34	0–1
Asian	17.8	0.38	0–1
Other	16.7	0.37	0-1
Male	71.8	0.45	0-1
Age	39.2	13.94	15–99
Reason for the stop			
Moving violation	68.3	0.47	0–1
Non-Moving violation	30.5	0.46	0-1
DUI	0.2	0.04	0-1
PC violation	0.4	0.06	0–1
MPC violation	0.6	0.08	0–1
BOLO/Warrant	0.2	0.04	0-1
Officer characteristics			
White	50.4	0.50	0–1
African American	9.5	0.29	0–1
Hispanic	15.3	0.36	0-1
Asian	17.4	0.38	0-1
Other race or ethnicity	7.3	0.26	0-1
Male	92.6	0.26	0–1
Years of service	9.9	8.37	0–36
Rank - Officer	93.1	0.25	0–1
District assignment	72.8	0.44	0-1
Traffic assignment	24.2	0.43	0–1
Misc. assignment	2.9	0.17	0–1
# of officers deployed	65.7	16.41	26–180
District characteristics (N = 10)		. = 1	
% African American	6.6	5.18	1.88–20.14
% Hispanic	15.1	7.36	7.80–30.07
% Young	9.6	1.87	6.61–13.62
Unemployment rate	7.5	1.6	5.59–10.36
Violent crime rate	2.5	1.99	0.48-8.04
VIOICHI CHIHE TALE	L.J	1.27	0.40-0.04

Post-stop analytic strategy

The post-stop analysis followed a series of steps. First, the racial or ethnic group distribution was examined across all post-stop outcomes—no action, incident report, warning, citation, and in-custody arrest. Second, the distribution of search types (i.e., consent and high discretion) was explored across the racial or ethnic groups. These steps provided a descriptive snapshot of whether race or ethnicity is associated with any of the post-stop outcomes. The third stage of the post-stop analysis focused on hit rates—the percentage of searches that resulted in found contraband—across the racial or ethnic groups. This analysis allowed an exploration of whether hit rates differed among driver races or ethnicities.

The final stage of the analysis estimated a series of multivariate logistic regression equations. Specifically, a separate logistic model was estimated for the various post-stop outcomes: arrest (1 = yes, 0 = no), citation (1 = yes, 0 = no), warning (1 = yes, 0 = no), high discretion search (1 = yes, 0 = no), and contraband found during high discretion search (1 = yes, 0 = no). Logistic regression was used for each of these models because the dependent variables were dummy coded. All models accounted for the variables described earlier which allowed an assessment of whether a driver's race or ethnicity is associated with the odds of receiving the specific post-stop outcomes, net of the influence of other driver, officer, and district characteristics. All multivariate equations used robust standard errors that adjusted for clustering on police district.

To examine the robustness of the findings, additional multivariate logistic models were estimated separately for each of the 10 SFPD districts (results provided in separate appendix tables beginning on page 333). These models allowed a determination of whether the pooled results (i.e., the findings that group all data together regardless of district) were consistent across the districts. In other words, these sensitivity analyses afforded the opportunity to determine whether the relationship between driver's race or ethnicity and the specific post-stop outcomes were observed across all districts or constrained to specific districts. Caution should be used when attempting to compare the results of the models presented here to the robustness checks in the appendices. For one, the models are not identical to one another because the equations estimated for each of the districts do not control for district-level characteristics (which would not be possible given lack of variation). Second and more important, each of the districts has a different base rate (e.g., the percentage of a certain racial group in the population or the percentage of traffic stops conducted on particular racial group), which inhibits direct comparison across different models. Yet these sensitivity analyses are useful because they offer an ability to gauge the robustness of the primary findings in the post-stop analysis.

Post-stop analysis results

Table E.15 on page 314 presents a cross-tabulation of driver race with five mutually exclusive stop outcomes: no action, incident report, warning, citation, or in-custody arrest. Among the 331,829 stops that occurred during this three-year period, the most common outcome was a traffic citation (72.6 percent). Officers issued warnings to roughly 1 in 4 drivers. Incident reports and in-custody arrests were far less frequent: Each outcome occurred in less than 1 percent of all stops, respectively. In terms of race, the experience of White drivers closely approximated that of the sample as a whole—73.2 percent of stopped

White drivers received a citation and 25.7 percent were dismissed with a warning. Less than one percent of White drivers were placed under arrest. Hispanic, Asian, and Other drivers also experienced outcomes fairly similar to the sample as a whole. The experience of African-American drivers, however, was quite different: 56.3 percent of African-American drivers received a citation, while 39.5 percent were issued a warning. Thus, African-American drivers were less likely to be cited and more likely to be warned, relative to each of the other racial or ethnic groups. Also noteworthy is that African-American drivers were more likely to be placed under arrest: 2 percent of all stops of African-American drivers resulted in an in-custody arrest. In fact, although far fewer stops were made of African-American drivers (49,123) than White drivers (124,854), more African-American drivers were arrested (963) than White drivers (669). Here again, the raw numbers suggest racial disparity in post-stop outcomes, but other relevant factors must be considered.

Table E.15. Driver race in post-stop outcomes

Individual race or ethnicity	No action	Incident report	Warning	Citation	In-custody arrest	Total
White	233	520	32,087	91,345	669	124,854
Percent of total stops of White drivers →	0.2%	0.4%	25.7%	73.2%	0.5%	100.0%
African American	357	740	19,394	27,669	963	49,123
Percent of total stops of African-American	0.7%	1.5%	39.5%	56.3%	2.0%	100.0%
drivers →						
Hispanic	143	968	12,247	29,230	479	43,067
Percent of total stops of Hispanic drivers →	0.3%	2.3%	28.4%	67.9%	1.1%	100.0%
Asian	85	174	11,559	46,981	207	59,006
Percent of total stops of Asian drivers →	0.1%	0.3%	19.6%	79.6%	0.4%	100.0%
Other	76	349	9,438	45,427	217	55,507
Percent of total stops of Other drivers →	0.1%	0.6%	17.0%	81.8%	0.4%	100.0%
Missing	1	0	92	41	1	135
Percent of total stops of drivers where race	0.7%	0.0%	68.2%	30.4%	0.7%	100.0%
information is missing →						
Total*	895	2,751	84,817	240,693	2,536	331,692
Percent of cumulative total stops →	0.3%	0.8%	25.6%	72.6%	0.8%	100.0%

The total for this table (N = 331,692) does not include 137 cases where outcome data were missing.

Warnings

Tables E.16–E.18 on pages 315–318 present the results of three logistic regression equations predicting whether the stop resulted in a warning, citation, or arrest, respectively. In table E.16 on page 315, the outcome warning was regressed onto the driver race or ethnicity variables while simultaneously controlling for other driver traits, the stop type, officer characteristics, and district characteristics. The results suggest that African-American drivers ($p \le 0.01$) were about 49 percent more likely than White drivers to have been released with a warning. Hispanic drivers were no more or less likely to receive a warning than White drivers. Asians ($p \le 0.01$) and those from other racial or ethnic groups ($p \le 0.01$) were less likely to be warned than White drivers (by 30 percent and 40 percent, respectively). Of note, significant differences emerged with respect to officer race or ethnicity. African-American, Hispanic, and Asian officers were all significantly less likely than White officers to issue a warning to the driver.

Table E.16. Logistic regression predicting warning issued (N = 330,264)

	Ь	SE	OR
Driver characteristics			
African American	0.40 ^{††}	0.06	1.49
Hispanic	0.00	0.04	1.00
Asian	-0.35 ^{††}	0.03	0.70
Other	-0.52 ^{††}	0.19	0.60
Male	-0.09**	0.04	0.91
Age	0.00**	0.00	1.00
Stop type *			
Moving violation	-0.23 ^{††}	0.07	0.79
DUI	-0.77**	0.32	0.46
PC violation	0.45††	0.15	1.57
MPC violation	0.07	0.27	1.07
BOLO/Warrant	-1.03 ^{††}	0.16	0.36
Officer characteristics			
African American †	-0.34 ^{††}	0.08	0.71
Hispanic [†]	-0.11**	0.05	0.90
Asian †	-0.30 ^{††}	0.06	0.74
Other †	-0.01	0.08	0.99
Male	-0.04	0.05	0.96
Years of service	-0.03 ^{††}	0.00	0.97
Rank - Officer	-0.43 ^{††}	0.10	0.65
District assignment [‡]	0.44 ^{††}	0.11	1.55
Misc. assignment [‡]	0.65 ^{††}	0.21	1.91
# of officers deployed	0.00	0.00	1.00
District characteristics			
% African American	0.02 ^{††}	0.00	1.02
% Hispanic	0.01**	0.00	1.01
% Young	-0.03 [§]	0.02	0.97
Unemployment rate	-0.05 [§]	0.03	0.95
Violent crime rate	-0.01	0.01	0.99
Intercept	0.25	0.32	_
McFadden's R ²		0.05	

Entries are unstandardized regression coefficients (b), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

Table E.24 (at the end of appendix E on page 334) provides the results from the separate logistic regression equations that predicted the odds of receiving a warning across each of the districts. Again, although the magnitude of the African-American driver coefficient varied across each of the models, African-American drivers were significantly more likely to receive a warning than White drivers in all districts. The magnitude of this effect varied across districts from a high of 97 percent greater in Inglewood to a low of 13 percent greater in Central. Although there was not a significant Hispanic driver effect observed in table E.16, the

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

 $p \le .10$

^{**} $p \le .05$

 $[\]dagger \dagger p \leq .01$ (two-tailed test)

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

robustness analysis revealed that Hispanics were less likely to receive a warning than White drivers in Bayview ($p \le 0.10$) and Southern ($p \le 0.01$), but more likely to receive a warning in Mission ($p \le 0.01$). Last, Asian drivers were less likely to receive a warning relative to White drivers in all districts, which confirms the findings presented in table E.16 on page 315.

Citations

Table E.17 on page 317 examined the relationship between driver race or ethnicity and whether the stop resulted in a citation, net of other variables. African-American ($p \le 0.01$) and Hispanic ($p \le 0.05$) drivers were significantly less likely than White drivers to have been issued a citation. Odds ratios revealed that relative to White drivers, African-American drivers were 39 percent less likely to have been given a citation, and Hispanic drivers were 9 percent less likely to have been given a citation. Stops of Asian drivers ($p \le 0.01$) and drivers from other racial or ethnic groups ($p \le 0.01$), however, were more likely to result in a citation than stops of White drivers. More specifically, Asian drivers were 43 percent more likely to receive a citation, and drivers from other groups were 66 percent more likely to receive a citation than White drivers. Note that the results of this model also yield significant findings with respect to the race or ethnicity of the officer. African-American, Hispanic, and Asian officers were all significantly more likely than White officers to issue a citation to the individual they stopped.

The results in table E.17 on page 317 were largely mirrored in the sensitivity analyses that estimated separate logistic equations for each district (see table E.25 at the end of appendix E on page 335). Although the magnitude of the African-American driver effect ranged from -0.21 (Central) to -0.77 (Ingleside), it was statistically significant and negative in each of the districts. The same was largely true for the effect of Hispanic driver on the odds of receiving a citation. In all districts except Bayview, Southern, and Tenderloin, Hispanic drivers were less likely to be cited compared to White drivers. Consistent with the findings in table E.17 on page 317, Asian drivers were more likely to receive a citation after a traffic stop relative to White drivers in all the districts (the magnitude of the coefficient ranged from 0.18 in Mission to 0.56 in Bayview).

Table E.17. Logistic regression predicting citation issued (N = 330,264)

	Ь	SE	OR
Driver characteristics			
African American	-0.49**	0.06	0.61
Hispanic	-0.10 [§]	0.04	0.91
Asian	0.36**	0.03	1.43
Other	0.51**	0.18	1.66
Male	0.06	0.04	1.06
Age	0.00⁵	0.00	1.00
Stop type *			
Moving violation	0.24**	0.07	1.27
DUI	-1.08**	0.19	0.34
PC violation	-2.02**	0.24	0.13
MPC violation	-0.48 [§]	0.21	0.62
BOLO/Warrant	-3.23**	0.15	0.04
Officer characteristics			
African American [†]	0.37**	0.08	1.45
Hispanic [†]	0.11 [§]	0.05	1.11
Asian [†]	0.30**	0.06	1.35
Other †	0.01	0.07	1.01
Male	0.07	0.05	1.07
Years of service	0.03**	0.00	1.03
Rank - Officer	0.55**	0.09	1.73
District assignment [‡]	-0.40**	0.11	0.67
Misc. assignment [‡]	-0.66**	0.19	0.52
# of officers deployed	0.00	0.00	1.00
District characteristics			
% African American	-0.02**	0.00	0.98
% Hispanic	-0.01**	0.00	0.99
% Young	0.03 [§]	0.02	1.03
Unemployment rate	0.04	0.03	1.04
Violent crime rate	0.01	0.01	1.01
Intercept	-0.48	0.32	
McFadden's R ²		0.06	

Entries are unstandardized regression coefficients (*b*), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

Arrests

Table E.18 on page 318 indicates that African-American ($p \le 0.01$) and Hispanic ($p \le 0.01$) drivers were significantly more likely than White drivers to be placed under arrest, while simultaneously controlling for other driver traits, the stop type, officer characteristics, and district characteristics. More specifically, the odds ratios revealed that African-American drivers were more than twice as likely as White drivers to have been arrested, and Hispanic drivers were 43 percent more likely than White drivers to have been arrested.

^{*} Reference stop type is non-moving violation

[†] Reference is White officer

[‡] Reference assignment is traffic

[§] p ≤ .05

^{**} $p \le .01$ (two-tailed test)

Asian drivers (p \leq 0.01) and drivers from other racial or ethnic groups (p \leq 0.01), on the other hand, were significantly less likely than White drivers to have been place under arrest. Relative to stops of White drivers, stops of Asian and other drivers were 32 percent less likely to result in an in-custody arrest.

Table E.18. Logistic regression predicting in-custody arrest (N = 330,264)

	Ь	SE	OR
Driver characteristics			
African American	0.82**	0.05	2.28
Hispanic	0.35 ⁺⁺	0.06	1.43
Asian	-0.39 ^{††}	0.12	0.68
Other	-0.39**	0.15	0.68
Male	0.41**	0.06	1.51
Age	-0.02 ⁺⁺	0.00	0.98
Stop type *			
Moving violation	0.08§	0.04	1.08
DUI	3.31**	0.23	27.38
PC violation	2.58 ^{††}	0.22	13.25
MPC violation	0.58 ^{††}	0.22	1.78
BOLO/Warrant	3.26 ^{††}	0.17	25.94
Officer characteristics			
African American †	-0.12	0.17	0.89
Hispanic [†]	-0.07	0.10	0.93
Asian [†]	-0.23	0.15	0.80
Other †	-0.24	0.23	0.79
Male	-0.08	0.09	0.92
Years of service	-0.03 ^{††}	0.01	0.97
Rank - Officer	-0.72 ⁺⁺	0.21	0.49
District assignment [‡]	0.68 ^{††}	0.16	1.97
Misc. assignment [‡]	0.91**	0.15	2.48
# of officers deployed	0.00	0.00	1.00
District characteristics			
% African American	0.01	0.01	1.01
% Hispanic	0.01**	0.01	1.01
% Young	-0.07**	0.03	0.94
Unemployment rate	-0.02	0.04	0.98
Violent crime rate	0.02	0.02	1.02
Intercept	-4.01 ⁺⁺	0.43	
McFadden's R ²		0.11	

Entries are unstandardized regression coefficients (b), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR)

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

[§] p ≤ .10

^{**} p ≤ .05

^{††} p \leq .01 (two-tailed test)

Table E.26 (at the end of appendix E on page 336) provides the results of a set of sensitivity analyses that re-estimated the arrest logistic equations separately for each of the 10 police districts. With respect to driver race or ethnicity, several interesting results emerged. First, African-American drivers were more likely to be arrested in all districts with the unstandardized coefficients ranging in magnitude from 0.70 in Bayview to 1.03 in Ingleside (compared to 0.82 in the pooled logistic equation in table E.18 on page 318). This suggests that African-American drivers in Ingleside are slightly more likely to be arrested than White drivers as compared to similarly situated drivers in Bayview. It is important to note, however, that the influence of African-American driver on the odds of arrest was statistically significant within each of the districts. In other words, African-American drivers were significantly more likely than White drivers to be arrested after a traffic stop irrespective of district. Second, although being Hispanic was associated with an increased odds of arrest in table E.18 on page 318, the results reported in table E.26 (at the end of appendix E on page 336) demonstrate that this effect was constrained to Ingleside (p \leq 0.01), Mission (p \leq 0.01), Northern (p \leq 0.01), Park (p \leq 0.10), Richmond (p \leq 0.01), and Taraval (p \leq 0.10). Hispanic drivers were no more likely to be arrested than White drivers in Bayview, Central, Southern, or Tenderloin. Last, Asian drivers were less likely to be arrested than White drivers in Bayview (p \leq 0.01), Northern (p \leq 0.01), Park (p \leq 0.10), and Taraval (p \leq 0.01). No statistical differences were observed in Central, Ingleside, Mission, Richmond, Southern, or Tenderloin.

Searches

The next step of the analysis focused on determining whether racial or ethnic disparity exists in officers' decisions to conduct searches. Prior studies have employed an outcome test (i.e., the percentage of searches in which the officer discovers contraband) to uncover racial or ethnic disparity and potential bias in police searches. In situations in which the officer has discretion, a completely unbiased officer decides whom to search based solely on the likelihood of discovering drugs, evidence, or other contraband, while a biased officer may search drivers of a particular racial or ethnic group based on the incorrect assumption that the group as whole may present a higher likelihood of possessing drugs or other contraband. This assumption may lead to lower hit rates for minorities because officers, in effect, may apply a lower threshold of evidence in searching minorities than White individuals, thereby leading to fewer contraband finds (Knowles, Persico, and Todd 2001; Persico and Todd 2008).

Table E.19 on page 320displays the frequency of consent and high discretion searches by race or ethnicity among stops over this three-year period, along with the hit rates for each.²⁹⁵ The first column indicates that African-American drivers were involved in more than half of the 1,819 consent searches during this period. The second column indicates that hit rates were fairly consistent across the among driver racial or ethnic groups, which suggests that contraband carry rates are fairly consistent across those who grant consent when asked. It is important to note that the team cannot rule out the possibility that minority drivers may be more likely to grant consent than White drivers; therefore, the percentage of drivers from each racial group subjected to consent searches must be interpreted with caution. Because the SFPD data do not capture the rate at which motorists were asked for consent to search or the rate at which they refused, it is

^{295.} Recall that low discretion searches (incident to arrest, parole or probation violation, vehicle inventory) were not analyzed for racial bias because officer discretion in conducting theses searches is often constrained by law and policy.

unknown whether the higher rates of consent searches among African Americans and Hispanics is the result of more requests by the police to search these groups or their greater likelihood to grant consent when asked. High discretion searches, on the other hand, are largely at the discretion of the officer. These searches are nonconsensual and do not include searches incident to arrest, probation or parole searches, or inventory searches, which are typically low discretion searches. As such, racial disparities among these high discretion searches are more informative about possible bias on the part of the police.

The third column in table E.19 indicates that African-American drivers accounted for roughly 40 percent of all high discretion searches, whereas White and Hispanic drivers accounted for 22 percent and 19 percent, respectively. Thus, officers used their discretion to conduct non-consent searches of African-American drivers more frequently than drivers of any other race. Furthermore, the hit rate analysis revealed that roughly 7 out of every 10 high discretion searches of White drivers yielded contraband, while 3 out of 10 high discretion searches of African-American drivers yielded contraband. In sum, the SFPD conducted high discretion searches on a far greater number of African-American drivers than drivers of any other race, and the hit rates in these high discretion searches of African-American drivers was lower than those of all other drivers. High discretion search patterns of Hispanic drivers also suggest evidence of disparity on the part of the SFPD. Though White and Hispanic drivers constituted a similar percentage of high discretion searches, the hit rate in searches of Hispanic drivers was about 30 percentage points lower than the hit rate in searches of White drivers.

Table E.19. Hit rates by race in consent and high discretion searches

Individual race or ethnicity	Consent searches (N = 1,819)	Hit rate	High discretion searches $(N = 3,674)$	Hit rate
White	282 15.5%	14.2%	824 22.4%	73.7%
African American	957 52.6%	12.5%	1,466 39.9%	32.3%
Hispanic	389 21.4%	13.6%	702 19.1%	43.2%
Asian	86 4.7%	17.4%	363 9.9%	80.2%
Other	105 5.8%	11.4%	317 8.6%	69.1%
Missing	0 0.0%	_	2 0.1%	100.0%

While the findings from table E.19 suggest that SFPD officers may exhibit bias in the decision to search African-American and Hispanic drivers, they do not account for other important aspects of the stop that preceded the search. Table E.20 on page 321 displays the results of a logistic equation that regressed high discretion search onto driver race or ethnicity along with each of the control variables employed in previous analyses. Relative to White drivers, African-American drivers were significantly ($p \le 0.01$) more likely to be selected for high discretion searches upon being stopped. In fact, the odds ratio (2.89) indicates African-American drivers were nearly three times as likely as White drivers to be searched without consent. Hispanic drivers ($p \le 0.01$) were also significantly more likely than White drivers to be selected for high

discretion searches, although the disparity was less extreme. That is, the odds of being searched without consent were 65 percent greater for Hispanic drivers than White drivers. No significant differences emerged between Asian drivers and White drivers, but drivers of other racial or ethnic groups were significantly (p \leq 0.10) less likely than White drivers to be searched without consent. Specifically, the odds of being searched without consent were 19 percent lower for drivers of other racial or ethnic groups than White drivers.

Table E.20. Logistic regression predicting high discretion search (N = 330,272)

	Ь	SE	OR
Driver characteristics			
African American	1.06 ^{††}	0.05	2.89
Hispanic	0.50 ^{††}	0.09	1.65
Asian	-0.07	0.05	0.93
Other	-0.21§	0.12	0.81
Male	0.51 ^{††}	0.10	1.66
Age	-0.03 ^{††}	0.00	0.97
Stop type *			
Moving violation	-0.14	0.11	0.87
DUI	1.94 ^{††}	0.37	6.99
PC violation	1.95 ^{††}	0.21	7.01
MPC violation	0.54**	0.28	1.71
BOLO/Warrant	1.51 ^{††}	0.19	4.51
Officer characteristics			
African American [†]	-0.02	0.15	0.98
Hispanic [†]	0.06	0.07	1.06
Asian †	-0.34 ^{††}	0.08	0.71
Other [†]	-0.05	0.10	0.95
Male	-0.08	0.05	0.92
Years of service	-0.04 ^{††}	0.01	0.96
Rank - Officer	-0.24	0.16	0.78
District assignment [‡]	-0.31 [§]	0.16	0.74
Misc. assignment [‡]	0.95 ^{††}	0.18	2.57
# of officers deployed	0.00	0.00	1.00
District characteristics			
% African American	0.01	0.01	1.01
% Hispanic	0.02**	0.01	1.02
% Young	-0.05**	0.02	0.95
Unemployment rate	0.04	0.05	1.04
Violent crime rate	-0.03 [§]	0.02	0.97
Intercept	-3.43 ^{††}	0.26	
McFadden's R ²		0.09	

Entries are unstandardized regression coefficients (*b*), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

[§] $p \le .10$

^{**} $p \le .05$

 $[\]dagger\dagger p \leq .01$ (two-tailed test)

The assessment team re-estimated the high discretion search logistic model separately for each of the police districts and presented the results in table E.27 (at the end of appendix E on page 337). With respect to driver race, the findings were consistent across each of the districts in terms of direction and significance. In short, African-American and Hispanic drivers were more likely to be subjected to high discretion searches that White drivers regardless of the district in which the traffic stop took place.

Table E.21. Logistic regression predicting consent search (N = 330,272)

	Ь	SE	OR
Driver characteristics			
African American	1.48 ^{††}	0.18	4.41
Hispanic	0.79 ^{††}	0.17	2.21
Asian	-0.44 ^{††}	0.17	0.64
Other	-0.26	0.16	0.77
Male	1.07 ^{††}	0.09	2.92
Age	-0.04 ^{††}	0.00	0.96
Stop type *			
Moving violation	-0.48 ^{††}	0.11	0.62
DUI	2.40 ^{††}	0.46	11.04
PC violation	1.33 ^{††}	0.20	3.77
MPC violation	1.05 ^{††}	0.18	2.86
BOLO/Warrant	1.07 ^{††}	0.27	2.92
Officer characteristics			
African American †	-0.39 ^{††}	0.14	0.68
Hispanic †	0.07	0.10	1.07
Asian †	-0.42 ^{††}	0.13	0.65
Other †	-0.18	0.19	0.84
Male	0.04	0.07	1.04
Years of service	-0.05 ^{††}	0.01	0.95
Rank - Officer	-0.13	0.23	0.88
District assignment [‡]	0.88**	0.40	2.41
Misc. assignment [‡]	1.45 ^{††}	0.44	4.26
# of officers deployed	0.00 ^{††}	0.00	1.00
District characteristics			
% African American	0.01	0.01	1.01
% Hispanic	0.01	0.00	1.01
% Young	-0.20 ^{††}	0.02	0.82
Unemployment rate	0.11 ^{††}	0.03	1.12
Violent crime rate	-0.02 [§]	0.01	0.98
Intercept	-4.30 ^{††}	0.41	
McFadden's R ²		0.16	

Entries are unstandardized regression coefficients (*b*), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

[§] $p \le .10$

^{**} $p \le .05$

^{††} p \leq .01 (two-tailed test)

Table E.21 on page 322 presents the results of a logistic equation that regressed consent search onto driver race or ethnicity along with each of the control variables. Compared to White drivers, African-American drivers ($p \le .01$) were over four times more likely to have been searched based on consent. Hispanic drivers ($p \le .01$) also were significantly more likely than White drivers to be consent searched. More specifically, the odds ratio suggests they were slightly more than twice as likely as White drivers to be searched with consent. Asian drivers ($p \le .01$) were 36 percent less likely than White drivers to have been subjected to a consent search. Finally, there was no significant difference between individuals of other racial or ethnic groups and White drivers in terms of the likelihood of being consent searched. Also worthy of note in table E.21 on page 322 is that African-American ($p \le .01$) and Asian officers ($p \le .01$) were 32 percent and 35 percent less likely than White officers, respectively, to have conducted a consent search of any driver.

Table E.28 (at the end of appendix E on page 338) presents the results of the consent search logistic regression model estimated across each of the police districts. With respect to African-American drivers, the findings mirror those in table E.21 on page 322. In each of the SFPD districts African-American drivers are statistically more likely than White drivers to have experienced a consensual search during a traffic stop. Hispanic drivers were more likely than White drivers to be searched with consent in Ingleside, Mission, Northern, Park, Richmond, and Southern. However, they were no more likely than White drivers to be searched with consent in Bayview, Central, Taraval, or the Tenderloin. The finding that Asian drivers are less likely than White drivers to be searched with consent appeared to be constrained to Bayview, Ingleside, and Taraval. There was no statistically significant difference in the odds of consent searches between Asian and White drivers in the other seven districts.

Table E.22 on page 324 presents the results of a logistic model that regressed contraband or evidence discovered in a high discretion search onto driver race or ethnicity and each of the aforementioned control variables. Relative to White drivers who were searched without consent, African-American ($p \le 0.01$) and Hispanic ($p \le 0.01$) drivers were significantly less likely to have been found with contraband or evidence following a search. The odds that contraband or evidence were found were 70 percent lower for African-American drivers and 54 percent lower for Hispanic drivers than for White drivers who were searched without consent. Asian drivers ($p \le 0.05$), on the other hand, were significantly more likely than White drivers to have had contraband or evidence in their possession following a search. More specifically, the odds that contraband or evidence was found as a result of a non-consent search were 49 percent greater for Asian drivers than White drivers.

Table E.29 (at the end of appendix E on page 339) provides the results of the logistic regression model that was re-estimated separately for each of the police districts. The findings were largely consistent with those presented in table E.22 on page 324. Across each of the districts, African-American drivers are significantly less likely to be found with contraband after a high discretion search relative to White drivers. However, the Hispanic effect observed in table E.22 on page 324 seems to be constrained to three districts. Hispanic drivers were significantly less likely to be found with contraband in Mission, Park, and Southern. Within the other districts, Hispanic drivers were no more or less likely than White drivers to be found with contraband or evidence following a non-consent search.

Table E.22. Logistic regression predicting contraband found, high discretion searches only (N = 3,655)

	Ь	SE	OR
Driver characteristics			
African American	-1.19 ^{††}	0.15	0.30
Hispanic	-0.77 ^{††}	0.19	0.46
Asian	0.40**	0.16	1.49
Other	-0.14	0.18	0.87
Male	-0.55 ^{††}	0.08	0.57
Age	0.02 ^{††}	0.00	1.02
Stop type *			
Moving violation	0.81 ^{††}	0.12	2.25
DUI	-2.71 ^{††}	0.55	0.07
PC violation	-0.04	0.19	0.96
MPC violation	-0.56	0.37	0.57
BOLO/Warrant	-0.58**	0.27	0.56
Officer characteristics			
African American [†]	0.27 [§]	0.14	1.31
Hispanic [†]	0.08	0.19	1.09
Asian †	0.12	0.19	1.13
Other [†]	0.08	0.17	1.09
Male	-0.38 [§]	0.21	0.69
Years of service	$0.04^{\dagger\dagger}$	0.01	1.04
Rank - Officer	0.25	0.28	1.28
District assignment [‡]	-1.14 ^{††}	0.41	0.32
Misc. assignment [‡]	-0.91**	0.47	0.40
# of officers deployed	0.01**	0.00	1.01
District characteristics			
% African American	-0.01	0.01	0.99
% Hispanic	-0.01	0.01	0.99
% Young	0.16 ^{††}	0.04	1.17
Unemployment rate	-0.18 ^{††}	0.04	0.84
Violent crime rate	0.13 ^{††}	0.02	1.14
Intercept	0.26	0.88	_
McFadden's R ²		0.23	

Entries are unstandardized regression coefficients (*b*), robust standard errors adjusted for clustering in 10 districts (SE), and odds ratios (OR).

^{*} Reference stop type is non-moving violation

[†] Reference is White Officer

[‡] Reference assignment is traffic

[§] $p \le .10$

^{**} $p \le .05$

^{††} p \leq .01 (two-tailed test)

The initial decision to stop

This section summarizes the findings from the two sets of analyses discussed earlier—those that addressed the initial decision to stop a motorist and those that addressed officer decision-making once a stop occurred. In this concluding section, the assessment team summarizes and discusses the principal findings within the context of the broader literature on racial profiling and police bias, and the team identifies relevant limitations to the data and the analytic results.

Stops versus estimated driving and violating populations

Following sound methodological practice reported in the literature, the team used two analytic techniques to estimate whether drivers of minority racial or ethnic groups (African Americans, Hispanics, Asians) were stopped disproportionately to what would be expected given their groups' representation in the driving or at-risk (potential traffic violator) populations in San Francisco. The first technique compared the racial composition of traffic stops made by the SFPD over a three-year period (May 1, 2013–May 1, 2016) to the racial composition of more than 10,000 drivers involved in traffic collisions over a similar period. Traffic collision data represent a theoretically random sample of drivers on the roadways of San Francisco and therefore offer an unbiased estimate of the racial composition of the driving population in the city (Alpert, Smith, and Dunham 2004).

Citywide, African-American drivers were 24 percent more likely to be stopped by the police than their estimated representation in the driving population, and they were 9 percent more likely to be stopped given their estimated representation among potential traffic violators. There was considerable variation across police districts in the likelihood that African Americans would be stopped disproportionately to the traffic crash estimates. The greatest disparities between stops and the estimated driving population of African Americans (derived from not-at-fault crashes) occurred in the Bayview and Mission districts, which contain the highest proportion of African-American residents (22.2 percent) and among the lowest proportion of African-American residents (2.7 percent), respectively, in the city. The Tenderloin district, which contains the second highest proportion of African-American residents in San Francisco (10.5 percent), also showed evidence of significant disparity for stops of African-American drivers relative to their estimated proportions in the driving and potential violating populations.

The findings for Hispanic drivers were diametrically opposed to the findings for African-American drivers. Citywide, Hispanic drivers were 20 percent less likely to be stopped by the police compared to their estimated representation among drivers, and they were 37 percent less likely to be stopped given their estimated representation among potential traffic violators. Only in the Mission district were Hispanic drivers stopped more often than expected given their estimated driving population in the district. The findings for Asian drivers were similar to those for Hispanic drivers. Citywide, Asian drivers were underrepresented in traffic stops compared to their estimated representation in the driving and potential traffic violating populations.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

To put these findings in perspective, researchers in Miami-Dade County (a large and racially diverse urban county surrounding Miami, Florida) also found disparities in stops of African Americans compared to their estimated representation in the driving population in certain areas of the county (Alpert Group 2004; Alpert, Dunham, and Smith 2007). African-American drivers were overrepresented in stops compared to the traffic collision benchmark in predominantly non-African-American and racially mixed areas of the county, while they were stopped proportionately to the benchmark in predominately African-American areas of the county. Hispanics, generally speaking, were stopped proportionately to their estimated representation among drivers in Miami-Dade. Conversely, an analysis of more than 500,000 stops conducted by the Washington State Patrol from November 2005 to October 2006 found no evidence that minority drivers were stopped disproportionately to their estimated representation among drivers based on collision data (Lovrich et al. 2007).

There are limitations to this analytic approach that must be acknowledged and taken into account when interpreting the results in San Francisco. While traffic collision benchmarking is a well-accepted social scientific methodology for estimating the racial composition of drivers in a given area or locale, it has been subjected to relatively few validation studies and has not been validated in San Francisco. The team cautions that the estimates of the racial composition of the driving and potential violating populations derived from traffic crash data represent an unknown derivation from the actual racial composition of those driving and those violating the traffic laws in San Francisco. Put simply, the traffic crash benchmark may under or over-estimate the actual proportion of African-American, Hispanic, or Asian drivers on the roadways or among those violating the traffic laws, and without comparisons to actual field observations of drivers and violators (Alpert, Smith, and Dunham 2004), the extent of the error in the estimates is unknown.

With those limitations in mind, the consistency and degree of overrepresentation of African-American drivers stopped in San Francisco compared to the estimated proportion of African-American drivers and potential traffic violators derived from the traffic collision data suggests that race may play a role in the initial stop decisions of SFPD officers. African Americans are overrepresented among those stopped citywide; and unlike in Miami-Dade County, where African-American drivers were not overrepresented in stops conducted in predominately African-American areas of the county, the Bayview District in San Francisco, which has the highest African-American population in the city, also shows evidence of the greatest disparity in stops of African-American motorists.

It is important to note that these findings do not prove racial bias by officers of the SFPD or by the agency as whole. Certainly, the SFPD's official policies explicitly prohibit the use of race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity as a basis for conducting stops or detentions (see SFPD General Order 5.17). Moreover, aggregate analyses such as these cannot prove discriminatory motive or intent on the part of individual officers, nor can they prove the presence of implicit bias on the part of individuals (Smith and Alpert 2007). They do, however, suggest the need for ongoing research, monitoring, and analysis of stops by the agency as a whole and to determine whether certain officers or groups of officers may be disproportionately contributing to the disparities in stops of African-American drivers within certain districts. An internal benchmarking analysis or officer-to-officer comparisons of similarly situated officers has the potential for identifying officers whose stop patterns may

stand out from their peers and warrant further examination (Ridgeway 2006; Ridgeway and MacDonald 2009; Smith 2005). The SFPD should consider the merits of incorporating such analyses as part of an early warning system that is corrective rather than punitive in nature (Walker 2003).

Daytime versus nighttime stops

The second technique for examining possible racial disparities in the initial decision to make a traffic stop compared the racial composition of stops made by the SFPD during the daytime to those made at night. Following Grogger and Ridgeway's (2006) "behind the veil of darkness" approach, the team examined stops that took place during the "intertwilight" hours (roughly from 5:00 p.m.–9:30 p.m.) to determine whether a greater proportion of those stops made prior to sunset involved minority drivers as compared to stops made following the end of civil twilight when full darkness sets in. If racial profiling is occurring, one would expect to see a higher percentage of minority stops during the day when an officer could more readily identify race or ethnicity prior to making a stop.

Citywide, the team found no differences in the rate at which minority drivers were stopped during the day versus the night. By district, African-American drivers were more likely to be stopped during the day in four districts, two of which (Bayview and Mission) were districts where they also were overrepresented in stops according to the traffic collision benchmarks. At least with respect the Bayview and Mission districts, these two sets of findings are consistent and provide support for the hypothesis that race may play a role in the initial stop decision by officers in those districts. In the Tenderloin district, African American drivers were actually less likely to be stopped during the day compared to White drivers, which is inconsistent with the traffic collision benchmark finding in the Tenderloin where African American drivers were significantly overrepresented among stops.

Also inconsistent were the findings for Hispanic drivers. Although Hispanic drivers were underrepresented in stops in most districts according to the traffic crash benchmarks, they were more likely to be stopped during daylight hours in the Bayview, Park and Southern districts. Some variation in daytime versus nighttime stops by district was evident for Asian drivers, but there was no consistent pattern. While Asian drivers were more likely than White drivers to be stopped during the daytime in the Tenderloin, this finding is contrary to the traffic collision benchmarking analysis where they were underrepresented relative to their estimated proportion of the traffic violating population in that district.

It is difficult to assess the implications of the daytime versus nighttime stops analyses. In Minneapolis and in some jurisdictions in Connecticut, evidence of possible racial bias was found using the "behind the veil of darkness" approach (Ritter and Bael 2009; Taniguchi et al. 2016). However, Grogger and Ridgeway (2006), who pioneered this approach, found no evidence of racial disparities in Oakland or in Cincinnati (Ridgeway 2009), both of which have significant African-American populations and were the subjects of memoranda of understanding with the U.S. Department of Justice where possible racial bias by police was an issue in the settlement agreements. Moreover, Taniguchi et al. (2016) found no evidence of racial bias using this method in Raleigh or Greensboro, North Carolina.

While it is an accepted methodology among social scientists for assessing possible racial bias in traffic stops, the "behind the veil of darkness" approach has significant limitations. Its assumption that police officers are less likely to be able to identify the race or ethnicity of drivers at night than they are in the daytime has never been empirically tested. In urban areas such as San Francisco, with its many streetlights and other sources of ambient lighting, it is questionable whether the ability of police officers to see into a vehicle and identify the apparent race of the driver is substantially diminished at night. In addition, officers likely are familiar with the racial composition of the various neighborhoods in San Francisco and might use these and other cues to make reasonably accurate assumptions about the race of a driver, even if they cannot see into the vehicle itself.

For these reasons, the team has less confidence in this method for assessing possible racial bias in the decision to make a traffic stop than in using traffic crash data to estimate the racial makeup of drivers or possible traffic violators in a geographic area and then using those estimates to compare against the racial composition of those stopped by the police. Taken as a whole, the traffic collision benchmarking results consistently show large disparities in stops of African Americans citywide and in certain SFPD districts. The consistency and magnitude of these findings warrant further examination and review.

Post-stop outcomes

A thorough evaluation of potential racial or ethnic biases toward individuals should include an assessment of post-stop outcomes to investigate whether there are patterns of disparate treatment at the conclusion of a traffic stop. This approach has been adopted in several other jurisdictions and offers valuable information regarding the resolution of police-individual contacts initiated thorough traffic stops (Alpert et al. 2006; Engel et al. 2012; Lovrich et al. 2007; Ridgeway 2009; Tillyer and Engel 2013). Police officers possess various options to conclude a traffic stop once it has been initiated. These "outcomes" are dependent on and constrained by the law and SFPD policy. In the case of the SFPD they include taking no action, writing an incident report, issuing the driver a warning, issuing the driver a citation, arresting the individual, conducting a search of the individual or vehicle or both, or some combination of these. Analyses of post-stop outcome data from the SFPD specifically examined warnings, citations, arrests, and searches with the intent to answer the following question: Do African-American, Hispanic, or Asian drivers receive disproportionate sanctions and other negative outcomes related to traffic stops, net of other salient nonracial factors that may influence officer decision making during post-stop activities?

Specific measurement of variables and the step-by-step methodology undertaken to answer this question is detailed elsewhere in this report. In short, the SFPD's E-585 traffic stop incident reports contains information on the types of actions taken by officers after a stop is initiated. These data were subsequently merged with U.S. Census data, SFPD deployment information, and SFPD reported crime data to allow the estimation of a series of multivariate models examining warnings, citations, arrests, and searches. A multivariate model allows for a simultaneous assessment of all factors available in the data that may impact the likelihood of each outcome occurring. This approach is particularly well-suited to identify the specific effect of an individual's race or ethnicity on the likelihood of receiving a warning, citation, or arrest

or being searched while also considering other factors likely to be relevant such as other individual characteristics, officer characteristics, and location specific factors (e.g., unemployment rate, violent crime rate, etc.).

It is important to note that model findings are limited to the data available. This has two critical implications relevant for drawing overall conclusions about the practices of the SFPD. First, these models only allow an assessment of measured factors and are potentially missing other important information that may impact the likelihood of any specific outcomes occurring. Eliminating this threat is beyond the scope of this project and common in such evaluations of police officer behavior. In short, not all relevant information is available concerning the specifics of each traffic stop. Second, these analyses cannot identify the internal processes that comprise an officer's decision making. No data are available on what the officer thought or felt at the time that decisions were made regarding how to conclude the traffic stop. As such, it is not possible to draw definitive conclusions about racial or ethnic bias on the part of individual officers or the SFPD as a whole. Conversely, these models can identify pattern and trends in the data that may indicate areas of disparity in post-stop outcomes. If patterns of disparity appear in any of the models, these findings should be used to further investigate the actions of the SFPD to determine the underlying reasons and causes of such outcomes. The following subsections outline the main findings for each outcome analyzed and contextualize these results within the broader findings from other jurisdictions.

Warnings

The multivariate model examining the issuance of a warning indicates that across the city African-American drivers were 49 percent more likely to receive this outcome than White drivers when considering all other available factors. Asian drivers and those drivers from other races or ethnicities were less likely to be warned than White drivers (30 percent and 40 percent, respectively). Hispanic drivers were statistically indistinguishable from White drivers in their likelihood of receiving a warning. Of note, African-American, Hispanic, and Asian officers were all significantly less likely than White officers to issue a warning to the driver. Notice that this effect is for all drivers and not specific to any particular racial or ethnic group. The pattern of issuing warnings was relatively stable across districts; however, there were some differences in the magnitude of this effect.

The disparity for African-American drivers in receiving a warning is not surprising when compared to some findings from other jurisdictions. Data from Miami-Dade County indicate that African-American drivers were less likely to be warned compared to their White counterparts (Alpert Group 2004). Conversely, some studies have reported no difference for African-American drivers (Tillyer and Engel 2013), while others have reported a heightened likelihood of African-American drivers being warned relative to their White counterparts (Schafer et al. 2006). Most jurisdictions have very small Asian populations compared to San Francisco's, and as a result, examination of this group in previous studies is virtually nonexistent.

COLLABORATIVE REFORM INITIATIVE

An Assessment of the San Francisco Police Department

Citations

The most common traffic stop outcome, a citation, was issued in 72.6 percent of all officer-initiated stops. Results from the multivariate model indicate that African-American drivers were 39 percent less likely than White drivers to have been issued a citation and Hispanic drivers were 9 percent less likely to have received a citation. Asian drivers (43 percent) and those from other races or ethnicities (66 percent) were more likely to be issued a citation than White drivers. African-American (45 percent), Hispanic (11 percent), and Asian (35 percent) officers were more likely to issue a citation to any drivers than White officers. The overall city pattern for citations was largely mirrored at the district level with some variability across the sub-areas.

Results from other jurisdictions examining the relationships between driver race or ethnicity and citation are mixed. Similar to the findings reported here, studies in Cincinnati (Ridgeway 2009) and Los Angeles (Alpert et al. 2006) found that African-American motorists were actually less likely than similarly situated White motorists to receive citations. Conversely, data from other jurisdictions indicate that African-American (Engel et al. 2012; Lovrich et al. 2007) and Hispanic (Tillyer and Engel 2013) drivers receive citations disproportionately to their White counterparts. Virtually no research has examined the relationship between Asian drivers and receipt of citations.

Arrests

Analyses of the SFPD traffic stop data indicate that African-American drivers were 2.3 times more likely to be placed under arrest than White drivers. Hispanic drivers were also more likely to be arrested, whereas Asian and other races or ethnicities were less likely to be arrested than White drivers. The citywide pattern for African-American drivers was consistent across all districts to varying degrees, while less consistency was discovered for the experience of Hispanic, Asian, and other drivers. Of note, no officer demographic characteristics were related to an arrest, and neither the unemployment rate nor the violent crime rate was influential in the likelihood of an arrest.

The noticeable risk for African-American (and to a lesser extent, Hispanic) drivers to be arrested is a consistent theme in other studies. Results from various jurisdictions including Los Angeles and the states of Arizona and Missouri also indicate that African-American drivers are arrested at disproportionate rates compared to White drivers (Alpert et al. 2006; Engel et al. 2012; Rojek, Rosenfeld, and Decker 2004). It is important to note that many of these studies were not able to unpack the degree of discretion afforded the officer when making a decision to arrest. For example, it is common for the data to only indicate that an arrest occurred, but not include the reason for that action. Results from Miami-Dade County suggest that when low discretion arrests such as for an outstanding warrant are considered, the relationship between African-American drivers and arrest is noticeably weakened (Alpert Group 2004). The SFPD data also suffer from this limitation and do not include the reason for the arrest, so this possibility is unaccounted for in the current analysis.

Searches

Searches conducted by the SFPD were categorized into three groups depending on the degree of discretion available to the officer. High discretion searches are those that were carried out without the consent of the driver (i.e., based on probable cause). Consent searches are those in which the driver consented to the officer's request to conduct a search. Finally, low discretion searches include searches incident to arrest, probation- or parole-related searches, and vehicle inventories. Because officer discretion is constrained in low discretion searches, this category was not subjected to analysis for racial disparity.

Results indicate that high discretion searches were 2.9 times more likely for African-American drivers than for White drivers. Similarly, Hispanic drivers were 1.7 times more likely to be searched without consent than White drivers. Asian drivers were searched for high discretion reasons at the same rate as White drivers, while other races or ethnicities had slightly lower risk of a high discretion search. This citywide pattern was apparent across the districts as well. Asian officers were also less likely to initiate a search than their White counterparts, and discretionary searches were slightly more likely to occur in districts with lower violent crime rates.

With regard to consent searches, a similar but stronger pattern emerges in which African-American drivers were over 4.4 times more likely to be searched and Hispanic drivers were over 2.2 times more likely to be searched than White drivers. Asian drivers were less likely to be searched as a result of consent. Of note, African-American and Asian officers were less likely to initiate a consent search than White officers, and consent searches were less likely to occur in higher crime areas but more likely to occur in areas with greater unemployment. Finally, the pattern of disparity in consent searches for drivers across the city is relatively consistent when examining the specific districts; however, there were a number of districts that did not show any difference in consent searches for Hispanic and Asian drivers.

Often when searches are analyzed, it is also useful to assess the accuracy or frequency of contraband discovery. The multivariate models clearly indicate that African-American and Hispanic individuals were less likely to be found in possession of contraband or evidence than White drivers searched for the same reason. Asian drivers were more likely to be discovered with contraband or evidence than White drivers. African-American officers were more likely to discover contraband or evidence than White officers, and rates of contraband or evidence discovery were higher in areas of higher violent crime and less unemployment. Again, the citywide pattern of findings for minority drivers is relatively consistent across the districts.

The heightened risk of a discretionary or consent-based search for minority individuals is not unique to the SFPD. Various recent studies report that African-American and Hispanic individuals experience elevated levels of discretionary searches (Alpert et al. 2006; Close and Mason 2007; Lovrich et al. 2007; Pickerell et al. 2009; Tillyer 2014), although Ridgeway (2009) reported that African-American individuals were actually less likely to be searched compared to non-African-American individuals in Cincinnati. Moreover, the low rate of contraband discovery among these groups is also not uncommon in other jurisdictions. A systematic review by Engel and Johnson (2006) indicated that minority individuals generally possessed lower contraband hit rates compared to White individuals.

Conclusion

Analyses of the SFPD's traffic stop data (May 2013–May 2016) reveals some racial or ethnic disparities in warnings, citations, arrests, searches, and contraband discovery. African-American drivers were more likely to be warned, arrested, and searched (for both consent and high discretionary reasons) but less likely to be cited and found to be in possession of contraband compared to White drivers. Hispanic drivers were more likely to arrested and searched (for both consent and high discretionary reasons) but less likely to be cited and found to be in possession of contraband compared to White drivers. Finally, Asian drivers were more likely to be cited and found with contraband but less likely to warned, arrested, or searched based on consent compared to White drivers. While these results indicate patterns of disparity, no definitive conclusions can be drawn regarding the underlying motivation for these outcomes including the possibility of racial or ethnic bias. Nonetheless, the patterns of disparity in post-stop outcomes are consistent with those found for the initial stop decision and warrant further monitoring, investigation, and analysis—possibly by drilling down to the officer or unit level using internal benchmarking or officer-to-officer comparison techniques as part of an early warning approach by the SFPD.

Logistic regression tables

Table E.23. Logistic regression predicting whether intertwilight stop occurred in daylight by district (see table E.13 on page 308)

Richmond Southern Taraval	OR b OR b OR b OR		1.11 0.00 1.11 0.00 1.11 0.10	124 002 1.02 0.25** 1.29 0.15 [†] 086	1.07 -0.22** 0.81 -0.03 0.97 0.01	090 009 1.09 0.16** 1.17 0.16* 1.17	089 -0.03 0.97 -0.11** 0.89 -0.05 0.95	1.01 0.001** 1.01 0.004** 1.00 0.01**		123 -0.05 0.05 0.21** 1.24 0.22**	- 0.78 2.18 -1.58** 0.21 -1.44 [†] 0.24	158 -054 058 086 [†] 237 -051 060	1.79 0.13 1.13 -0.44* 0.65 0.07	167 -052 059 109 297 000		056 -050** 0.61 0.48** 1.62 -0.65** 0.52	102 -0.07 0.98 0.06 1.06 0.13	1.19 0.09 1.10 0.07 1.07 0.14* 0.87	077 030** 1.35 -0.71** 0.49 -0.11 0.99	085 -012 089 014 1.15 -0.03 0.97	103 001 [†] 1,01 0,01* 1,01 0,08** 1,08	185 051** 1.67 -0.13* 0.88 0.06	054 -033** 0.72 -087** 0.42 0.30**	058 -0.10 0.91 -0.75** 0.47 -0.75* 0.47	100 -002** 098 001** 101 -002** 098	101 1.11** 3.02 -0.05 0.95 0.81** 2.26	8381** 108154** 18620**	0.01 0.006 0.002	5347 16083 8456
Northern Park	b OR b C		-006 094 018 [†] 1.	.018 1.19 022 [†] 1.	100 007 11	-028** 0.75 -0.11 0.	-0.08 0.92 -0.11 [†] 0.	-000 1.00 001*** 1.		033** 139 021** 1.		-023 0.79 0.46 1.	-032 072 058 1.	072 206 051 1		-031** 0.73 -0.58** 0.	0.04 1.04 0.02 1.1	-0.03 0.97 0.18* 1.	-025 [†] 0.78 -0.27* 0.	007 1.07 7.01 0.0	000 1.00 008*** 1.1	-003 097 062*** 1;	-133** 026 -06** 0.	-137** 025 054 0.	101 -0001 11	120** 331 001 1	53229**	008 002	5498 4662
Ingleside Mission	OR b OR		a97 a15 [†] 1.16	0.04 0.06 1.06	1.10 0.03 1.03	1.18 -0.08 0.93	1.04 -0.03 0.97	1.00 000 1.00		128 020** 122	0.08 -1.94 0.14	1.63 0.69* 1.99	1.40 1.35 3.84	0.000 1.16* 3.19		1.02 0.11 1.12	137 007 107	120 034** 1.41	1.12 037*** 1.44	087 0.17 [†] 1.19	1.05 0.01 1.01	121 004 124	081 -047** 062	066 -013 088	099 001** 101	154 -039 068	15102***	000	9092
Central Ingl	OR B		t 083 -003	1.08 -0.07	600 +80 ***	** 0.79 0.16 [†]	, 008 004	1,00 001**		1.13 0.24**	** 011 -249*	064 049	1.06 0.34	229 -016		090 005	* 139 031**	094 018**	094 011	-0.26** a77 -a14	** 1.08 005**	1.14 0.19 [†]	** 081 -021	** 023 -042	** 099 -001**	** 225 043	201.15**	900	3 7437
Bayview	OR b		1.37 -0.18 [†]	130 008	1.08 -0.18**	123 -023***	1.09 -0.07	1.00 000		1.26 0.12 [†]	217**	071 -0.45	000 880	076 083		0.79 -0.10	1.17 033**	123 -006	127 -006	154 -0.	1.01 0.03***	1.16 0.13	011 -021**	014 -1.47***	1.00 -0.01**	608 081**		000	7193
Bay	q	Driver characteristics	African American 031**	Hispanic 027**	Asian 008	Other 020 [†]	Male 009	Age 0004*	Stop type	Moving violation 023**	DOI -	PC violation 034	MPC violation	BOLO/warrant -027	Officer characteristics	African American 023**	Hispanic 016*	Asian 021**	Other 024**	Male 043**	Years of service 001*	Rank - Officer	District assignment -223**	Misc. assignment -195**	# of officers deployed 0002	Intercept 1.81**	Wald χ^2 30731**	McFadden's R ² 004	Z 2905

Table E.24. Logistic regression predicting warning by district (see table E.16 on page 315)

	Ba	Bayview	Ü	Central	<u>C</u>	Ingleside	2	Mission	Ž	Northern		Park	Rig	Richmond	Sou	Southern	Targ	Taraval	Tender-loin	roin
	q	OR	q	OR	q	OR	q	OR	q	OR	Q	OR	q	OR	q	OR	q	OR	q	OR
Driver characteristics	istics																			
African American	0.48**	162	013**	1.13	**890	197	057***	177		158	032***	138	% * 4%	155	022**	125	057***	1.78	870	132
Hispanic	-008₁	092	0004	1.04	004	104	021**	123	100	101	800	108	900	105	-011**	060	900	107	0000	100
Asian	-054**	950	-036**	070	-045**	064	-0.17**	084	-038**	890	-022**	080	-0,41**	990	-036**	070	-032**	071	-017*	085
Other	-0.10 [†]	160	***500-	623	-017**	082	-0.17**	085	-0,14**	/80	**920-	. 077	-191**	070	-037**	690	-052**	650	-019**	082
Male	0003	100	-021**	081	100	100	-0.10**	160	-0.14**	/80	-022**	080	-001	660	**670-	0.75	**800-	760	-007 [†]	660
Age	-001**	660	000	1.00	-001**	660	+0001**	660	-0002	100	0002	100	**#000+	100	*2000	100	**#5000	100	-001**	660
Stop type																				
Moving violation	-032**	073	-013**	088	-038**	690	-023**	079	-0.19**	083	024**	127	-053**	059	+900-	094	100	101	-042**	990
DUI	-023	080	-135**	920	-142**	024	-034	071	-073	0.48	-0.45	064	*6/0	221	-149**	023	-022	080	-030	074
PC violation	0,40**	149	900	1.05	*650	180	**160	248	010	1.10	106**	290	0.14	1.15	-020	082	**680	245	1000	101
MPC violation	037*	1.45	023^{\dagger}	125	**060	245	102**	277	-082**	0,44	158**	484	151**	452	-135**	970	153**	460	-023*	6/0
BOLO/warrant	-146**	023	-032	072	-192**	0.15	-1.15**	032	-125**	670	8/0	218	-093	620	-182**	0.16	44:0	1997	-010	160
Officer characteristics	ristics																			
African American	-032**	073	9008	1.08	-044**	900	000	100	-034**	071	-0.13*	088	-040**	290	-065**	052	9005	1.05	-048**	062
Hispanic	**600-	160	-016**	085	+-028**	075	4004	960	-024**	079	+,650-	. 068	-047**	063	-002	860	0.18**	1.19	0.11	1.12
Asian	-037**	690	-049**	190	-018**	083	-031**	073	**620-	0.45	0.12*	1.12	-053**	650	+-050+	077	-022**	080	**070-	082
Other	-040**	<i>L9</i> 0	000	1.02	-015**	980	900	106	003	103	021**	123	600	109	000	102	0.19**	121	900-	092
Male	-002	960	**670-	0.75	012*	1.13	011*	1.12	900	105	±6000-	091	-024**	078	013*	1.14	9000	1.06	1000	101
Years of service	+0004	100	-002**	860	**500-	960	-0001	660	-0024**	860 *	-0001	1.00	-002**	660	-003***	260	-004	960	**500-	960
Rank - Officer	-0.45**	064	-054**	650	-051**	090	-0.44**	065	-0.16*	085	+,650-	950	-053***	650	$-\infty$	094	-046**	99	-053**	020
District assignment	8 <u>/</u> 0	218	037**	1.45	-022**	080		253	**620	221	87	132	032**	138	**090	182	127**	357	-005	960
Misc.assignment	180**	909	000	1.00	950	175	134**	381		129	-1.15**	. 032	1,00**	273	054**	172	200**	739	038**	1,47
#dfoffcersdeployed	-0003**	100	-0002^{\dagger}	1.00	-0002	100	+4000+	4 100	-0004**	* 100	+*1000-	660	-001**	660	-001**	660	-0002	1.00	**1000	101
Intercept	-023 [†]	6/0	000	1.00	190	184	**090	055	-03/*	690	-027 [†]	076	90	233	-035***	070	-161**	070	025	129
Wald χ^2	254286**	*	111489**	*	230986**	*	141728**	**(245421**	**	48099**	*	310667**	*	408182**		190831**		*/9608	
McFadden's R ²	200		400		900		9002		8000		000		010		900		9000		400	
Z	34252		31679		33487		28400		27625		22185		32882		68909		41881		17184	

Entries are unstandardized regression coefficients (b) and odds ratios (OR). Dashes are used where variables were omitted from models because of no variation. It is important to note that the odds ratios are not directly comparable across districts because base rates vary. ↑ p ≤ .10, * p ≤ .05, ** p ≤ .01

Table E.25. Logistic regression predicting citation by district (see table E.17 on page 317)

	Bayview	iew	Central	tral	Ingleside	ide	Mission	uc	Northern	ш	Park	¥	Richmond	puc	Southern	em	Taraval	val	Tenderloin	ırloin
	q	8 W	q	OR	Q	OR	Q	OR	Q	OR	q	OR	Q	OR	q	OR	q	OR	q	OR
Driver characteristics																				
African American	-056**	057	-021**	081	-07/**	0.46	**890	051	-054**	058	-030**	990	-020**	061	-034**	071	-063**	053	-039**	068
Hispanic	0003	1.08	-011*	060	+020+	082	-027***	9/0	-012*	680	-0.15*	980	-0.10 [†]	160	-003	/60	-0.13**	880	400	960
Asian	**950	1,74	034**	141	0,44*	156	018**	1.19	041**	151	024**	127	0,40**	150	036**	144	980	1,44	019**	121
Other	₁ 6000	1.10	**090	183	0.13*	1.14	018**	1.19	014**	1.15	024**	127	162**	505	03 0 **	143	051**	166	023**	126
Male	*900-	094	0.18**	120	*900-	960	*/00	107	011**	1.12		124	-001	660	wSZ0	128	*/00	107	900	106
Age	00010**	101	1000	100	*100	101	001**	101	*2000	100	-0002	100	*100	100	00001	100	**#000	100	**100	101
Stop type																				
Moving violation	032**	138	0.15**	1.17	037**	145	023**	126	019**	121	-021**	081	052**	168	*/00	107	-001	660	043**	154
DNI	-130*	027	**660-	037	-0;44 [†]	064	-221**	0.11	-190**	015	-187**	0.15	-227***	0.10	-072**	640	-164**	0.19	-072	049
PC violation	-238**	600	-198**	0.14	-226**	0.10	-182**	0.16	-229**	010	-455**	100	-236**	600	-178**	017	-407**	000	-121**	030
MPC violation	-05/**	057	-053**	650	-107**	034	-1.18**	031	035*	1.42	-213**	0.12	-190**	0.15	-049**	190	-174**	0.18		130
BOLO/warrant	-306**	900	1	I	-326**	0003	-302***	900	-335***	900		1	-180*	0.17	-284**	900	-335**	900	-277***	900
Officer characteristics																				
African American	032**	138	-002	950	0.46**	159	2005	105	036**	1.43	0.12*	1.13	039**	148	**890	197	-003	860	053**	170
Hispanic	0.11**	1.12	0.11*	1.12	870	133	900	106	023**	126	0,40**	149		158	002	102	-0.16**	085	-0.10	160
Asian	037**	145		164	0,19**	121	033**	140	0.79**	221	-0.14**	/80	050	166	**620	133	023**	126	021**	123
Other	0.42**	152	-002	850	*800	109	100	101	-001	660	-024**	079	600-	092	-003	060	-0.17**	085	010	1.11
Male	-005	960	031**	136	400	104	+6000+	092	-004	960	0.11*	1.11	024**	127	-0.14*	087	-007 [†]	660	9002	105
Years of service	00001	100	0002**	102	0.045**	105	∞1 [†]	101	0023**	102	0002	100	0014**	101		108	0003***	103	004**	104
Rank - Officer	084**	231		191	062***	185		176	034**	140	0Z0**	201	051**	167	022**	125	0.42**	152	057**	176
District assignment	-074**	048	-030***	074	021**	123	**060+	140	-078**	046	-025**	078	-031**	073	-058**	056	-1.14**	032	013*	1.13
Misc. assignment	-174**	017	600-	092	-054**	058	-1,42***	024	-026**	077	1.05**	286	-103**	036	-056**	057	-194**	0.14	-0.43**	065
# of officers deployed	*8000	1.00	*8000	100	*8000	100	0004**	100	0003**	1.00	0.01**	101		101	**100	101	*8000	100	-001**	660
Intercept	-017	084	-033*	072	**850-	038	034*	141	016	1.17	0.13	1.14	**680-	143	014	1.15	1.46**	432	-057***	057
Wald χ^2	308852**		131193**		262619**		178857**		2637.70**		26887**		326042**		4287.16**		194868**		104200***	
McFadden's R ²	600		0004		200		900		600		003		0,11		000		9000		300	
Z	34252		31660		33487		28400		27625		22177		32882		68909		41881		17184	
			i																	

Table E.26. Logistic regression predicting arrest by district (see table E.18 on page 318)

	Bayy	Baywiew		Central		Ingleside		Mission	ž	Northern		Park		Richmond	Š	Southern	Tag	Taraval	Tend	Tenderloin
	q	OR	q	0	OR b	OR	R b	OR	9 2	OR	9 2	OR	Q	OR	q	OR	q	OR	q	OR
Driver characteristics																				
African American	0.70**	202	073**	207	77 103**	3** 280	0 102**	** 276	077**	217	1.08**	293		253	073**	208	**860	266	072**	205
Hispanic	0.18	120	-0.13	088	% OG6**)** 1.98	8 057**	** 1.76	, 058*	1.78	053 [†]	169	*990	193	970	129	0.46	158	600	109
Asian	**860-	038	-0.18	084	34 027	, 131	1 -0.41	990	059*	056	-067 [†]	051	-025	078	-033	072	-085**	043	-017	085
Other	100	101	-0.15	086		138	8 -028	3 0.76	, -050	061	036	143	-168**	0.19	-036*	070	-025	078	+070+	046
Male	**950	175	0.11	1.12		r* 1.71	1 029*	* 134	1 033*	139	9002	106	035^{\dagger}	141	054**	171	031 [†]	137	**650	181
Age	-001**	660	*1000-	660	**200- 66	860 ** <u>r</u>	**200- 8	860 _{**}	**200-	860	000	100	**700-	860	-000***	860	*100-	660	-005**	860
Stop type																				
Moving violation	025*	129	-004	960	3 6 0.12	1.12	2 000	1.00	0,10	1.11	-042 [†]	065	059*	181	000	102	024	127	013	1.14
DUI	411**	61.16	335**		2842 328**		2652 423**	8689 **	8 3.47**	3230	0 421**	99/9	430**	7337	265**	14.14	305**	21.10	346**	31.75
PC violation	249**	1206	397**		5291 303**		2062 170**	** 550) 264**	1400	384**	4631	222*	921	277**	1598	323**	2526	219**	894
MPC violation	106*	289	077	21	216 —		0.17	7 084	1 -0.11	060	227*	267	093	254	127**	357			035	141
BOLO/warrant	281**	1659	325**		2590 424**		6965 309**	** 2201	300**	2017	7 470**	110,42	2 354**	3456	351**	33:44	3.42**	3065	200	782
Officer characteristics																				
African American	%6 4 0	163	-061	054	700 45	7 098	8 -051*	* 060	050	090	-076	047	0.76^{\dagger}	214	-032	073	.920	213	-002	660
Hispanic	-0.12	080	-0.13	088		3* 159	9 -036*	5* 0.70	0.11	030	-008	092	070*	201	-021	081	970	129	021	123
Asian	-0.41	990	-063*	. 053	3 -007	7 098	8 -105**	5** 035	022	080	050*	166	028	132	-036*	690	0.16	1.17	Q11	1.11
Other	070	123	9002	105	75 -037	690 2	9 -133**	320 ***	270- 9	080	1.08**	82	-027	07/0	*560-	039	970	130	4564	053
Male	025	128	0.17	1.19	9 -015	5 086	6 -038*	3* 0.68	3 -0.03	097	-010	060	070	123	-034	071	-032	073	-013	087
Years of service	-008**	097	+*/00	* 094	*4 -005**	5** 095	5 000	1.00	-004**	. 096	004 [†]	104	-00B*	097	-005***	962	-002	950	-002	860
Rank - Officer	-156**	021	-054	059		3 032	2 -0.13	3 088	-131**	027	-019	083	023	126	-051*	090	900	1.05	9008	103
District assignment	087***	238	-0.13	088	¥660 88	* 269	9 127**	** 356	077**	215	084	232	060	245	**690	199	0.46	159	-039	008
Misc. assignment	.920	213	077^{\dagger}	215	5 138*	338	8 157**	** 483	t 059	1.80	620	133	192*	629	.650	181	186**	643	038	147
# of officers deployed	-0002	100	-0013*	**	9 -0011 [†]	11 [†] 099	9 00001	01 1.00	00005	1.00	0005	100	0004	100	0000	101	000001	100	0004	100
Intercept	423**	000	-302**	* 0005	JS 414**	t** 002	2 -460***)** 001	-396**	. 002	-655**	000	-658**	000	463**	0001	-558**	000	-424**	000
Wald χ^2	84955**		490.11**	*_	444	44497**	512	51245**	41507**	**	X6666***	**	20857**	*	59467**	*	596 **		26273**	
McFadden's R ²	0.14		0.14		0.13		0,11		0.12		011		6000		0.12		800		000	
Z	34252		31679	6	33313	13	28400	Ω	27625		22185		32882		60689		41811		17184	

Table E.27. Logistic regression predicting high discretion search by district (see table E.20 on page 321)

))						,			•						
	Bayview	jew jew	Ge	Central	Ingleside	side	Mission	ion	Northern	em	Park	¥	Richmond	puot	Southern	nem	Taraval	aval	Tenderloin	erloin
	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR
Driver characteristics																				
African American	**660	270	**060	246	085**	235	1.16**	320	1.09**	236	æ1æ	248	120**	330		253	128**	361	133**	379
Hispanic	032*	138	039	1,48	*/200	132	**8/0	217	0.45*	157	0.45	157	**980	237	034*	141	*850	178	070**	201
Asian	800	109	0,14	1.15	-021	081	-0.47	900	-017	085	-0.18	083	620-	075	900	1.06	100	101	-040	00/2
Other	-011	060	-015	980	900	106	-0.12	680	600	1.10	*690	050	**/60-	038	000	1.02	-033	072	-047	062
Male	*/	216	038‡	146	**/90	195	******	232	.88%	146	**590	192	400	104	0.19†	121	0.19	121	**090	182
Age	**#00	960	100-	660	-003***	260	***	960	-002**	860	+0001*	660	*1000-	660	-001**	660	-005**	860	-004**	960
Stop type																				
Moving violation	9000	106	000	102	-037**	690	+020+	077	900	103	035*	142	-034	071	-048**	062	0.70**	201	-038**	990
DUI	149	443	025	129	213**	839	1.81**	609	310**	2215	412**	9919	368**	1456	1,6√0	221	249**	1203	_	
PC violation	149**	443	286**	17.48	270**	1489	158**	483	214**	851	353**	34.13	258**	1323	193**	692	3.13**	2281	134**	381
MPC violation	.82/0	219	990	197	124**	344	6000	1.10	-005	960			181**	809	0.15	1.17	212**	832	-065	052
BOLO/warrant	161*	499	337**	2908	070	122	1.43**	4.18	162*	202	336 *	1935	252**	1247	232**	1020		I	600	1.10
Officer characteristics																				
African American	-053**	650	040	150	-014	087	.650	147	+061*	954	4007	660	0,49	163	%OHO*	149		231	-012	880
Hispanic	-016	085	0.42	151	-019	083	020 [†]	122	-027	9/0	049*	164	000	107	021	123	037*	145	0.18	1.19
Asian	*670-	075	-035	070	-016	085	-090-	055	+090+	055	018	120	-0.13	088	2007	107	-073**	0.48	-045*	064
Other	000	100	**6/0	220	-070	082	*950-	057	044	156	-022	080	-0.43	900	400	104	9000	107	*590-	052
Male	9000	106	024	127	-020	082	-0001	660	-005	960	-028	075	-051*	090	600-	091	0.13	1.13	9008	103
Years of service	-001	660	-004**	950	***	960	+COO3*	760	-003***	260	100	101	-000	660	**/00-	038	+200-	860	**800-	092
Rank - Officer	*050	166	-012	680	970	077	*650-	056	1650	180	-0.12	880	021	123	-055**	058	-030	074	-1.13**	032
District assignment	036	14.	+090+	055	-065**	052	033	138	-023	080	-051*	090	-155**	021	-063**	053	033	140	-036	070
Misc. assignment	1,41**	408	0.45	157	*690	139	181**	611	153**	461	-136	970	9000	106	039*	1.48	663	254	1.19**	329
# of officers deployed	+0001*	660	-0004	100	40004	100	0004	100	-00001	100	+*87010	760	0001	100	0000	1.00	-0003	100	ZDD	102
Intercept	-388**	000	468**	1000	-221**	0,11	-371**	000	466**	100	-3.14**	400	-272**	000	-277**	900	436**	1000	-297**	900
Wald χ^2	68619**		18503**		53843**		470:42**		36678**		23978**		36661**		36205**		29690**		42366**	
McFadden's R ²	0.10		9000		600		0.12		010		700		0.11		900		700		016	
Z	34252		31679		33487		28400		27628		22156		32883		60695		41855		17180	

Table E.28. Logistic regression predicting consent search by district (see table E.21 on page 322)

	Bayview	Jew Jew	Central	ıtal	Ingleside	side	Mission	Di	No	Northern	<u>C</u>	Park	Richr	Richmond	Sout	Southern	Taraval	Na Na	Tenderloin	aloin
	q	OR	q	OR	q	OR W	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR	q	OR
Driver characteristics																				
African American	**860	265	150**	449	**160	247	199**	733	174**	571	251**	1234	1.91**	675	160**	496	168**	537	083**	230
Hispanic	970	130	037	144	039 [†]	1.48	1.18**	324	**860	267	211**	827	1,41**	4.10	1.13**	3.10	950	179	023	126
Asian	-122**	670	-039	890	*/50-	750	980-	0.42	-073	0.48	-030	074	940	159	-031	073	-076 [†]	7470	-053	650
Other	010	1.10	-054	058	600	1.10	-020	081	-148*	023	-011	680	-034	071	0.15	1.16	0.12	1.13	*860-	039
Male	1.14**	3.13	1,44**	424	123**	348	131**	372	1.17**	323	.920	215	**Z80	226	**980	237	203**	758		192
Age	-004**	960	**900-	160	*+000	960	**500-	960	**#000-	960	100	660	-002 [†]	860	**500-	960	-004**	960	**	960
Stop type																				
Moving violation	-014	087	-071**	0.49	-050**	000	-056**	057	-0.13	087	-160***	070	-129**	028	+8*0-	062	-039	990	*14:0-	990
DUI	3,44**	31.19	071	203	155*	470	<i>L</i> 90	136	495**	14087	322**	25.11	330**	2708	990	192	242*	1124	_	
PC violation		254	194*	669	171**	553	*590	192	200**	738	242**	1124	262**	1375	172**	228	219**	895	1.03**	280
MPC violation	124**	347	093 [†]	253	162**	208	1.18**	325	1,41**	408	271*	1509	1.64*	5.17	47.0	064	179*	262	072*	2006
BOLO/warrant	*180	225	203 [†]	761	183**	62	4 8	000	121	336	392**	2028	232*	1016	1.19	328	309**	2207	0.15	1.17
Officer characteristics																				
African American	*8#	062	-034	072	+070+	050	800	108	-090-	051				1	-052	650	0.49	163	035	142
Hispanic	-000	960	*990	192	-003	<i>16</i> 0	021	123	+080+	0.45	037	145	053	170	024	127	025	129	023	126
Asian	-053*	029	-010	160	+D00+	053	-041 ₊	990	-155**	021	-076 [†]	7470	031	136	0.10	1.11	-0.15	980	÷44;	86
Other	-034 [†]	071	-048	062	**660-	037	034 [†]	140	-063	053	1.01*	274	-000	093	-053	020	-067	038	0.48	162
Male	9005	105	990	193	0.17	1.19	022	125	-0.41	990	-022	081	037	145	-0.17	084	023	125	-005	969
Years of service	-000	960	-004 [†]	960	-000	095	-005**	960	+000+	260	-002	860	-001	660	-000	960	*/00-	960	-000	969
Rank - Officer	0.16	1.17	0.45	157	**860-	038	-051	090	071	204	-024	070	011	1.12	-0.42	065	-024	079	084	231
District assignment	152*	457	1,47*	436	033	139	101	274	193**	691	-169**	0.18	-138**	025	177**	585	165	522	050	166
Misc. assignment	208**	800	137	394	060	245	1,41*	411	169**	5.44					257**	1304	210	815	167**	530
# of officers deployed	-001	660	-001	660	100	1.00	-00002	100	-0003	100	-0001	660	-001	660	0003	100	100	101	-0001	660
Intercept	-523***	000	-664**	000	404**	000	-540**	000	-656**	000	-392**	000	427**	0001	-585**	000	-815**	000	428**	1000
Wald χ^2	46886**		29133**		4885**		41816**		38611**		25699**		400:46**		46859**		63480***		28844**	
McFadden's R ²	0.11		0.18		0.13		0.16		023		024		019		070		0.17		0.11	
2			(10,400		2		0											

Entries are unstandardized regression coefficients (b) and odds ratios (OR). Dashes are used where variables were omitted from models because of no variation. It is important to note that the odds ratios are not directly comparable across districts because base rates vary. † p ≤ .10, * p ≤ .05, ** p ≤ .01.

Table E.29. Logistic regression predicting contraband found during high discretion searches by district (see table E.22 on page 324)

	Bayview	- ew	G	Central	Ingleside	ide	Mission	C	Northern	em	Park	*	Richr	Richmond	Sout	Southern	Tan	Taraval	Tenderloin	erloin
	q	OR	q	OR	Q	OR	q	OR	q	OR	q	OR	q	OR.	q	OR	q	OR	q	OR
Driver characteristics																				
African American	-054^{\dagger}	058	-172*	0.18	-106**	034	-131**	027	-1.15**	032	-237**	6000	-1.15*	032	-1.19**	030	-3.15**	000	-1.12**	033
Hispanic	-003	260	-0.17	085	-039	890	**060-	0,41	444	064	-366**	000	-084	043	-153**	022	-082	043	-083	044
Asian	1,07*	292	-056	750	033	139	0.48	162	076	214	960	259	054	1.72	-029	950	071	203	-005	960
Other	650	180	128	361	600-	092	909	053	020	950	960	260	040	149	-025	8/0	-108	920	-052	650
Male	**990	052	-1.15	032	*5/0-	740	*690-	020	-036	690	972	129	020-	640	*/90-	051	-1.13 [†]	032	-000	860
Age	**800	103	**800	108	*200	102	000	100	000	1,00	*#000	104	000	1.02	0002 [†]	102	0003 [†]	103	*8000	1.08
Stop type																				
Moving violation	. 900	192	153*	462	*190	184	035	142	*690	139	109*	236	1,44**	423	072*	204	231**	1007	*/90	136
DNI					435**	100		1	-256	800	-318*	900	-270*	200	-002	860	643	990		1
PC violation	019	120	-0.17	180	6/0-	0,45	-0.14	/80	-050	190	-289≠	900			990	2/2	198 [†]	727	021	123
MPC violation	623	126	-151	022	-175	0.17	160	247							-003	260			970	130
BOLO/warrant	-027	9/0	-167	0,19	190	184	-169	0.18	-1.11	033			6/0	221	-027	220		-		
Officer characteristics																				
African American	-001	660	-184*	0.16	-0.14	087	074 [†]	200	054	171	0.12	1.13	960	259	030	135	105	285	-000	031
Hispanic	035	142	-0.12	680	-050	061	0.47	160	-0.12	088	690-	055	283*	1697	-051	090	-002	860	037	145
Asian	000	108	-131	027	-073*	0.48	-000	960	018	120	090	181	$_{\downarrow}960$	262	7000	107	105 [†]	285	-058	056
Other	070	122	-062	054	+070+	020	0.47	160	9/0-	047	-045	064	203	764	049	163	038	146	670	134
Male	-0.44	064	248**	1138	**860-	038	024	127	041	151	-125	670	-087 [†]	042	-141**	024	200	107	-037	690
Years of service	*900	106	600	109	***/00	108	000	102	000	1.00	4000	104	-002	860	0003	103	-001	660	9002	1.05
Rank - Officer	900	960	202	751	-1.16*	031	000	108	002	102	0.19	121	-152	022	970	133	158*	484	670	134
District assignment	-120*	030	-232*	0.10	-058	056	-124 [†]	670	-232**	010	-037	690	-103	036	-284**	900	-306**	900	-107	034
Misc. assignment	-1.10 [†]	033	-0.43	900	-161 [†]	070	-138*	025	-196*	014		1	-308	900	-272**	200	-226	010	-024	079
# of officers deployed	*100	101	003 [†]	103	-0001	100	100	101	001	101	0.10*	1.10	-003	760	100001	100	-003	<i>L</i> 60	1000	101
Intercept	-109	034	-563*	000	206^{\dagger}	782	1.12	306	1.92	089	-348	0003	373	4186	408*	5927	271	1506	-054	058
Wald χ^2	12091**		5831**		10600**		5739**		6870 **		7129**		4707**		11478**		12537**		3874**	
McFadden's R ²	016		0.45		023		0.12		022		0,43		670		036		051		010	
Z	792		171		88		452		77		191		81		84		366		313	

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Appendix F. SFPD Stop Data Collection Recommendations

Concerns of racially biased police behavior have become increasingly pertinent to law enforcement agencies within the last 15 years as allegations of racial bias have been directed toward numerous agencies. These claims have often been the foundation for criminal and civil litigation with the goal of eliminating perceived racial inequalities in police enforcement. As a result of this mounting public and legal pressure, law enforcement agencies have initiated the collection of data to investigate these claims. These data collection efforts generally stem from one or more of three sources: (1) a proactive department voluntarily collecting data; (2) state or other legislation requiring collection of traffic stop data; or (3) court mandates, consent decrees, or settlement agreements to collect such information. Regardless of the source, the nationwide trend has been to expand the collection of data during traffic stops and to a lesser extent pedestrian stops in an effort to empirically assess the legitimacy of claims of racial bias by police.

In October 2015, the California State Legislature passed a bill that will require law enforcement agencies in California to begin collecting and reporting annually certain specified information on all stops of individuals made by their officers. Specifically, AB 953 requires the annual reporting of information on the following:

- The date, time, and location of the stop
- The reason for the stop
- The result of the stop, e.g., no action taken, warning, citation, property seizure, arrest
- The nature of the warning or citation violation provided
- The offense charged if an arrest was made
- The perceived race, ethnicity, gender, and age of the person stopped
- Whether a consent search was requested and whether consent was granted
- Whether a search was conducted, the basis for the search, and the type of contraband or evidence recovered
- Whether property was seized and the basis for the seizure

In the sections that follow, the assessment team outlines recommendations for stop data collection by SFPD. If implemented, the team's recommendations will include the data elements mandated for collection by AB 953 and will also provide additional information that is useful and appropriate for identifying patterns or trends of racial disparity in police stops.

What data should be collected?

Determining what data police agencies should collect is often based on balancing two competing interests: (1) collecting enough information for meaningful analyses while (2) not overburdening officers or inadvertently encouraging officer disengagement (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000). Initially, the most important consideration for data collection is to determine in which situations data

An Assessment of the San Francisco Police Department

should be gathered. Law enforcement personnel interact with individuals in a variety of situations, and specifying the instances in which data are to be recorded is central to ensuring accurate and complete data collection.

The first decision is whether to collect data on traffic stops, pedestrian stops, or both. The purpose of collecting information on stops is that these actions are often officer-initiated (i.e., not the result of individuals' request for service) and can result in the perception by individuals or other stakeholders that the stop was motivated by an individual's race, ethnicity, or other immutable characteristic. Given the concern of possible officer bias, many agencies specify that data collection efforts be restricted to officer-initiated stops only. As a result, for example, encounters with individuals during traffic accidents would not be recorded. It is also important to note that data must be collected on all stops of interest, regardless of the disposition—that is, regardless of the resulting law enforcement action taken by officers. Finally, agencies must decide if information will be collected on any vehicle passengers or pedestrians' associates. Under AB 953, data on passengers must be collected if any search or seizure related to a passenger takes place.

Given community concerns of possible racial and ethnic bias by San Francisco Police Department (SFPD) officers, the assessment team recommends that the SFPD continue to collect data on all traffic stops and that it begin collecting data on all pedestrian stops, even though AB 953 does not require annual reporting of these data until April 2019 for agencies that employ 1,000 or more officers. For data clarity and analysis purposes, the team also recommends that stops of persons riding nonmotorized conveyances (bicycles, skateboards, scooters, etc.) be captured as pedestrian stops.

The following list of data fields is generally representative of the recommended items for collection (Davis 2001; Davis et al. 2002; Fridel et al. 2001; Ramirez, McDevitt, and Farrell 2000):

- Stop characteristics
 - Time and date of stop
 - Location of stop
 - Duration of stop
 - Reason for stop
 - Outcome or disposition of stop
 - Whether a search was conducted
 - Who and what was searched
 - Reasons or authority for search
 - Whether and what type of property or evidence was seized

- Driver or pedestrian characteristics
 - Age
 - Gender
 - Race or ethnicity
 - Residency (or state of license)
 - Whether the driver had a valid driver's license
- Vehicle characteristics
 - License plate number and state of vehicle registration
 - Vehicle year, make, and model
 - Vehicle condition
- Officer characteristics
 - Badge number for linking with employee database containing officer age, race, gender, years of service, rank, and assignment

Traffic stop data

Following are recommendations for specific categories of information that should be collected on all traffic stops conducted by the SFPD as well as the rationale for including these items.

Stop characteristics

Time, date, and location of stop

- Provide basic contextual information for the stop
- May be necessary for data auditing purposes; depending on the methods of data monitoring chosen
- For all benchmarking methods, data should identify the police district and sector of the stop
- The address and XY coordinates of the stop also should be collected or provided for analysis purposes
- If an incident report is associated with the stop, the incident or case number from the incident report should be captured

Duration of stop

- Examines the possibility that racially biased stops might last for an extended period of time beyond what is normally expected of a traffic stop (Fridell 2004; Fridell 2005; Ramirez, McDevitt, and Farrell 2000)
- Recommended that length of time be captured in exact minutes

Number of passengers

• Important for data validity and analysis purposes when cross-referenced with search and seizure data relating to passengers

Reason for the stop

- Assess officers' discretion in deciding to stop: High discretion stops (e.g., officer-initiated stops for minor offenses) versus low discretion stops (i.e., reactive, mandated, or self-initiated stops for egregious or dangerous violations)
- Instrument must balance measure of discretion with an unwieldy instrument
- Current SFPD categories for Reason for Stop (E-585 data) are recommended, plus the addition of an
 "investigative" category to capture traffic stops based on reasonable suspicion that a crime has or is
 about to occur

Disposition/outcome of the stop

- Assess potential disparities at the traffic stop outcome stage
- Recommended categories (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000):
 - No action taken
 - Courtesy service/individual assist
 - Verbal warning (AB 953 requires capture of the type of warning provided)
 - Written warning (AB 953 requires capture of the type of warning provided)
 - Criminal citation (AB 953 requires capture of the violation cited)
 - Traffic citation (AB 953 requires capture of the violation cited)
 - Number of citations
 - Primary citation number (for cross-reference purposes)
 - Vehicle impounded
 - Search (see discussion in following section)
 - Arrest
 - Primary basis for arrest
 - Warrant
 - On-view probable cause
 - Pre-existing probable cause
 - Other
 - In addition, AB 953 requires capture of the offense(s) charged
- More than one disposition/outcome should be entered when applicable
- Outcomes may be assigned to drivers and passengers or just drivers, but search information on passengers must be captured under AB 953

Searches and seizure

- Searches are inherently intrusive and may have a lasting impact on individual perceptions of police; thus, their inclusion is crucial
- Search data fields are valuable because:
 - They provide local jurisdictions with a sense of the quantity and quality of searches being conducted, the characteristics of those searches, and their productivity (i.e., frequency and amount of seizures) thus allowing departments to better allocate resources to support this activity (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000)
 - They also allow departments to assess whether certain groups are disproportionately targeted for searches
- Recommended categories
 - Consent search requested? Yes / No
 - Consent given? Yes / No
 - Search conducted? Yes / No
 - Search target: Driver, Vehicle, or Passenger (specify all that apply)
 - Search reason: Canine alert, Consent, Incident to arrest, Plain view, Probable cause, Vehicle inventory, Parole/Probation condition, Warrant, Other
- Seizure resulting from search: Yes / No
 - Type of contraband/evidence seized: Alcohol, Currency, Drugs/Drug paraphernalia, Stolen property, Vehicle, Weapons, Other
- Frisk conducted?: Yes / No
 - Frisk target: Driver, Vehicle, or Passenger (specify all that apply)
 - Seizure resulting from frisk?: Yes/No
 - Type of contraband seized as result of frisk: Weapon, Drugs/Drug paraphernalia, Other
- Other seizure of property: Yes/No (required by AB 953)
 - Type of property seized: Currency, Vehicle, Weapon, Other
- Search types and contraband found should be assigned to drivers, passengers, and the vehicle itself

Driver characteristics

Driver age and gender

- Important alternative explanations for disparate patterns because:
 - Age and gender strongly correlate with accusations of racial profiling (i.e., young African-American males presumed to be most frequent targets) (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000)
 - Both age and gender are also strongly correlated with risky/illegal driving behavior
- Recommended categories:
 - Age: Year of birth from driver's license
 - Gender: From driver's license

Driver race or ethnicity

- Determining the race or ethnicity must be based on the officer's perception and *not* by asking the person detained (AB 953)
- Charges of racial profiling and racially biased policing are predicated upon the officer's perception of an individual's race or ethnicity, so it is not necessary that the officer correctly identifies the person's race or ethnicity (Davis 2001; Fridel et al. 2001; Ramirez, McDevitt, and Farrell 2000)
- Recommended categories:
 - White
 - African American
 - Asian/Pacific Islander
 - Native American
 - Middle Eastern
 - Hispanic
 - Other

Driver residence

- Important for geographic and multivariate analyses to determine local and non-local drivers (Fridell et al. 2001; McMahon et al. 2002). For example, tracking the confiscation of contraband might involve the identification of source states with this information.
- Recommended method: Driver's ZIP code

Driver demeanor

- Individuals' compliance and demeanor have demonstrated a consistent influence over officer behavior (Worden and Shepard 1996; Engel, Sobol, and Worden 2000).
- Measures may include (capture all that apply):
 - Cooperative
 - Noncompliant
 - Verbal abuse
 - Verbal resistance
 - Verbal threats
 - Physical resistance
- Infrequently used in traffic stop data collection, as can be seen as self-serving, though valuable information can be derived if included and audited for accuracy

Vehicle characteristics

- Officers sometimes report that the decision to stop a vehicle is influenced by (1) type of vehicle or (2) a combination of type of vehicle and driver characteristics (Ramirez, McDevitt, and Farrell 2000). This type of information may provide additional insight into the reason officers make stops or select particular dispositions
- Recommended categories:
 - Type of vehicle: Commercial vehicle, Motorcycle, Motor home, Sedan, SUV, Truck, Van
 - Rental: Yes / No
 - State of registration
 - Condition of vehicle: Poor, Moderate, Good

Officer characteristics

Officer/Employee characteristics and identity

- The rationale for including officer-related variables and identity is twofold:
 - Enables departments to identify potential problem officers who may be disproportionately stopping minorities
 - Facilitates data analysis by assessing if officer characteristics are related to disparate patterns (further discussed in the sections that follow)
- Recommended data (can often be obtained by linking stop and badge/employee number to an employee records system)
 - Star or organizational number
 - Assignment
 - Age

An Assessment of the San Francisco Police Department

- Race
- Gender
- Length of service
- Rank

Pedestrian stop data

The literature on data elements that should be collected following a pedestrian stop is scant as the literature to date focuses almost entirely on traffic stop data collection. However, a starting point is the data collection requirements for all stops, including pedestrian detentions or consent searches, found in AB 953. Again, the new California stop data elements include the following:

- The date, time, and location of the stop
- The reason for the stop
- The result of the stop, e.g., no action taken, warning, citation, property seizure, arrest
- The nature of the warning or citation violation provided
- The offense charged if an arrest was made
- The perceived race, ethnicity, gender, and age of the person stopped
- Whether a consent search was requested and whether consent was granted
- Whether a search was conducted, the basis for the search, and the type of contraband or evidence recovered
- Whether property was seized and the basis for the seizure

One of the oldest and most robust data collection programs for pedestrian stops is the New York Police Department's (NYPD) UF-250 Stop, Question, and Frisk Worksheet. The worksheet's categories for Reason for the Stop are particularly useful and seemingly would comply with AB 953's requirements. Following are recommendations for data elements that could be collected on all pedestrian stops and which, if implemented, should be compliant with AB 953. Under AB 953, data must be collected on each person detained. Where applicable, reference to the NYPD UF-250 is provided.

Stop characteristics

Time, date, and location of stop

- Provide basic contextual information for the stop
- May be necessary for data auditing purposes; depending on the methods of data monitoring chosen
- For all benchmarking methods, data should identify the police district and sector of the stop
- The address and XY coordinates of the stop also should be collected or provided for analysis purposes
- If an incident report is associated with the stop, the incident or case number from the incident report should be captured

Duration of stop

- Examines the possibility that racially biased stops might last for an extended period of time, beyond what is normally expected of a traffic stop (Fridell 2004; Fridell 2005; Ramirez, McDevitt, and Farrell 2000)
- Recommended that length of time be captured in exact minutes

Reason for the stop

- Assess officers' discretion in deciding to stop: High discretion stops (e.g., officer-initiated stops for minor offenses) versus low discretion stops (i.e., reactive, mandated, or self-initiated stops for egregious or dangerous violations)
- Instrument must balance measure of discretion with an unwieldy instrument
- Recommended categories (NYPD UF-250)
 - Carrying objects in plain view used in commission of crime
 - Fits suspect description
 - Actions indicative of casing victim or location
 - Actions indicative of acting as a lookout
 - Suspicious bulge/object
 - Actions indicative of engaging in drug transaction
 - Furtive movements (describe)
 - Actions indicative of engaging in violent crimes
 - Wearing clothes/disguises commonly used in commission of crime
 - Other reasonable suspicion (describe)

Disposition/outcome of the stop

- Assess potential disparities at the pedestrian stop outcome stage
- Recommended categories (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000):
 - No action taken
 - Courtesy service/individual assist
 - Verbal warning (AB 953 requires capture of the type of warning provided)
 - Written warning (AB 953 requires capture of the type of warning provided)
 - Criminal citation (AB 953 requires capture of the violation cited)
 - Pedestrian citation (AB 953 requires capture of the violation cited)
 - Number of citations

An Assessment of the San Francisco Police Department

- Primary citation number (for cross-reference purposes)
- Search (see discussion in the following section)
- Arrest
 - AB 953 requires capture of the offense charged
 - A separate indication of whether the arrest was made on a warrant is strongly recommended
- More than one disposition/outcome should be entered when applicable
- Outcomes should be assigned to all pedestrians detained

Searches and seizure

- Searches are inherently intrusive and may have a lasting impact on individual perceptions of police; thus, their inclusion is crucial
- Search data fields are valuable because:
 - They provide local jurisdictions with a sense of the quantity and quality of searches being conducted, the characteristics of those searches, and their productivity (i.e., frequency and amount of seizures) thus allowing departments to better allocate resources to support this activity (Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000)
 - They also allow departments to assess whether certain groups are disproportionately targeted for searches
- Recommended categories:
 - Consent search requested? Yes / No
 - Consent given? Yes / No
 - Search conducted? Yes / No
 - Search target: Person, Purse/Backpack/Briefcase, Other (specify all that apply)
 - Search reason: Canine alert, Consent, Incident to arrest, Plain view, Probable cause, Inventory, Warrant, Parole/Probation condition, Other
- Seizure resulting from search: Yes / No
 - Type of contraband/evidence seized: Alcohol, Currency, Drugs/Drug paraphernalia, Stolen property, Vehicle, Weapons, Other

- Frisk conducted? Yes / No
 - Frisk target: Person, Purse/Backpack/Briefcase, Other (specify all that apply)
 - Frisk reason (UF-250):
 - Inappropriate attire/possibly concealing weapon
 - Verbal threats by suspect
 - Knowledge of suspect's prior criminal violent behavior/use of force/weapons
 - Furtive movements
 - Describe
 - Refusal to comply with officers' direction leading to reasonable fear for safety
 - Violent crime suspected
 - Suspicious bulge/object (describe)
 - Seizure resulting from frisk?: Yes/No
 - Type of contraband seized as result of frisk: Weapon, Drugs/Drug paraphernalia, Other
- Other seizure of property: Yes/No (required by AB 953)
 - Type of property seized: Currency, Vehicle, Weapon, Other
- Search types and contraband found should be assigned to each pedestrian subjected to a search or frisk

Pedestrian characteristics

Pedestrian age and gender

- Important alternative explanations for disparate patterns because:
 - Age and gender strongly correlate with accusations of racial profiling (i.e. young African-American males presumed to be most frequent targets) (Fagan 2010; Fagan 2012; Ridgeway 2007)
 - Both age and gender are also strongly correlated with risky/illegal behavior
- Recommended categories:
 - Age: Year of birth from driver's license
 - Gender: From driver's license

An Assessment of the San Francisco Police Department

Pedestrian race and/or ethnicity

- Determining the race or ethnicity must be based on the officer's perception and not by asking the person detained (AB 953)
- Charges of racial profiling and racially biased policing are predicated upon the officer's perception of
 an individual's race or ethnicity, so it is not necessary that the officer correctly identifies the person's
 race or ethnicity (Davis 2001; Fridell et al. 2001; Ramirez, McDevitt, and Farrell 2000)
- Recommended categories:
 - White
 - African American
 - Asian/Pacific Islander
 - Native American
 - Middle Eastern
 - Hispanic
 - Other

Pedestrian residency

- Important for geographic and multivariate analyses to determine local and non-local drivers (Fridell et al. 2001; McMahon et al. 2002). For example, tracking the confiscation of contraband might involve the identification of source states with this information.
- Recommended method: Drivers' zip code

Pedestrian demeanor

- Individuals' compliance and demeanor have demonstrated a consistent influence over officer behavior (Worden and Shepard 1996; Engel, Sobol, and Worden 2000).
- Measures may include:
 - Cooperative
 - Silent noncompliance
 - Verbal abuse
 - Verbal resistance
 - Verbal threats
 - Physical resistance
- Infrequently used in stop data collection, as can be seen as self-serving, though valuable information can be derived if included and audited for accuracy

Other circumstances underlying the stop

- Derived from the NYPD UF-250
- Recommended categories:
 - Report from victim/witness
 - Area has high incidence of offense under investigation
 - Time of day, day of week, or season corresponding to type of offense under investigation
 - Suspect associating with persons known for their criminal activity
 - Suspect is known or suspected gang member
 - Proximity to crime location
 - Evasive, false, or inconsistent responses to officer's questions
 - Changing direction/flight at sight of officer
 - Ongoing investigation of crime patterns/trends
 - Sight and/or sounds of criminal activity (gunshots, blood stains, alarm, etc.)

Officer characteristics

Officer/employee characteristics and identity

- The rationale for including officer-related variables and identity is twofold:
- Enables departments to identify potential problem officers who may be disproportionately stopping minorities
 - Facilitates data analysis by assessing if officer characteristics are related to disparate patterns (further discussed in the following section)
- Recommended data (can often be obtained by linking stop and badge/employee number to an employee records system)
 - Star or organizational number
 - Assignment
 - Age
 - Race
 - Gender
 - Length of service
 - Rank

How data should be collected and analyzed

Currently, the SFPD collects E-585 traffic stop data primarily through the use of a mobile data computer (MDC) "mask" (or data entry screen) that officers complete at the conclusion of a traffic stop. The team recommends that this practice continue for all self-initiated traffic stops. Motorcycle officers currently collect data using a hand-held device. It is critical that the same traffic stop data be collected by all officers making self-initiated stops, including motorcycle officers. Since motorcycle officers do not have access to an MDC in a police vehicle, their continued use of a hand-held device to collect data is recommended with the caveat that the hand-held system used by motor officers to capture traffic stop data must be compatible with the data system used to capture traffic stop information entered by officers on vehicle MDCs. The SFPD and any third party data analysts it employs should be able to link the two datasets (the hand-held system used by motorcycle officers and the MDC system used by all other officers) for analysis purposes.

Options for collecting data on pedestrian stops include a new MDC mask for pedestrian stops and possibly a pedestrian stop card or cell phone app for use when a vehicle MDC is not available or in proximity. Plainclothes officers, foot beat officers, or other specialty units, for example, may be operating on foot and without access to a vehicle MDC. In that case, an electronic hand-held device (or possibly an app for a department-issued cell phone) or hand-fillable card will be needed to document the pedestrian stop. If a paper card is used, data from the card must be entered manually into a database that is compatible with current systems and the new MDC mask.

Independent analysts

Fridell and her colleagues (2001) note that "data collection is both a social science and a political endeavor." That is, even methodologically sound, rigorous data analysis can be criticized in the political realm when it is conducted internally. External, independent analysts bring credibility and objectivity to the process of data collection and analysis that in-house research analysts cannot (Fridell 2004). They also are likely to bring a degree of statistical expertise that supplements internal research capabilities (Fridell 2004). Therefore, nearly all data collection guides recommend at least obtaining independent researchers' assistance for analyzing their traffic stop data. Most advocate a full police-analyst partnership that begins in the initial design and implementation stages and continues through analysis and interpretation of traffic stop data (Davis 2001; Davis et al. 2001; Fridell et al. 2001; Fridell 2004; Fridell 2005; McMahon et al. 2002; Ramirez, McDevitt, and Farrell 2000). Qualified analysts are likely to be associated with colleges, universities, or research agencies and should be trained in social science methods and statistics, have general knowledge of law enforcement, and have experience analyzing and interpreting the complex issues associated with stop data.

Data integrity

Maintaining data quality ensures reliable and valid results. It is essential for any data collection effort, but particularly important for data collected through official sources (i.e., the police). The purpose of data auditing is twofold: (1) to determine whether officers are submitting data for all targeted stops and (2) to

determine whether forms are being completed fully and accurately (Fridell 2004). In addition to resulting in quality data, a data monitoring system can also help ensure officers' compliance with the data collection protocol because they are more likely to be diligent in their data collection if they know their efforts are being reviewed for comprehensiveness and quality (Fridell 2004).

There are three general checks on data quality that researchers should explore (Fridell 2004; Fridell 2005; Ramirez, McDevitt, and Farrell 2000):

- 1. Checking for submission of data on all self-initiated stops
- 2. Checking for missing data or errors
- 3. Checking for misstatement of facts (e.g., intentional or accidental errors)

Several methods of auditing are available for these potential data quality issues (Fridell 2004; Fridell 2005; McMahon et al. 2002; Ramirez, McDevitt, and Farrell 2000):

- To check for submission of all stops:
 - Compare stop data with a secondary data source that tracks some (e.g., citations) or all targeted stops (e.g., computer aided dispatch files)
 - Can compare aggregate numbers across data files
 - Correspondence between the two data sets of 90 percent or more is acceptable.
- To check for missing data or errors:
 - Conduct within first two months of data collection so remedial measures (i.e., additional training, closer supervision) can be implemented (Fridell 2004; Fridell 2005; McMahone et al. 2002).
 - Run frequencies on all variables taking note of those that, if blank, might be "not applicable" (e.g., if no search occurs, search authority, seizure, etc. are not applicable) versus "missing" (Fridell 2004; Fridell 2005).
 - The Police Executive Research Forum recommends that an error rate of less than 10 percent is acceptable (Fridell 2004).
- To check for misstatement of facts:
 - Examine data collection elements that officers might be likely to intentionally misrepresent to make themselves look better (race of driver, length of stop, etc.)
 - Compare race data from DMV license information or photograph
 - Officer perceptions may be wrong without intention
 - Cannot know how much discrepancy between officer perceptions and actual information is legitimate, but can explore outliers if comparing similarly situated officers to each other

As noted earlier, the Police Executive Research Forum recommends less than a 10 percent error rate for traffic stop data (Fridell 2004). Experienced social scientists who work with police stop data often recommend a more stringent standard of less than 5 percent missing or incorrect data. This low error can be achieved through timely feedback on errors, direct supervisory oversight, and emphasis that data collection is an important priority to the agency.

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Appendix G. Memorandum of Agreement between U.S. Department of Justice, Office of Community Oriented Policing Services and San Francisco Police Department for Collaborative Reform Initiative for Technical Assistance

The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.



U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES



145 N Street NE, Washington, DC 20530

The Office of Community Oriented Policing Services (COPS Office) is responsible for advancing public safety through the practice of community policing by the nation's law enforcement agencies through information and grant resources. The community policing philosophy promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues.

As a form of community policing, the COPS Office developed the Collaborative Reform Initiative for Technical Assistance (CRI-TA) in 2011 in order to partner with law enforcement agencies that may need assistance on a wide variety of issues that can negatively affect law enforcement/community relations—including such things as use of force practices, officer involved shootings, racial profiling, accountability systems, agency transparency, and external communication mechanisms. The purpose of CRI-TA is to improve trust between agencies and the communities they serve by providing a means to organizational transformation through an analysis of policies, practices, training, tactics, and systems of accountability. It is not a short-term solution for a serious deficiency but a long-term strategy that first identifies issues within an agency that may affect public trust and then offers recommendations on how to resolve those issues and enhance the relationship between the police and the community. Agency participation in this collaborative process is voluntary; however, to be eligible for this form of technical assistance, agencies must demonstrate a willingness to implement the recommended reforms.

Using subject matter experts, interviews, analysis of departmental data, surveys, community forums, and direct observation, findings and recommendations are designed to assist law enforcement agencies with enhancing and improving their policies and procedures, systems, and relationships with the communities they serve. These findings and recommendations are issued in a publicly released report. Agencies are then provided assistance with the implementation of those recommendations through technical assistance and training. Agency progress towards achievement of these recommendations is monitored and two public reports are issued documenting this progress at six- and twelve-month intervals after the

issuance of the assessment report. While CRI-TA is a collaborative process, it is also an objective and independent means to institute long-term reform in a way that is transparent to all community stakeholders. Projects may last approximately 24 to 36 months.

There are a number of requirements for your agency and local government officials in order for the collaborative process to be successful. Expectations for your law enforcement agency and local government officials include the following:

- 1. Acceptance that after work commences, the U.S. Department of Justice determines the goals and objectives necessary to implement collaborative reform effectively.
- 2. Acceptance that participating in CRI-TA will, at minimum, include an assessment of departmental training, policies, procedures, and incidents for community oriented policing practices and disparate treatment of historically and present-day marginalized populations, including racial and ethnic minorities. This includes traffic stops, pedestrian stops, use of force, and officer-involved shootings.
- 3. Assignment of a key point of contact within the Office of the Police Executive.
- 4. Assignment of a senior-level agency executive to oversee the implementation of reforms resulting from CRI-TA and other internal or external processes.
- 5. Provision of full access by assessment team to relevant departmental records and data, as well as relevant data from other sources available to the local government.
- 6. Willingness to implement the recommendations, which will be based on professional standards, best practices, research, Collaborative Reform Initiative standards, the President's Task Force on 21st Century Policing, local circumstances, and U.S. Department of Justice priorities.
- 7. Acknowledgement that all reports will be publicly presented and widely disseminated. We encourage you to review previous reports at http://www.cops.usdoj.gov/Default.asp?ltem=2807.
- 8. Disclosure of any real or apparent conflicts of interest before commencement of work and prompt identification of any conflicts that may arise throughout the duration of the project.
- 9. Commitment from the chief law enforcement officer and chief government executive to complete the CRI-TA process.
- 10. Commitment that chief law enforcement officer will proactively communicate their support for the goals and objectives of the assessment throughout the ranks of the agency.
- 11. Facilitation of the identification of key internal and external stakeholders who will be interviewed and consulted at various points during the process.
- 12. As needed, coordination of interviews with officers and civilians of varying ranks within the agency, members of community organizations, and other stakeholders.
- 13. Unless already completed and documented, commit to providing all department personnel with training on (a) procedural justice and (b) the science of unconscious bias and law enforcement.
- 14. Commitment to public transparency of police operational data and policies, unless doing so would undermine the legitimate public safety goals of the agency or violate any existing contractual agreements, laws, or regulations. As such, the department is encouraged to participate in the national Police Data Initiative (see http://publicsafetydataportal.org/).
- 15. Commitment to public reporting on the progress the agency is making in the reform process.

An Assessment of the San Francisco Police Department

- 16. Continuation of organizational learning and reform after the Collaborative Reform process is completed.
- 17. Acknowledgement that participation in the CRI-TA program does not preclude any future investigations into the patterns and practices of the law enforcement agency by the DOJ Civil Rights Division.

Before work can formally commence on your project, the chief law enforcement executive and chief government executive must sign, date, and return this Memorandum of Agreement (MOA) to the COPS Office. This MOA is not an obligation of funds nor does it create a legally binding commitment. Nothing in this MOA creates an employment relationship with the Federal Government or requires any provision of benefits incident to employment. By signing this MOA, the chief law enforcement executive and chief government executive understand and agree to the terms of this MOA and acknowledge that failure to meet the terms of the MOA may result in termination of the Collaborative Reform process.

On behalf of the organization that I represent, I am authorized to sign this MOA and will contribute to its success to the best of my ability.

Repor	Date:	4/29/16
Ronald L. Davis, Director, COPS Office		
-Se 20	Date:	4/26/16
Greg Suhr, Chief, San Francisco Police Depart	ment	
Elworter	Date:	4/26/16
Edwin M. Lee, Wayor, City and County of San	Francis	со
Supporting Documentation Attached: Yes No		

Appendix H. Goal and Objectives Statement

The COPS Office established the following goal and objectives.

Overall goal

Assess, monitor, and assist SFPD, in collaboration with the community, in the implementation and sustainment of reforms that increase public trust through improvements in community policing practices, transparency, professionalism, and accountability, while taking into account national standards, best practices, current and emerging research, and community expectations. Critical to this effort is ensuring that SFPD is engaged with communities of San Francisco in an open, transparent process centered on building trust and confidence with the Department, particularly in communities of color and other disenfranchised communities.

Objectives

- 1. Assess SFPD's use of force policies and practices as they relate to training, implementation, reporting, supervision, and oversight and accountability to ensure adherence to policy and fair and impartial use of force decisions. The assessment will:
 - Analyze the policies, procedures, and training regarding the use of force, less-lethal weapons and firearms, handcuffing and other defensive tactics, crisis intervention, and de-escalation tactics to determine whether they comport with national standards and best practices.
 - Assess whether the policies and training provide sufficient guidance to officers in the field when making use of force decisions.
 - Analyze a statistically relevant sample of use of force data for a minimum of three years to identify
 patterns and trends in use of force and deadly force by city geography, community characteristics,
 departmental units, incident factors, and officer-subject demographics to assess for biased based
 policing practices.
 - Examine the oversight and investigation of use of force incidents, including officer-involved shootings, for quality, thoroughness, transparency, and fairness in the process.
 - Assess the level of interaction and communication with the community from the onset of a use of force incident through the conclusion of the investigative process.
- 2. Assess SFPD's policies and operational practices to determine if there is biased policing, with a specific focus on people of color, the mentally ill, LGBTQ, and the homeless. The assessment will:
 - Review how community complaints and concerns regarding potential bias are received, examined, and addressed.
 - Evaluate procedures, protocols, training, and organizational accountability to address the issue of bias through a structured organizational approach that includes training and supervision.

- Analyze a statistically relevant sample of SFPD's contact, field interview, and arrest data for a
 minimum of three years for trends and patterns in encounters with members of the public,
 including pedestrian stops, traffic stops, and investigative stops to assess for biased policing –
 both implicit and explicit.
- 3. Assess the community policing, procedural justice, and community engagement protocols and practices across SFPD in light of national and best practices. The assessment will:
 - Determine whether there is a strategic plan that effectively defines SFPD's goals and outcomes, identifies strategies that will enable the organization to achieve those goals and outcomes, and defines a mechanism to measure progress.
 - Evaluate the role of community stakeholders and determine whether there is active engagement that allows the stakeholders to have a voice in policing decisions.
 - Assess whether existing community policing plans, practices, and procedures provide for transparency, fairness, and impartiality when engaging members of the public.
 - Evaluate the community policing training provided by SFPD to assess whether it supports the Department's community policing goals, and adheres to national standards, best practices, and community expectations.
 - Determine whether community policing efforts are recognized in the Department's performance appraisal and promotional processes.
- 4. Assess whether the accountability, oversight policies, and practices related to community complaints and their investigation comport with national standards and best practices. The assessment will:
 - Evaluate the overall transparency of the complaint and disciplinary process and how it engages complainants and informs them of investigative outcomes.
 - Determine whether the practices and procedures are conducted with fairness and impartiality when addressing discipline issues including holding officers accountable for misconduct.
 - Evaluate whether SFPD's policies, practices, and procedures effectively define the roles, authority, and operational responsibilities for each of the partners in the complaint and disciplinary process.
 - Determine whether there are internal reviews of the discipline and community complaint processes to identify and address any underlying institutional policies and procedures that may impact officer conduct and therefore contribute to public complaints.
- 5. Analyze recruitment, hiring and personnel practices to evaluate diversity efforts in SFPD to determine adherence with national standards and best practices. The assessment will:
 - Review the diversity in SFPD across all units and ranks of the Department.
 - Examine recruitment practices, including community outreach and focus on ensuring diversity in recruiting.
 - Assess hiring standards, practices, procedures and protocols to ensure adherence to national standards and best practices.
 - Evaluate promotional policies, procedures, and practices for efforts to ensure fair and transparent outcomes.

Appendix I. Memorandum Re: Review of San Francisco Proposed Use of Force Policies

The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.



U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES



145 N Street NE, Washington, DC 20530

TO: Suzy Loftus, President, San Francisco Police Commission

L. Julius M. Turman, Vice President, San Francisco Police Commission Petra DeJesus, Commissioner, San Francisco Police Commission Victor Hwang, Commissioner, San Francisco Police Commission Joe Marshall, Commissioner, San Francisco Police Commission Thomas Mazzucco, Commissioner, San Francisco Police Commission Sonia E. Melara, Commissioner, San Francisco Police Commission

CC: Gregory Suhr, Chief, San Francisco Police Department

Toney Chaplin, Deputy Chief, San Francisco Police Department

THROUGH: Noble Wray, Chief of Police Practices and Accountability Initiative, Office of Community

Oriented Policing Services, U.S. Department of Justice

FROM: Nazmia E.A. Comrie, Collaborative Reform Specialist (detail), Office of Community Oriented

Policing Services, U.S. Department of Justice

SUBJECT: Review of San Francisco Proposed Use of Force Policies

DATE: May 4, 2016

This memorandum serves to summarize the U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office) review and comments on the San Francisco, California Police Department (SFPD) use of force policies as part of the Collaborative Reform Initiative for Technical Assistance (CRI-TA).

Introduction

The COPS Office announced CRI-TA with SFPD on Monday, February 1st. Following the press conference, the COPS Office met with San Francisco Police Commissioner President Suzy Loftus. During that meeting and in follow up e-mails starting on February 12th, the COPS Office agreed to review the use of force policies. The COPS Office received four policies with corresponding comments on Monday, March 21st. The polices include: 5.01 Use of Force, 5.01.1 Use of Force Reporting, 5.02 Use of Firearms and Lethal Force, and Special Operations CED Bureau Order.

An Assessment of the San Francisco Police Department

The COPS Office received comments on the proposed policies from external subject matter experts, San Francisco core assessment team members, and internal staff.

Summary of Review

The following summarize the COPS Office review and comments on the San Francisco use of force polices.

Although the CRI-TA assessment will cover the policies and procedures regarding use of force, this review only assesses the recently developed Use of Force policies, and not the *SFPD Manual of Policy and Procedure* or the current *Use of Force* policies. That will come as part of the overall assessment.

Overall Comments

The COPS Office commends the San Francisco Police Commission and the SFPD for developing, reviewing, and finalizing the use of force policies with community and stakeholder input. This process not only allows the community to have a voice, but also provides a stronger, more comprehensive policy. Furthermore, the process provides accountability and transparency regarding policy development. This is in line with Recommendations 1.3 and 1.4 of the *Final Report of the President's Task Force on 21st Century Policing* (Task Force Report).¹

The COPS Office suggests that the Police Commission consider combining the three separate use of force policies. The philosophical, legal, and organizational concerns are interlaced between all three policies and it could be streamlined if they were condensed into one policy. The COPS Office reasons that training and holding personnel accountable will be easier with one policy and will provide less opportunity for conflict. This combination will also reduce redundancies and duplication in the language.

The language for the policies needs to be simplified and clarified so that a rank-and-file officer can understand the general guidance and principles. If the policy cannot be understood by an officer reading or referencing them, then the policy has not fulfilled the intended purpose. The language needs to be strong and clear rather than minimizing the guidance with qualifiers.

To this point, whether these polices remain as three separate policies or one combined policy, there should be a section at the beginning with a definition of terms. Unless the definitions are included elsewhere and referenced, they need to be included at the beginning of the policies. The policies are intended to provide guidance to the rank-and-file and the terminology should be clearly stated without requiring an officer to assume the meaning. Although it is beneficial to receive feedback from many groups and individuals, it is crucial to refine the feedback and ensure that the policy reads well and is clear to the reader.

Additionally, the Police Commission should provide a description of levels of force and the list of authorized impact weapons. If these two descriptions are listed elsewhere, then this should be referenced in the policy.

^{1.} http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf

Furthermore, the Police Commission should consider adding information and guidance related to training, investigation, forensics, and especially the role of the supervisor. By suggesting that the supervisor can evaluate the need to respond allows for a failure of supervision. It is a national best practice that a supervisor should be called to an incident involving any use of deadly force or a critical incident. Transformation and reform requires that the first line supervisors be empowered to help change behavior, and therefore, they should be required to be on scene when a critical incident occurs.

As stated in the Task Force Report Action Item 1.5.4, it is vital that "use of physical control equipment and techniques against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others – can undermine public trust and should be used as a last resort."²

The COPS Office strongly recommends that the Police Commission review the Task Force Report, Recommendation 2.2 and its accompanying Action Items, 2.2.1 to 2.2.6 for consideration in the revised use of force policies.³ The Police Commission should consider the following action items:

- "...emphasize de-escalation and alternatives to arrest or summons in situations where appropriate" (Action Item 2.2.1, page 20)
- "...mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths" (Action Item 2.2.2, page 21)
- "...collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody deaths" (Action Item 2.2.4, page 21)
- "clearly state what types of information will be released, when, and in what situation, to maintain transparency" (Action Item 2.2.5, page 22)
- "establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency..." (Action Item 2.2.6, page 22)

As related to conductive energy devices (CED), the Task Force report states that "studies of CEDs have shown them to be effective at reducing both officer and civilian injuries....but new technologies should be subject to the appropriate use of force continuum restrictions" (page 38). Additionally, the COPS Office and Police Executive Research Forum, released guidelines in 2011 around electronic control weapons. The COPS Office encourages the Police Commission to consider all 52 guidelines as the CED policy is crafted.

Finally, whether the policies stay as separate documents or are combined, there should be as much cross-referencing as is needed to ensure that adequate information is provided in each policy. For example, references to vehicle pursuits, training, or handcuffing should be cross-referenced to the appropriate SFPD policy.

^{2. &}lt;a href="http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf">http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf, pages 15–16

^{3. &}lt;a href="http://www.cops.usdoj.gov/pdf/taskforce/TaskForce">http://www.cops.usdoj.gov/pdf/taskforce/TaskForce FinalReport.pdf, pages 20-22

^{4.} http://ric-zai-inc.com/Publications/cops-p202-pub.pdf

An Assessment of the San Francisco Police Department

Individual Policy Comments

The COPS Office is providing comments for each policy in a redline version. The comments and feedback are from the reviewers and are suggestions for improvement and clarity, rather than mandated changes. As stated previously, this memo and the accompanying documents are a preliminary review of the proposed policies and procedures without the full knowledge of the SFPD operations and practices; the CRI-TA assessment includes an objective to assess the use of force policies and procedures.

Appendix J. SFPD Draft Department General Order 5.01 – Use of Force

San Francisco Police Department

GENERAL ORDER

5.01

Rev. 06/22/16

USE OF FORCE

The San Francisco Police Department's highest priority is safeguarding the life, dignity and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department General Order builds upon the Supreme Court's broad principles in *Graham* v. *Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all swom law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This order establishes policies and reporting procedures regarding the use of force. The purpose of the policy is to guide an officer's decisions regarding the use and application of force to ensure such applications are used only to effect arrest or lawful detentions or to bring a situation under legitimate control and assist the Department in achieving its highest priority. No policy can predict every situation. Officers are expected to exercise sound judgment and critical decision making when using force options.

I. POLICY

- A. SAFEGUARDING HUMAN LIFE AND DIGNITY. The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.
- B. ESTABLISH COMMUNICATION. Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options:
- C. DE-ESCALATION. Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall when feasible, attempt to understand and consider the possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public

- and officer safety. Officers who act to de-escalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.
- **D. PROPORTIONALITY.** When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.
- E. CRISIS INTERVENTION. When feasible, Crisis Intervention Team (CIT) trained officers shall respond to calls for service involving individuals in mental or behavioral health crisis pursuant to Department General Order XX.XX.
- F. DUTY TO INTERVENE. When in a position to do so, officers shall intervene when they know or have reason know, that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.
- G. FAIR AND UNBIASED POLICING. Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased pursuant to Department General Order 5.17.

II. DEFINITIONS:

- A. **FEASIBLE.** Capable of being done or carried out to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.
- B. IMMEDIATE THREAT. An immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat if not apprehended without delay. A person is an immediate threat if the officer reasonably believes the person has the present intent, means, opportunity and ability to complete the threat regardless of whether the threatened action has been initiated.
- C. MINIMAL AMOUNT OF FORCE NECESSARY. The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.
- <u>PERSONAL BODY WEAPONS</u>. An officer's use of his/her body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.
- **D.E. REASONABLE FORCE.** An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.

- E.F. REPORTABLE FORCE. Any use of force which is required to overcome subject resistance to gain compliance that results in death, injury, complaint of injury in the presence of an officer, or complaint of pain that persists beyond the use of a physical control hold. Any use of force involving the use of personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, and firearms. Any intentional pointing of a firearm at a subject.
- F.G. SERIOUS BODILY INJURY. A serious impairment of physical condition, including but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.
- G.H. VITAL AREAS OF THE BODY. The head, neck, face, throat, spine, groin and kidney.

III. CONSIDERATIONS GOVERNING ALL USES OF FORCE

- A. USE OF FORCE MUST BE FOR A LAWFUL PURPOSE. Officers may use reasonable force options in the performance of their duties, in the following circumstances:
 - 1. To effect a lawful arrest, detention, or search.
 - 2. To overcome resistance or to prevent escape.
 - 3. To prevent the commission of a public offense.
 - 4. In defense of others or in self-defense.
 - To gain compliance with a lawful order.
 - 6. To prevent a person from injuring himself/herself. However, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an immediate threat of death or serious bodily injury to another person or officer.

B. USE OF FORCE EVALUATION

The United States Supreme Court in *Graham* v. *Connor* (1989) 490 U.S. 386 held that an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. This General Order builds upon the broad principles in *Graham* by adding additional factors upon which an officer's use of force shall be evaluated. This General Order is more restrictive than the constitutional standard and state law. Officers must strive to use the minimal amount of force necessary.

- 1. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.
- 2. Factors for evaluating the use of force include but are not limited to:

- a. The severity of the crime at issue;
- b. Whether the suspect posed an immediate threat to the safety of the officers or others:
- whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
- d. Whether the use of force is proportional to the threat;
- e. The availability of other feasible, less intrusive force options;
- f. The officer's tactical conduct and decisions preceding the use of force;
- g. Whether the officer has reason to believe that the subject is mentally ill, has a physical, developmental or cognitive disability, is emotionally disturbed or is under the influence of alcohol or drugs;
- h. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
- Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;
- j. Specialized knowledge, skills, or abilities of subjects;
- k. Prior contact:
- Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
- m. Whether the subject's escape could pose a future safety risk.

Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

- C. **DE-ESCALATION.** When encountering a non-compliant subject or a subject armed with a weapon other than a firearm, officers shall when feasible, use the following de-escalation tactics in an effort to reduce the need or degree of force:
 - 1. Attempt to isolate and contain the subject;
 - Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an immediate threat that may require the use of force;
 - 3. Request additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or Extended Range Impact Weapon;
 - Designate an officer to establish rapport and engage in communication with the subject;
 - 5. Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety; and
 - 6. Continue de-escalation techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

Other options, not listed above, may be available to assist in de-escalating the situation.

Supervisors who become aware of a situation where an officer is using de-escalation techniques shall monitor the radio communications and evaluate the need to respond to the scene.

- D. CRITICAL DECISION-MAKING MODEL. Using a critical decision-making model, officers shall collect information, assess the threats and risk, consider police powers and the Department's policies, identify options and determine the best course of action, and review and re-assess the situation.
- E. UNLAWFUL PURPOSES. Penal Code Section 149 provides criminal penalties for every public officer who "under color of authority, without lawful necessity, assaults or beats any person." An assault and battery committed by officers constitute gross and unlawful misconduct and will be criminally investigated
- F. SUBJECT ARMED WITH A WEAPON NOTIFICATION AND COMMAND. In situations where a subject is armed with a weapon, officers and supervisors shall comply with the following:
 - 1. OFFICER'S RESPONSIBILITY. Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
 - 2. SUPERVISORS' RESPONSIBILITIES. When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
 - Notify DEM, monitor radio communications, respond to the incident (e.g.,
 - "3X100, I'm monitoring the incident and responding."); b. Notify responding officers, while en-route, absent a "Code 33" or other articulable reasons why it would be unsafe to do so, to protect life, isolate and contain the subject, maintain distance, find cover, build rapport, engage in communication without time constraint, and call for appropriate resources:
 - Upon arrival, where appropriate, the supervisor shall assume command, and ensure appropriate resources are on-scene or are responding.

IV. LEVELS OF RESISTANCE.

- A. Compliant Subject offers no resistance.
- B. Passive Non-Compliance. Does not respond to verbal commands but also offers no physical form of resistance.
- C. Active Resistance. Physically evasive movements to defeat an officer's attempt at control including bracing, tensing, running away, verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody.
- D. Assaultive. Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person.
- E. Life-threatening. Any action likely to result in serious bodily injury or death of the officer or another person.

V. LEVELS OF FORCE.

Officers shall strive to use the minimum amount of force necessary to accomplish their lawful purpose.

- A. Low Level Force. The level of control necessary to interact with a subject who is or displaying passive or active resistance. This level of force is not intended to and has a low probability of causing injury.
- B. **Intermediate Force.** This level of force poses a foreseeable risk of significant injury or harm, but is neither likely nor intended to cause death. Intermediate force will typically only be acceptable when officers are confronted with active resistance and a threat to the safety of officers or others. Case law decisions have specifically identified and established that certain force options such as OC spray, impact projectiles, K-9 bites, and baton strikes are classified as intermediate force likely to result in significant injury.
- C. Deadly Force. Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle (see DGO 5.05, Response and Pursuit Driving.)

VI. FORCE OPTIONS.

The force options authorized by the Department are physical controls, personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, K-9 bites and firearms. These are the force options available to officers, but officers are not required to use these force options based on a continuum. While deploying a particular force option and when feasible, officers shall continually evaluate whether the force option may be discontinued while still achieving the arrest or lawful objective.

A. Tools and Techniques for Force Options

The following tools and techniques are not in a particular order nor are they all inclusive.

- Verbal Commands/Instructions/Command Presence
- Control Holds/Takedowns
- Impact Weapons
- Chemical Agents (Pepper Spray, OC, etc.)
- K-9 Bite
- Vehicle Intervention (Deflection)
- Firearms
- Personal Body Weapons
- Impact Projectile

- B. PHYSICAL CONTROLS/PERSONAL BODY WEAPONS. Physical controls, such as control holds, takedowns, strikes with personal body weapons, and other weaponless techniques are designed to gain compliance of and/or control over uncooperative or resistant subjects. The use of physical control techniques and equipment against vulnerable populations including children, elderly persons, pregnant women, people with physical and mental disabilities, people with limited English proficiency, and other can undermine public trust and should be used as a last resort
 - PURPOSE. When a subject offers some degree of passive or active resistance to a
 lawful order, in addition to de-escalation techniques and appropriate
 communication skills, officers may use physical controls consistent with
 Department training to gain compliance. A subject's level of resistance and the
 threat posed by the subject are important factors in determining what type of
 physical controls or personal body weapons should be used.
 - 2. USE. Officers shall consider the relative size and possible physical capabilities of the subject compared to the size, physical capabilities, skills, and experience of the officer. When faced with a situation that may necessitate the use of physical controls, officers shall consider requesting additional resources to the scene prior to making contact with the subject, if feasible. Different physical controls involve different levels of force and risk of injury to a subject or to an officer. Some physical controls may actually involve a greater risk of injury or pain to a subject than other force options.
 - 3. PROHIBITED USE OF CONTROL HOLDS. Officers are prohibited from using the following control holds:
 - a. carotid restraint
 - b. choke hold—choking by means of pressure to the subject's trachea or other means that prevent breathing.
 - 4. MANDATORY MEDICAL ASSESSMENT. Any subject who has been injured, complains of an injury in the presence of officers, or complains of pain that persists beyond the use of the physical control hold shall be medically assessed by emergency medical personnel.
 - 5. REPORTING. Use of physical controls is a reportable use of force when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Striking a subject with a personal body weapon is a reportable use of force.
- C. CHEMICAL AGENTS. Chemical agents, such as Oleoresin Capsicum (OC) Spray, are designed to cause irritation and temporarily incapacitate a subject.
 - 1. PURPOSE. Chemical agents can be used to subdue an unarmed attacker or to overcome active resistance (unarmed or armed with a weapon other than a firearm) that is likely to result in injury to either the subject or the officer. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance, consistent with Department training.

- WARNING. Officers shall provide a warning prior to deploying a chemical agent, if feasible:
 - a. Announce a warning to the subject and other officers of the intent to deploy
 the chemical agent if the subject does not comply with officer commands;
 and
 - b. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the public or the officer, or permit the subject to undermine the deployment of the chemical agent.
- 3. MANDATORY FIRST AID. At the scene or as soon as possible, officers shall administer first aid by:
 - Seating the subject or other person(s) exposed to a chemical agent in an upright position, and
 - b. Flushing his/her eyes out with clean water and ventilate with fresh air.
- 4. MANDATORY MEDICAL ASSESSMENT. Any person exposed to a chemical agent shall be medically assessed by emergency medical personnel. Any exposed person shall be kept under direct visual observation until he/she has been medically assessed. If an exposed person loses consciousness or has difficulty breathing, an officer shall immediately request for emergency medical personnel, render first aid and monitor the subject until relieved by emergency medical personnel. Officers shall notify dispatch to expedite emergency medical personnel if the person loses consciousness or has difficulty breathing.
- 5. TRANSPORTATION. Subjects in custody exposed to a chemical agent must be transported in an upright position by two officers. The passenger officer shall closely monitor the subject for any signs of distress. If the subject loses consciousness or has difficulty breathing, officers shall immediately seek emergency medical attention. Hobble cords or similar types of restraints shall only be used to secure a subject's legs together. They shall not be used to connect the subject's legs to his/her waist or hands or to a fixed object.
- BOOKING FORM, Officers shall note on the booking form that the subject has been exposed to a chemical agent.
- 7. REPORTING. If an officer deploys a chemical agent on or near someone, it is a reportable use of force.
- D. **IMPACT WEAPON.** Department issued and authorized impact weapons include the 26" straight wooden baton, the 36" straight wooden baton, the wooden or polymer Yawara stick, the 21' to 29" telescopic metal baton and the wooden bokken, and are designed to temporarily incapacitate a subject.
 - 1. PURPOSE. An impact weapon may be used in accordance to Department training to administer strikes to non-vital areas of the body, which can subdue an assaultive subject who is actively resisting and poses a threat to the safety of officers or others. Only Department issued or authorized impact weapons shall be used. Officers may resort to the use of other objects as impact weapons, such as a flashlight or police radio, if exigent circumstances exist, and officers shall articulate in writing the reason for doing so.
 - 2. WARNING. When using an impact weapon, an officer shall, if feasible:

- Announce a warning to the subject of the intent to use the impact weapon if the subject does not comply with officer's commands; and
- b. Give the subject a reasonable opportunity to voluntarily comply, except that officers need not do so where it would pose a risk to the public or the officer or permit the subject to undermine the use of the impact weapon.
- 3. RESTRICTED USES. Unless exigent circumstances exist, officers shall not intentionally strike vital areas, including the head, neck, face, throat, spine, groin or kidney. The use of an impact weapon to a vital area has a likelihood of causing serious bodily injury or death, and the intentional use of an impact weapon to these areas shall only be used in situations where lethal force is justified.
- 4. PROHIBITED USES. Officers shall not:
 - a. Use the impact weapon to intimidate a subject or person, such as slapping the palm of their hand with an impact weapon where neither the use of an impact weapon or impact weapon warning is appropriate.
 - b. Striking a handcuffed prisoner who poses no threat is an inappropriate action and may result in disciplinary action and/or criminal prosecution.
- MANDATORY MEDICAL ASSESSMENT. Any officer who strikes a subject with an impact weapon shall ensure the subject is medically assessed.
- REPORTING. If an officer strikes a subject with an impact weapon, it is a reportable use of force.
- E. EXTENDED RANGE IMPACT WEAPON (ERIW). An Extended Range Impact Weapon (ERIW), such as a beanbag shotgun, is a weapon that fires a bean bag or other projectile designed to temporarily incapacitate a subject. An ERIW is generally not considered to be a lethal weapon when used at a range of 15 feet or more.
 - 1. PURPOSE. The ERIW may be used on a subject who is armed with a weapon, other than a firearm, that could cause serious injury or death. This includes, but is not limited to, edged weapons and improvised weapons such as baseball bats, bricks, bottles, or other objects. The ERIW may also be used in accordance with Department training to subdue an aggressive, unarmed subject who poses an immediate threat of serious injury to another person or the officer.
 - USE. The ERIW shall be properly loaded and locked in the shotgun rack of the passenger compartment of the vehicle. Officers shall observe the following guidelines:
 - a. An officer deploying an ERIW shall always have a lethal cover officer. When more than one officer is deploying an ERIW, tactical judgment and scene management in accordance with Department training will dictate the appropriate number of ERIW and lethal cover officers.
 - b. The ERIW officer's point of aim shall be Zone 2 (waist and below). The ERIW officer's point of aim may be Zone 1 (waist and above) if:
 - i. Zone 2 is unavailable; or
 - ii. The ERIW officer is delivering the round from 60 feet; or
 - iii. Shots to Zone 2 have been ineffective or in the officers judgment a shot to zone 2 would be ineffective.

- Officer shall articulate in writing the reason for intentionally aiming the ERIW at Zone 1
- c. The use of an ERIW to a vital area has a likelihood of causing serious bodily injury or death, and the intentional use of an ERIW to these areas shall only be used in situations where deadly force is justified.
- d. The ERIW officer shall assess the effect of the ERIW after each shot. If subsequent ERIW rounds are needed, the officer shall aim at a different target area.
- 3. **LIMITED USES**. The ERIW should not be used in the following circumstances (unless the use of deadly force is appropriate);:
 - a. The subject is at the extremes of age (elderly and children) or physically
 - The subject is in an elevated position where a fall is likely to cause serious injury or death.
 - c. The subject is known to be or appears pregnant.
 - d. At ranges of less than 15 feet.
 - e. Concerned raised by a community member about restricting women's breasts as a target area; this requires input from Subject Matter Expert).
 - 4. WARNING. When using the ERIW, an officer shall, if feasible:
 - a. Announce to other officers the intent to use the ERIW by stating "Red Light! Less Lethal! Less Lethal!"
 - b. All other officers at scene to acknowledge imminent deployment of ERIW by echoing, "Red Light! Less Lethal! Less Lethal!"
 - Announce a warning to the subject that the ERIW will be used if the subject does not comply with officer commands;
 - d. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the community or the officer, or permit the subject to undermine the deployment of the ERIW.
 - MANDATORY MEDICAL ASSESSMENT. Any subject who has been struck by an ERIW round shall be medically assessed by emergency medical personnel.
 - 6. **BOOKING FORM.** Persons who have been struck by an ERIW round shall have that noted on the booking form.
 - 7. **REPORTING**, Discharge of an ERIW is a reportable use of force.
- **F. VEHICLE INTERVENTIONS.** An officer's use of a police vehicle as a "deflection" technique, creation of a roadblock by any means, or deployment of spike strips, or any other interventions resulting in the intentional contact with a noncompliant subject's vehicle for the purpose of making a detention or arrest, are considered a use of force and must be objectively reasonable under the circumstances. The Department's policies concerning such vehicle intervention tactics are set forth in DGO 5.05, Response and Pursuit Driving.

- G. FIREARMS AND OTHER DEADLY FORCE. It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers. The use of firearms and other deadly force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officers shall consider other objectively reasonable force options before discharging a firearm or using other deadly force.
 - 1. HANDLING, DRAWING AND POINTING FIREARMS.
 - a. HANDLING FIREARMS. An officer shall handle and manipulate a firearm in accordance with Department-approved firearms training. An officer shall not manually cock the hammer of the Department-issued handgun to defeat the first shot double-action feature.
 - b. AUTHORIZED USES. An officer may draw, exhibit or point a firearm in the line of duty when the officer has reasonable cause to believe it may be necessary for the safety of others or for his or her own safety. When an officer determines that the threat is over, the officer shall holster his or her firearm or shoulder the weapon in the port arms position pointed or slung in a manner consistent with Department approved firearms training.
 - c. DRAWING OTHERWISE PROHIBITED. Except for maintenance, safekeeping, inspection by a superior officer, Department-approved training, or as otherwise authorized by this order, an officer shall not draw a Department issued firearm.
 - d. POINTING A FIREARM AT A PERSON. The pointing of a firearm at a person is a seizure and requires legal justification. No officer shall point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force. If an officer points a firearm at a person, the officer shall, if feasible, safe and when appropriate, advise the subject the reason why the officer(s) pointed the firearm.
 - e. REPORTING. When an officer intentionally points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances.

2. DISCHARGE OF FIREARMS OR OTHER USE OF DEADLY FORCE.

- a. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections G.2.d. and e., an
 officer may discharge a firearm or use other deadly-force in any of the following
 circumstances:
 - i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or

- ii In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person; or
- iii. To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed; or
- iv. To kill an animal posing an immediate threat.

The above circumstances (2.a, i-iv) apply to each discharge of a firearm or application of deadly force. Officers shall reassess the situation, when feasible and safe, to determine whether the subject continues to pose an active threat.

- b. VERBAL WARNING. If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force.
- c. REASONABLE CARE FOR THE PUBLIC. To the extent feasible, an officer shall take reasonable care when discharging his or her firearm so as not to jeopardize the safety of the public or officers.
- d. PROHIBITED CIRCUMSTANCE. Officers shall not discharge their firearm:
 - i. As a warning; or
 - ii. At a person who presents a danger only to him or herself.
- e. MOVING VEHICLES. An officer shall not discharge a firearm at the operator or occupant of a moving vehicle unless the operator or occupant poses an immediate threat of death or serious bodily injury to the public or an officer by means other than the vehicle. Officers shall not discharge a firearm from his or her moving vehicle.

3. RENDERING OR REQUESTING MEDICAL AID

Following the use of deadly force, officers shall render or request medical aid if needed or requested by anyone as soon as reasonably possible.

4. REPORTING.

A. DISCHARGE OF FIREARMS. Except for firearm discharges at an approved range or during lawful recreational activity, an officer who discharges a firearm, either on or off duty, shall report the discharge as required under DGO 8.11, Investigation of Officer Involved Shootings and

Discharges. This includes an intentional or unintentional discharge, either within or outside the City and County of San Francisco.

B. OTHER DEADLY FORCE. An officer who applies other force that results in death shall report the force to the officer's supervisor, and it shall be investigated as required under DGO 8.12, In Custody Deaths. An officer who applies other deadly force that results in serious bodily injury shall report the force to the officer's supervisor. The supervisor shall, regardless whether possible misconduct occurred, immediately report the force to their superior officer and their commanding officer, who shall determine which unit shall be responsible for further investigation. An officer who applies other deadly force that does not result in serious bodily injury shall report the force.

The following chart illustrates how a suspect's resistance/actions can correlate to the force applied by the officer:

Subject's Actions	Description	Possible Force Option
Compliance	Subject offers no resistance	 Mere professional appearance Nonverbal actions Verbal requests and commands Handcuffing and control holds
Passive non- compliance	Does not respond to verbal commands but also offers no physical form of resistance	 Officer's strength to take physical control, including lifting/carrying Pain compliance control holds, takedowns and techniques to direct movement or immobilize
Active resistance	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, verbally, or physically signaling an intention to avoid or	 Use of personal body weapons to gain advantage over the subject Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject

Subject's Actions	Description	Possible Force Option
	prevent being taken into or retained in custody	
Assaultive	Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person	Use of devices and/or techniques to ultimately gain control of the situation Use of personal body weapons to gain advantage over the subject
Life-threatening	Any action likely to result in serious bodily injury or death of the officer or another person	Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat Vehicle intervention (Deflection)

VII. USE OF FORCE REPORTING

- A. REPORTABLE USES OF FORCE. Officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ERIWs, vehicle interventions, K-9 bites, and firearms. Additionally, officers shall report the intentional pointing of firearms at a subject.
 - NOTIFICATION OF USE OF FORCE. An officer shall notify his/her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.
 - 2. EVALUATION OF USE OF FORCE. A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force.
 - 3. EXCESSIVE USE OF FORCE. Every allegation of excessive force shall be subject to the reporting and investigative requirements of this General Order and applicable disciplinary policies.

B. PROCEDURES

- OFFICER'S RESPONSIBILITY. Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Descriptions shall be in clear, precise and plain language and shall be as specific as possible.
 - a. When the officer using force is preparing the incident report, the officer shall include the following information:
 - i. The subject's action necessitating the use of force, including the threat presented by the subject;
 - ii. Efforts to de-escalate prior to the use of force; and if not, why not;
 - iii. Any warning given and if not, why not;
 - iv. The type of force used;'
 - v. Injury sustained by the subject;
 - vi. Injury sustained by the officer or another person;
 - vii. Information regarding medical assessment or evaluation, including whether the subject refused;
 - viii. The supervisor's name, rank, star number and the time notified.
 - b. In the event that an officer cannot document his/her use of force due to exceptional circumstances, another officer shall document this use of force in an incident report, supplemental incident report or statement form at the direction of a supervisor.
- SUPERVISOR'S RESPONSIBILITY. When notified of the use of force, the supervisor shall conduct a supervisorial evaluation to determine whether the force used appears reasonable and within the provisions of this order. The supervisor shall:
- a. Immediately respond to the scene unless a response is impractical, poses a danger, or where officers' continued presence creates a risk. When more than one supervisor responds, the responsibility shall fall on the senior supervisor;
- b. Ensure the scene is secure and observe injured subjects or officers;
- c. Ensure that witnesses (including officers) are identified and interviewed, and that this information is included in the incident report. The number of witnesses may preclude identification and interview of all witnesses, however supervisors shall ensure identification to the best of their ability;
- d. Ensure photographs of injuries are taken and all other evidence is booked;
- e. Remain available to review the officer's incident report, supplemental incident report and written statement at the direction of the superior officer. A supervisor shall not approve an incident report or written statement involving a use of force that does not comply with the requirements as set forth in VI.B.1.a. above;
- f. If applicable, ensure the supervisor's reason for not responding to the scene is included in the incident report.
- g. Complete and submit the Supervisory Use of Force Evaluation form, indicating whether the force used appears reasonable, by the end of watch;

h. Complete the Use of Force Log (SFPD 128) and attach one copy of the incident report by the end of watch.

If a supervisor determines that a member's use of force is unnecessary or that an officer has applied force that results in serious bodily injury or death, the supervisor shall notify his/her superior officer.

- 3. SUPERIOR OFFICER'S RESPONSIBILITY. When a superior officer is notified of unnecessary force or force that results in serious bodily injury or death, the superior officer shall:
- a. Respond to the scene and assume command, as practical;
- b. Notify the commanding officer and ensure all other notifications are made consistent with DGO 1.06, Duties of Superior Officers;
- If unnecessary force, initiate a civilian complaint and notify the Office of Citizen Complaints (SFPOA has technical question regarding DGO 2,04)
- d. Determine which unit(s) will be responsible for the on-going investigation(s);
- Prepare a report containing preliminary findings, conclusions and/or recommendations, if appropriate.

C. OTHER REQUIREMENTS:

- 1. USE OF FORCE LOG. The following units shall maintain a Use of Force Log:
 - a. District Stations
 - b. Airport Bureau
 - c. Department Operations Center
- RECORDING PROCEDURES. Supervisors shall document a reportable use of force for all officers – including those officers assigned to specialized units – in -the Use of Force Log at the District Station where the use of force occurred, except as noted below.
 - a. Any use of force occurring outside the city limits, except at the San Francisco International Airport, shall be recorded in the Department Operations Center's Use of Force Log.
 - Any use of force occurring at the San Francisco International Airport shall be recorded in the Airport Bureau's Use of Force Log.

3. DOCUMENT ROUTING.

- a. Commanding officers shall forward the original completed Supervisor's Use of Force Evaluation Form(s) to the Commanding Officer of Risk Management and one copy to the Commanding Officer of the Training Division and another to the officer's Bureau Deputy Chief no later than the endo of the watch. This information shall be entered into the Use of Force database at Risk Management to generate monthly reports as described in section C (5) below.
- b. On the Monday of each week, unless a holiday, and then on Tuesday, commanding officers shall sign the Use of Force Log and send it, along with one

copy of the incident report, to their respective Bureau Deputy Chief and one copy of the Use of Force Log with copies of the incident reports to the Commanding Officers of the Training Division and Risk Management.

- 4. TRAINING DIVISION RESPONSIBILITIES. The Commanding Officer of the Training Division will maintain controls that assure all Use of Force Logs and Supervisor Evaluations are received, and shall perform a non-punitive review to ascertain the number, types, proper application and effectiveness of uses of force. The information developed shall be used to identify training needs.
- 5. RISK MANAGEMENT RESPONSIBILITIES. The Commanding Officer of the Risk Management shall general report bi-weekly (1st and 15th) to the Chief of Police on the use of force by Department members that includes comprehensive use of force statistics consistent with current federal, state and local laws on use of force reporting.
- DATA COLLECTION AND ANALYSIS. The Department will collect and analyze its use of force data in the Risk Management Use of Force database. The Use of Force statistics and analysis will include at a minimum;
 - a. The type of force
 - b. The types and degree of injury to suspect and officer
 - c. Date and time
 - d. Location of the incident
 - e. Officer's unit
 - f. District station where the use of force occurred
 - g. Officer's assignment
 - h. Number of officers using force in the incident
 - Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
 - j. Subject's activity requiring the officer to use force
 - k. Officer's demographics (age, gender, race/ethnicity, rank, number of years with SFPD, number of years as a police officer)
 - Suspect demographics including race/ethnicity, age, gender, gender identity, primary language and other factors such as mental illness, cognitive impairment, developmental disability, drug and alcohol use/addiction and homeless.

The Department will post on a monthly basis on its website comprehensive use of force statistics and analysis and provide a written use of force report to the Police Commission annually.

VIII. OFFICER'S RESPONSIBILITY AND COMPLIANCE.

All officers are responsible for knowing and complying with this policy. As with all General Orders, any violation of this policy may subject the member to disciplinary action. Supervisors shall ensure that all personnel in their command know the contact of this policy and

operate in compliance with it. Any member who becomes aware of any violation to this policy shall promptly report it in accordance with established procedure.

References

DGO 1.06, Duties of Superior Officers

DGO 2.04 Citizen Complaints Against Officers

DGO 5.05, Response and Pursuit Driving

DGO 5.17 Policy Prohibiting Biased Policing

DGO 5.18, Prisoner Handling and Transportation

DGO 8.11, Investigation of Officer Involved Shootings And Discharges

DGO 8.12, In Custody Deaths

DGO XX Responding to Behavioral Crisis Calls and The Role of the Crisis Intervention Team



Appendix K. Memorandum Re: Recommendation Regarding Recent Electronic Communication Incident

The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.



U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES



145 N Street NE, Washington, DC 20530

TO: Gregory Suhr, Chief, San Francisco Police Department

CC: Toney Chaplin, Deputy Chief, San Francisco Police Department

THROUGH: Noble Wray, Chief of Police Practices and Accountability Initiative, Office of Community

Oriented Policing Services, U.S. Department of Justice

FROM: Nazmia E.A. Comrie, Collaborative Reform Specialist (detail), Office of Community Oriented

Policing Services, U.S. Department of Justice

SUBJECT: Recommendation Regarding Recent Electronic Communication Incident

DATE: May 5, 2016

This memorandum provides a U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office) recommendation related to the recent electronic communication incidents.

Recommendation Regarding Recent Electronic Communication Incident

In response to the recent electronic communication incidents, it is important for the SFPD to identify officer misconduct regarding bias and begin to repair the community mistrust. As such, the COPS Office strongly recommends SFPD conduct a comprehensive audit of official electronic communications, including department issued e-mails, communications on mobile data terminals, and text messages on department issued phones. Periodic electronic communication audits are recognized as being a sound management practice. This audit should follow federal, state, and local laws and statutes. Additionally, any identified officer misconduct should be dealt with appropriately.

Abbreviations and Acronyms

AIM Automated Information Management

CIT Crisis Intervention Team

City HR City and County of San Francisco Human Resources

COPS Office Office of Community Oriented Policing Services

CPAB Community Police Advisory Boards

CRI-TA Collaborative Reform Initiative for Technical Assistance

DGO Department General Order

DOJ U.S. Department of Justice

ECW electronic control weapon (i.e., Taser)

EIS Early Intervention Systems

FBI Federal Bureau of Investigation

FDRB Firearm Discharge Review Board

FI Field Interview

FTO Field Training Officer

HR human resources

IAD Internal Affairs Division

MDC mobile data computer

MPC Municipal Police Code

NYPD New York Police Department

OC oleoresin capsicum ("pepper spray")

OCC Office of Citizen Complaints

PAT Physical Ability Test

PEG Police Employee Groups

PIP performance improvement plan

POA Police Officers' Association

POST Peace Officer Standards and Training

SF SAFE San Francisco Safety Awareness for Everyone

SFPAL San Francisco Police Activities League

SFPD San Francisco Police Department

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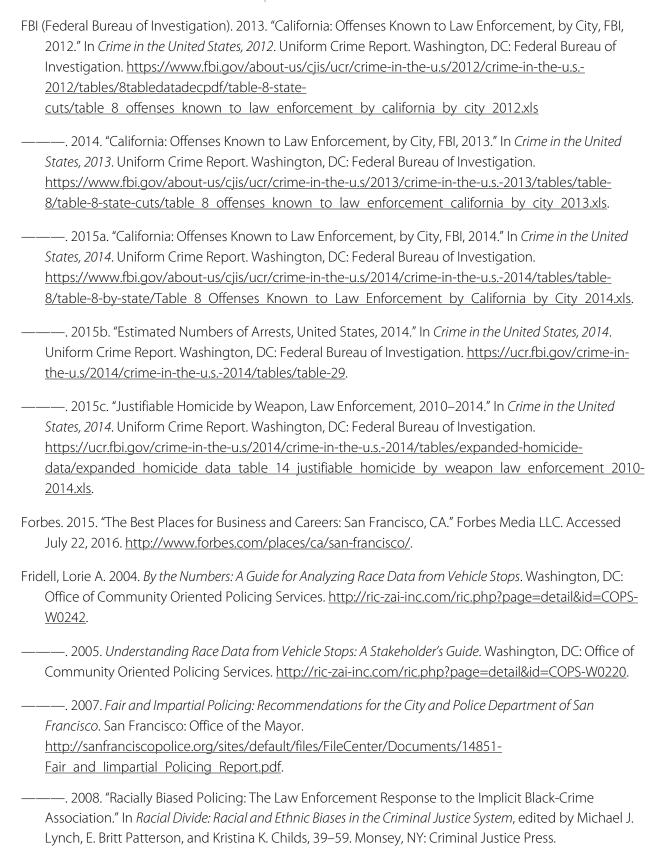
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About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded the hiring of approximately 129,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs.
- The COPS Office also sponsors conferences, roundtables, and other forums focused on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gang violence—can be downloaded at www.cops.usdoj.gov. This website is also the grant application portal, providing access to online application forms.

In response to requests from city officials who asked the U.S. Department of Justice to conduct an in-depth review of the policies and practices of the San Francisco Police Department (SFPD), the COPS Office launched the Collaborative Reform Initiative for Technical Assistance (CRI-TA) with the SFPD.

The COPS Office supports law enforcement agencies by implementing and sustaining reforms that increase public trust through improvements in community policing practices, transparency, professionalism, and accountability while taking into account national standards, promising practices, current and emerging research, and community expectations.

Although the COPS Office found a department that is committed to making changes and working with the community, it also found a department with outdated use of force policies that fail the officers and the community and inadequate data collection that prevents leadership from understanding officer activities and ensure organizational accountability. The department lacked accountability measures to ensure that the department is being open and transparent while holding officers accountable. Disparities were found in traffic stops, post-stop searches, and use of deadly force against minorities. Altogether, the COPS Office identified 94 findings and developed 272 associated recommendations.

This report is a road map to reform policing in San Francisco to conform to community expectations and improve public safety. This report summarizes the full assessment including findings and recommendations that will help the department modernize its policing practices and enhance community trust.



U.S. Department of Justice Office of Community Oriented Policing Services 145 N Street NE Washington, DC 20530

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THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING

MAY 2015

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CONTENTS

From the Co-Chairs	
Members of the Task Force	
Task Force Staff	vii
Acknowledgments	ix
Executive Summary	
Introduction	5
Pillar 1. Building Trust & Legitimacy	9
Pillar 2. Policy & Oversight	19
Pillar 3. Technology & Social Media	31
Pillar 4. Community Policing & Crime Reduction	41
Pillar 5. Training & Education	51
Pillar 6. Officer Wellness & Safety	61
Implementation	69
Appendix A. Public Listening Sessions & Witnesses	71
Appendix B. Individuals & Organizations That Submitted Written Testimony	75
Appendix C. Executive Order 13684 of December 18, 2014	79
Appendix D. Task Force Members' Biographies	81
Appendix F. Recommendations and Actions	85

FROM THE CO-CHAIRS

We wish to thank President Barack Obama for giving us the honor and privilege of leading his Task Force on 21st Century Policing. The task force was created to strengthen community policing and trust among law enforcement officers and the communities they serve—especially in light of recent events around the country that have underscored the need for and importance of lasting collaborative relationships between local police and the public. We found engaging with law enforcement officials, technical advisors, youth and community leaders, and nongovernmental organizations through a transparent public process to be both enlightening and rewarding, and we again thank the President for this honor.

Given the urgency of these issues, the President gave the task force an initial 90 days to identify best policing practices and offer recommendations on how those practices can promote effective crime reduction while building public trust. In this short period, the task force conducted seven public listening sessions across the country and received testimony and recommendations from a wide range of community and faith leaders, law enforcement officers, academics, and others to ensure its recommendations would be informed by a diverse range of voices. Such a remarkable achievement could not have been accomplished without the tremendous assistance provided by the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office), led by Director Ronald L. Davis, who also served as the executive director of the task force. We thank Director Davis for his leadership, as well as his chief of staff, Melanca Clark, and the COPS Office team that supported the operation and administration of the task force.

We also wish to extend our appreciation to the COPS Office's extremely capable logistical and technical assistance provider, Strategic Applications International (SAI), led by James and Colleen Copple. In addition to logistical support, SAI digested the voluminous information received from testifying witnesses and the public in record time and helped facilitate the task force's deliberations on recommendations for the President. We are also grateful for the thoughtful assistance of Darrel Stephens and Stephen Rickman, our technical advisors.

Most important, we would especially like to thank the hundreds of community members, law enforcement officers and executives, associations and stakeholders, researchers and academics, and civic leaders nationwide who stepped forward to support the efforts of the task force and to lend their experience and expertise during the development of the recommendations contained in this report. The passion and commitment shared by all to building strong relationships between law enforcement and communities became a continual source of inspiration and encouragement to the task force.

The dedication of our fellow task force members and their commitment to the process of arriving at consensus around these recommendations is also worth acknowledging. The task force members brought diverse perspectives to the table and were able to come together to engage in meaningful dialogue on emotionally charged issues in a respectful and effective manner. We believe the type of constructive dialogue we have engaged in should serve as an example of the type of dialogue that must occur in communities throughout the nation.

While much work remains to be done to address many longstanding issues and challenges—not only within the field of law enforcement but also within the broader criminal justice system—this experience has demonstrated to us that Americans are, by nature, problem solvers. It is our hope that the recommendations included here will meaningfully contribute to our nation's efforts to increase trust between law enforcement and the communities they protect and serve.

Charles H. Ramsey

Ramsey Laurie O. Robinson

Co-Chair Co-Chair



President Barack Obama joins members of the President's Task Force on 21st Century Policing for a group photo in the Oval Office, March 2, 2015.

OFFICIAL WHITE HOUSE PHOTO BY PETE SOUZA

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PHOTO: BRANDON TRAMEL

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^{1.} SAI provided technical and logistical support through a cooperative agreement with the COPS Office.

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Cincinnati Police Chief Jeffrey Blackwell welcomes the task force to the University of Cincinnati, January 30, 2015.

PHOTO: DEBORAH SPENCE

EXECUTIVE SUMMARY

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed an executive order establishing the Task Force on 21st Century Policing. The President charged the task force with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust.

This executive summary provides an overview of the recommendations of the task force, which met seven times in January and February of 2015. These listening sessions, held in Washington, D.C.; Phoenix, Arizona; and Cincinnati, Ohio, brought the 11 members of the task force together with more than 100 individuals from diverse stakeholder groups—law enforcement officers and executives, community members, civic leaders, advocates, researchers, academics, and others—in addition to many others who submitted written testimony to study the problems from all perspectives.

The task force recommendations, each with action items, are organized around six main topic areas or "pillars:" Building Trust and Legitimacy, Policy and Oversight, Technology and Social Media, Community Policing and Crime Reduction, Officer Training and Education, and Officer Safety and Wellness.

The task force also offered two overarching recommendations: the President should support the creation of a National Crime and Justice Task Force to examine all areas of criminal justice and pro-

pose reforms; as a corollary to this effort, the task force also recommends that the President support programs that take a comprehensive and inclusive look at community-based initiatives addressing core issues such as poverty, education, and health and safety.

Pillar One: Building Trust and Legitimacy

Building trust and nurturing legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve. Decades of research and practice support the premise that people are more likely to obey the law when they believe that those who are enforcing it have authority that is perceived as legitimate by those subject to the authority. The public confers legitimacy only on those whom they believe are acting in procedurally just ways. In addition, law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to impose control on the community. Pillar one seeks to provide focused recommendations on building this relationship.

Law enforcement culture should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy both within agencies and with the public. Toward that end, law enforcement agencies should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with rank and file officers and with the citizens they serve. Law enforcement agencies should also establish a culture of transparency and accountability to build public trust and legitimacy. This is critical to ensuring decision making is understood and in accord with stated policy.

Law enforcement agencies should also proactively promote public trust by initiating positive non-enforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies. Law enforcement agencies should also track and analyze the level of trust communities have in police just as they measure changes in crime. This can be accomplished through consistent annual community surveys. Finally, law enforcement agencies should strive to create a workforce that encompasses a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Pillar Two: Policy and Oversight

Pillar two emphasizes that if police are to carry out their responsibilities according to established policies, those policies must reflect community values. Law enforcement agencies should collaborate with community members, especially in communities and neighborhoods disproportionately affected by crime, to develop policies and strategies for deploying resources that aim to reduce crime by improving relationships, increasing community engagement, and fostering cooperation.

To achieve this end, law enforcement agencies should have clear and comprehensive policies on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures—among others such as external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths. These policies should also include provisions for the collection of demographic

data on all parties involved. All policies and aggregate data should be made publicly available to ensure transparency.

To ensure policies are maintained and current, law enforcement agencies are encouraged to periodically review policies and procedures, conduct nonpunitive peer reviews of critical incidents separate from criminal and administrative investigations, and establish civilian oversight mechanisms with their communities.

Finally, to assist law enforcement and the community achieve the elements of pillar two, the U.S. Department of Justice, through the Office of Community Oriented Policing Services (COPS Office) and Office of Justice Programs (OJP), should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps toward interagency collaboration, shared services, and regional training. They should also partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

Pillar Three: Technology & Social Media

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able

to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Pillar three guides the implementation, use, and evaluation of technology and social media by law enforcement agencies. To build a solid foundation for law enforcement agencies in this field, the U.S. Department of Justice, in consultation with the law enforcement field, should establish national standards for the research and development of new technology including auditory, visual, and biometric data, "less than lethal" technology, and the development of segregated radio spectrum such as FirstNet. These standards should also address compatibility, interoperability, and implementation needs both within local law enforcement agencies and across agencies and jurisdictions and should maintain civil and human rights protections. Law enforcement implementation of technology should be designed considering local needs and aligned with these national standards. Finally, law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

Pillar Four: Community Policing & Crime Reduction

Pillar four focuses on the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working with neighborhood residents to coproduce public safety. Law enforcement agencies should, therefore, work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community. Specifically, law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of com-

munity engagement in managing public safety. Law enforcement agencies should also engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all especially the most vulnerable, such as children and youth most at risk for crime or violence. Law enforcement agencies should avoid using law enforcement tactics that unnecessarily stigmatize youth and marginalize their participation in schools (where law enforcement officers should have limited involvement in discipline) and communities. In addition, communities need to affirm and recognize the voices of youth in community decision making, facilitate youth participation in research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

Pillar Five: Training & Education

As our nation becomes more pluralistic and the scope of law enforcement's responsibilities expands, the need for expanded and more effective training has become critical. Today's line officers and leaders must be trained and capable to address a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis.

Pillar five focuses on the training and education needs of law enforcement. To ensure the high quality and effectiveness of training and education, law enforcement agencies should engage community members, particularly those with special expertise, in the training process and provide leadership training to all personnel throughout their careers.

To further assist the training and educational needs of law enforcement, the Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs involving universities and police academies. A national postgraduate institute of policing for senior executives should be created with a standardized curriculum preparing participants to lead agencies in the 21st century.

One specific method of increasing the quality of training would be to ensure that Peace Officer and Standards Training (POST) boards include mandatory Crisis Intervention Training (CIT), which equips officers to deal with individuals in crisis or living with mental disabilities, as part of both basic recruit and in-service officer training—as well as instruction in disease of addiction, implicit bias and cultural responsiveness, policing in a democratic society, procedural justice, and effective social interaction and tactical skills.

Pillar Six: Officer Wellness & Safety

The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Pillar six emphasizes the support and proper implementation of officer wellness and safety as a multi-partner effort.

The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative. Two specific strategies recommended for the U.S. Department of Justice include (1) encouraging and assisting departments in the implementation of scientifically supported shift lengths by law enforcement and (2) expanding efforts to collect and analyze data not only on officer deaths but also on injuries and "near misses."

Law enforcement agencies should also promote wellness and safety at every level of the organization. For instance, every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests. In addition, law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so. Internal procedural justice principles should be adopted for all internal policies and interactions. The Federal Government should develop programs to provide financial support for law enforcement officers to continue to pursue educational opportunities. Finally, Congress should develop and enact peer review error management legislation.

Implementation Recommendations

The administration, through policies and practices already in place, can start right now to move forward on the recommendations contained in this report. The President should direct all federal law enforcement agencies to implement the task force recommendations to the extent practicable, and the U.S. Department of Justice should explore public-private partnership opportunities with foundations to advance implementation of the recommendations. Finally, the COPS Office and OJP should take a series of targeted actions to assist the law enforcement field in addressing current and future challenges.

Conclusion

The members of the Task Force on 21st Century Policing are convinced that the concrete recommendations contained in this publication will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities.

INTRODUCTION

"When any part of the American family does not feel like it is being treated fairly, that's a problem for all of us."

-President Barack Obama

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of the recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed Executive Order 13684 establishing the Task Force on 21st Century Policing.

In establishing the task force, the President spoke of the distrust that exists between too many police departments and too many communities—the sense that in a country where our basic principle is equality under the law, too many individuals, particularly young people of color, do not feel as if they are being treated fairly.

"When any part of the American family does not feel like it is being treated fairly, that's a problem for all of us," said the President. "It's not just a problem for some. It's not just a problem for a particular community or a particular demographic. It means that we are not as strong as a country as we can be. And when applied to the criminal justice system, it means we're not as effective in fighting crime as we could be." These remarks underpin the philosophical foundation for the Task Force on 21st Century Policing: to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect. Decades of research and practice tell us that the public cares as much about how police interact with them as they care about the outcomes that legal actions produce. People are more likely to obey the law when they believe those who are enforcing it have the right—the legitimate authority—to tell them what to do.² Building trust and legitimacy, therefore, is not just a policing issue. It involves all components of the criminal justice system and is inextricably bound to bedrock issues affecting the community such as poverty, education, and public health.

The mission of the task force was to examine ways of fostering strong, collaborative relationships between local law enforcement and the communities they protect and to make recommendations to the President on ways policing practices can promote effective crime reduction while building public trust. The President selected members of the task force based on their ability to contribute to its mission because of their relevant perspective, experience, or subject matter expertise in policing, law enforcement and community relations, civil rights, and civil liberties.

^{2.} T.R. Tyler, *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990); M.S. Frazer, *The Impact of the Community Court Model on Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Justice Center* (New York: Center for Court Innovation, 2006).

The task force was given 90 days to conduct hearings, review the research, and make recommendations to the President, so its focus was sharp and necessarily limited. It concentrated on defining the cross-cutting issues affecting police-community interactions, questioning the contemporary relevance and truth about long-held assumptions regarding the nature and methods of policing, and identifying the areas where research is needed to highlight examples of evidence-based policing practices compatible with present realities.

To fulfill this mission, the task force convened seven listening sessions to hear testimony—including recommendations for action—from government officials; law enforcement officers; academic experts; technical advisors; leaders from established nongovernmental organizations, including grassroots movements; and any other members of the public who wished to comment. The listening sessions were held in Washington, D.C., January 13; Cincinnati, Ohio, January 30–31; Phoenix, Arizona, February 13–14; and again in Washington, D.C., February 23–24. Other forms of outreach included a number of White House listening sessions to engage other constituencies, such as people with disabilities, the LGBTQ community, and members of the armed forces, as well as careful study of scholarly articles, research reports, and written contributions from informed experts in various fields relevant to the task force's mission.

Each of the seven public listening sessions addressed a specific aspect of policing and police-community relations, although crosscutting issues and concerns made their appearance at every session. At the first session, **Building Trust and Legitimacy**, the topic of procedural justice was discussed as a foundational necessity in building public trust. Subject matter experts also testified as to the meaning of "community po-

licing" in its historical and contemporary contexts, defining the difference between implicit bias and racial discrimination—two concepts at the heart of perceived difficulties between police and the people. Witnesses from community organizations stressed the need for more police involvement in community affairs as an essential component of their crime fighting duties. Police officers gave the beat cop's perspective on protecting people who do not respect their authority, and three big-city mayors told of endemic budgetary obstacles to addressing policing challenges.

The session on **Policy and Oversight** again brought witnesses from diverse police forces (both chiefs and union representatives), from law and academia, and from established civil rights organizations and grass-root groups. They discussed use of force from the point of view of both research and policy and internal and external oversight; explained how they prepare for and handle mass demonstrations; and pondered culture and diversity in law enforcement. Witnesses filled the third session, on **Technology** and Social Media, with testimony on the use of body-worn cameras and other technologies from the angles of research and legal considerations, as well as the intricacies of implementing new technologies in the face of privacy issues. They discussed the ever-expanding ubiquity of social media and its power to work both for and against policing practice and public safety.

The **Community Policing and Crime Reduction** listening session considered current research on the effectiveness of community policing on bringing down crime, as well as building up public trust. Task force members heard detailed descriptions of the methods used by chiefs in cities of varying sizes to implement effective community policing in their jurisdictions over a number of years. They also heard from a panel of young people about their encounters with the criminal justice system

and the lasting effects of positive interactions with police through structured programs as well as individual relationships. The fifth listening session considered **Training and Education** in law enforcement over an officer's entire career—from recruitment through basic training to in-service training—and the support, education, and training of supervisors, leaders, and managers. Finally, the panel on Officer Safety and Wellness considered the spectrum of mental and physical health issues faced by police officers from the day-to-day stress of the job, its likely effect on an officer's physical health, and the need for mental health screening to traffic accidents, burnout, suicide, and how better to manage these issues to determine the length of an officer's career.

A listening session on the **Future of Community Policing** concluded the task force's public sessions and was followed by the deliberations leading to the recommendations that follow on ways to research, improve, support, and implement policies and procedures for effective policing in the 21st century.

Many excellent and specific suggestions emerged from these listening sessions on all facets of policing in the 21st century, but many questions arose as well. Paramount among them was how to bring unity of purpose and consensus on best practices to a nation with 18,000 separate law enforcement agencies and a strong history of a preference for local control of local issues. It became very clear that it is time for a comprehensive and multifaceted examination of all the interrelated parts of the criminal justice system and a focused investigation into how poverty, lack of education, mental health, and other social conditions cause or intersect with criminal behavior. We propose two overarching recommendations that will seek the answers to these questions.

0.1 Overarching Recommendation:

The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

Several witnesses at the task force's listening sessions pointed to the fact that police represent the "face" of the criminal justice system to the public. Yet police are obviously not responsible for laws or incarceration policies that many citizens find unfair. This misassociation leads us to call for a broader examination of such issues as drug policy, sentencing and incarceration, which are beyond the scope of a review of police practices.

This is not a new idea.

In the 1967 President's Commission on Law Enforcement and Administration of Justice report, *The Challenge of Crime in a Free Society*, one of the major findings stated, "Officials of the criminal justice system . . . must re-examine what they do. They must be honest about the system's shortcomings with the public and with themselves."

The need to establish a formal structure to take a continuous look at criminal justice reform in the context of broad societal issues has never faded from public consciousness. When former Senator Jim Webb (D-VA) introduced legislation to create the National Criminal Justice Commission in 2009, a number of very diverse organizations from the Major Cities Chiefs Association, the Fraternal Order of Police, the National Sheriffs Association, and the National District Attorneys Association to Human Rights Watch, the American Civil Liberties Union,

^{3.} The President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, DC: U.S. Government Printing Office, 1967), 15, https://www.ncjrs.gov/pdffiles1/nij/42.pdf.



A panel of community voices with Allie Bones, Renaldo Fowler, Keeshan Harley, Andrea Ritchie, and Linda Sarsour, Phoenix, February 14, 2015.

PHOTO: DEBORAH SPENCE

and the National Association for the Advancement of Colored People all supported it. This legislation would have authorized a national criminal justice commission to conduct a comprehensive review of the criminal justice system by a bipartisan panel of stakeholders, policymakers, and experts that would make thoughtful, evidence-based recommendations for reform. The bill received strong bipartisan support and passed the House but never received a final vote.

More recently, a number of witnesses raised the idea of a national commission at the task force's listening sessions—notably Richard Beary, president of the International Association of Chiefs of Police (IACP), who said,

For over 20 years, the IACP has called for the creation of a National Commission on Criminal Justice to develop across-the-board improvements to the criminal justice system in order to address current challenges and to increase the efficiency and effectiveness of the entire criminal justice community. A deep dive into community-police relations is only one part of this puzzle. We must explore other aspects of the criminal justice system that need to be revamped and further contribute to today's challenges.⁴

And Jeremy Travis, president of John Jay College of Criminal Justice, added, in the final listening session,

You said it is time to look at the criminal justice system, and actually I would broaden the scope. We have this question of how to reintegrate into our society those who have caused harms It is not just the system but these big, democratic, societal questions that go to government functions and how we deal with conflict as well.⁵

0.2 Overarching Recommendation:

The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

As is evident from many of the recommendations in this report, the justice system alone cannot solve many of the underlying conditions that give rise to crime. It will be through partnerships across sectors and at every level of government that we will find the effective and legitimate long-term solutions to ensuring public safety.

^{4.} Listening Session on Building Trust and Legitimacy (oral testimony of Richard Beary, president, IACP, for the President's Task Force on 21st Century Policing, Washington, DC, January 13—14, 2015).

^{5.} Listening Session on the Future of Community Policing (oral testimony of Jeremy Travis, president, John Jay College of Criminal Justice, for the President's Task Force on 21st Century Policing, Washington, DC, January 24, 2015).

PILLAR 1. BUILDING TRUST & LEGITIMACY

People are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do The public confers legitimacy only on those they believe are acting in procedurally just ways.

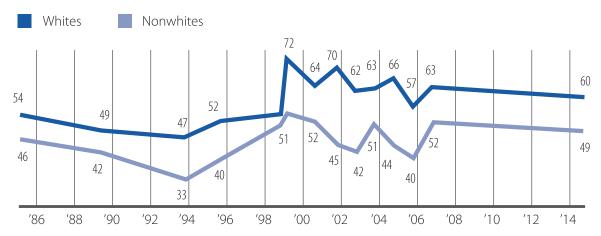
Building trust and nurturing legitimacy on both sides of the police-citizen divide is not only the first pillar of this task force's report but also the foundational principle underlying this inquiry into the nature of relations between law enforcement and the communities they serve. Since the 1990s, policing has become more effective, better equipped, and better organized to tackle crime. Despite this, Gallup polls show the public's confidence in police work has remained flat, and among some populations of color, confidence has declined.⁶

This decline is in addition to the fact that non-Whites have always had less confidence in law enforcement than Whites, likely because "the poor and people of color have felt the greatest impact of mass incarceration," such that for "too many poor citizens and people of color, arrest and imprisonment have become an inevitable and seemingly unavoidable part of the American experience." Decades of research and practice support the premise that people are more likely to obey the law when they believe that those

Figure 1. Confidence in police to protect them from violent crime, U.S. Whites vs. non-Whites

How much confidence do you have in the ability of the police to protect you from violent crime—a great deal, quite a lot, not very much, or none at all?

% A GREAT DEAL/QUITE A LOT OF CONFIDENCE



Source: Justin McCarthy, "Nonwhites Less Likely" (see note 6).
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^{6.} Justin McCarthy, "Nonwhites Less Likely to Feel Police Protect and Serve Them," *Gallup: Politics*, November 17, 2014, http://www.gallup.com/poll/179468/nonwhites-less-likely-feel-police-protect-serve.aspx.

^{7.} Bryan Stevenson, "Confronting Mass Imprisonment and Restoring Fairness to Collateral Review of Criminal Cases," *Harvard Civil Rights-Civil Liberties Law Review* 41 (Summer 2006): 339—367.

who are enforcing it have the legitimate authority to tell them what to do. But the public confers legitimacy only on those they believe are acting in procedurally just ways.

Procedurally just behavior is based on four central principles:

- 1. Treating people with dignity and respect
- 2. Giving individuals "voice" during encounters
- 3. Being neutral and transparent in decision making
- 4. Conveying trustworthy motives⁸

Research demonstrates that these principles lead to relationships in which the community trusts that officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interests and values with the police.⁹

There are both internal and external aspects to procedural justice in policing agencies. Internal procedural justice refers to practices within an agency and the relationships officers have with their colleagues and leaders. Research on internal procedural justice tells us that officers who feel respected by their supervisors and peers are more likely to accept departmental policies, understand decisions, and comply with them voluntarily.¹⁰ It

8. Lorraine Mazerolle, Sarah Bennett, Jacqueline Davis, Elise Sargeant, and Matthew Manning, "Legitimacy in Policing: A Systematic Review," *The Campbell Collection Library of Systematic Reviews* 9 (Oslo, Norway: The Campbell

follows that officers who feel respected by their organizations are more likely to bring this respect into their interactions with the people they serve.

External procedural justice focuses on the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public's trust of the police. It is important to understand that a key component of external procedural justice—the practice of fair and impartial policing—is built on understanding and acknowledging human biases,¹¹ both explicit and implicit.

All human beings have biases or prejudices as a result of their experiences, and these biases influence how they might react when dealing with unfamiliar people or situations. An explicit bias is a conscious bias about certain populations based upon race, gender, socioeconomic status, sexual orientation, or other attributes. Common sense shows that explicit bias is incredibly damaging to police-community relations, and there is a growing body of research evidence that shows that implicit bias—the biases people are not even aware they have—is harmful as well.

Witness Jennifer Eberhardt said.

Bias is not limited to so-called "bad people." And it certainly is not limited to police officers. The problem is a widespread one that arises from history, from culture, and from racial inequalities that still pervade our society and are especially salient in the context of criminal justice. 13

Collaboration, 2013).

^{9.} Tom Tyler, Jonathon Jackson, and Ben Bradford, "Procedural Justice and Cooperation," in *Encyclopedia of Criminology and Criminal Justice*, eds. Gerben Bruinsma and David Weisburd (New York: Springer, 2014), 4011–4024.

10. Nicole Haas et al., "Explaining Officer Compliance: The Importance of Procedural Justice and Trust inside a Police Organization," *Criminology and Criminal Justice* (January 2015), doi: 10.1177/1748895814566288; COPS Office, "Comprehensive Law Enforcement Review: Procedural Justice and Legitimacy," accessed February 28, 2015, http://www.cops.usdoj.gov/pdf/taskforce/Procedural-Justice-and-Legitimacy-LE-Review-Summary.pdf.

^{11.} Lorie Fridell, "This is Not Your Grandparents' Prejudice: The Implications of the Modern Science of Bias for Police Training," *Translational Criminology* (Fall 2013):10—11.

^{12.} Susan Fiske, "Are We Born Racist?" Greater Good (Summer 2008):14–17.

^{13.} Listening Session on Building Trust and Legitimacy (oral testimony of Jennifer Eberhardt for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015).

To achieve legitimacy, mitigating implicit bias should be a part of training at all levels of a law enforcement organization to increase awareness and ensure respectful encounters both inside the organization and with communities.

The first witnesses at the task force sessions on the first pillar also directly addressed the need for a change in the culture in which police do their work: the use of disrespectful language and the implicit biases that lead officers to rely upon race in the context of stop and frisk. They addressed the need for police officers to find how much they have in common with the people they serve—not the lines of authority they may perceive to separate them—and to continue with enduring programs proven successful over many years.

Several speakers stressed the continuing need for civilian oversight and urged more research into proving ways it can be most effective. And many spoke to the complicated issue of diversity in recruiting, especially Sherrilyn Ifill, who said of youth in poor communities,

By the time you are 17, you have been stopped and frisked a dozen times. That does not make that 17-year-old want to become a police officer....

The challenge is to transform the idea of policing in communities among young people into something they see as honorable. They have to see people at local events, as the person who lives across the street, not someone who comes in and knows nothing about my community.¹⁴

The task force's specific recommendations that follow offer practical ways agencies can act to promote legitimacy.

1.1 RECOMMENDATION: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs' departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

How officers define their role will set the tone for the community. As Plato wrote, "In a republic that honors the core of democracy—the greatest amount of power is given to those called Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy."

Law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to rule and control the community.

As task force member Susan Rahr wrote,

In 2012, we began asking the question, "Why are we training police officers like soldiers?" Although police officers wear uniforms and carry weapons, the similarity ends there. The missions and rules of engagement are completely different. The soldier's mission is that of a warrior: to conquer. The rules of engagement are decided before the battle. The police officer's mission is that of a guardian: to protect. The rules of engagement evolve as the incident unfolds. Soldiers must follow orders. Police officers must make independent decisions. Soldiers come into communities as an outside, occupying force. Guardians are members of the community, protecting from within.¹⁵

There's an old saying, "Organizational culture eats policy for lunch." Any law enforcement

^{14.} Listening Session on Building Trust and Legitimacy (oral testimony of Sherrilyn Ifill, president and director-counsel, NAACP Legal Defense and Educational Fund, Inc., for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015); "Statement by the NAACP Legal Defense and Educational Fund, Inc." (written testimony submitted for listening session at Washington, DC, January 13, 2015).

^{15.} Sue Rahr, "Transforming the Culture of Policing from Warriors to Guardians in Washington State," *International Association of Directors of Law Enforcement Standards and Training Newsletter* 25, no. 4 (2014): 3—4; see also Sue Rahr and Stephen K. Rice, "From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals," *New Perspectives in Policing Bulletin* (Washington, DC: National Institute of Justice, 2015), NCJ 248654, http://www.hks.harvard.edu/content/download/76023/1708385/version/1/file/WarriorstoGuardians.pdf.

organization can make great rules and policies that emphasize the guardian role, but if policies conflict with the existing culture, they will not be institutionalized and behavior will not change. In police work, the vast majority of an officer's work is done independently outside the immediate oversight of a supervisor. But consistent enforcement of rules that conflict with a military-style culture, where obedience to the chain of command is the norm, is nearly impossible. Behavior is more likely to conform to culture than rules.

The culture of policing is also important to the proper exercise of officer discretion and use of authority, as task force member Tracey Meares has written. ¹⁶ The values and ethics of the agency will guide officers in their decision-making process; they cannot simply rely on rules and policy to act in encounters with the public. Good policing is more than just complying with the law. Sometimes actions are perfectly permitted by policy, but that does not always mean an officer should take those actions. Adopting procedural justice as the guiding principle for internal and external policies and practices can be the underpinning of a change in culture and should contribute to building trust and confidence in the community.

1.2 RECOMMENDATION: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

At one listening session, a panel of police chiefs described what they had been doing in recent years to recognize and own their history and to change the culture within both their police forces and their communities.

Baltimore Police Commissioner Anthony Batts described the process in his city:

The process started with the commissioning of a study to evaluate the police department and the community's views of the agency The review uncovered broken policies, outdated procedures, outmoded technology, and operating norms that put officers at odds with the community they are meant to serve. It was clear that dramatic and dynamic change was needed.¹⁷

Ultimately, the Baltimore police created the Professional Standards and Accountability Bureau, tasked with rooting out corruption, holding officers accountable, and implementing national best practices for polices and training. New department heads were appointed and a use of force review structure based on the Las Vegas model was implemented. "These were critical infrastructure changes centered on the need to improve the internal systems that would build accountability and transparency, inside and outside the organization," noted Commissioner Batts. 18

1.2.1 ACTION ITEM: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

1.3 RECOMMENDATION: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.

^{16.} Tracey L. Meares, "Rightful Policing," New Perspectives in Policing Bulletin (Washington, DC: National Institute of Justice, 2015), NCJ 248411, http://www.hks.harvard.edu/content/download/74084/1679313/ version/4/file/RightfulPolicing.pdf.

^{17.} Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Anthony Batts, commissioner, Baltimore Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{18.} Ibid.

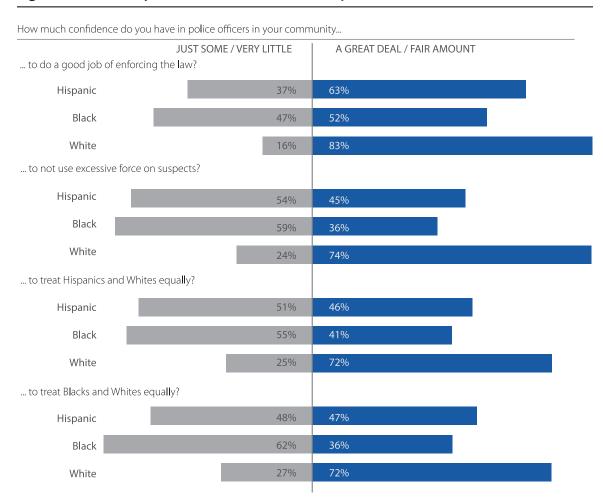
1.3.1 ACTION ITEM: To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department's website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 ACTION ITEM: When serious incidents occur, including those involving alleged police misconduct, agencies should communicate

with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

One way to promote neutrality is to ensure that agencies and their members do not release background information on involved parties. While a great deal of information is often publicly available, this information should not be proactively distributed by law enforcement.

Figure 2. Community members' confidence in their police officers



Note: Survey conducted August 20—24, 2014. Voluntary responses of "None" and "Don't know/Refused" not shown. Blacks and Whites include only non-Hispanics. Hispanics are of any race.

Source: Jens Manuel Krogstad, "Latino Confidence in Local Police Lower than among Whites," Pew Research Center, August 28, 2014, http://www.pewresearch.org/fact-tank/2014/08/28/latino-confidence-in-local-police-lower-than-among-whites/.

1.4 RECOMMENDATION: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.

Organizational culture created through employee interaction with management can be linked to officers' interaction with citizens. When an agency creates an environment that promotes internal procedural justice, it encourages its officers to demonstrate external procedural justice. And just as employees are more likely to take direction from management when they believe management's authority is legitimate, citizens are more likely to cooperate with the police when they believe the officers' authority is legitimate.

Internal procedural justice begins with the clear articulation of organizational core values and the transparent creation and fair application of an organization's policies, protocols, and decision-making processes. If the workforce is actively involved in policy development, workers are more likely to use these same principles of external procedural justice in their interactions with the community. Even though the approach to implementing procedural justice is "top down," the method should include all employees to best reach a shared vision and mission. Research shows that agencies should also use tools that encourage employee and supervisor collaboration and foster strong relationships between supervisors and employees. A more effective agency will result from a real partnership between the chief and the staff and a shared approach to public safety.¹⁹

1.4.1 ACTION ITEM: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.

For example, internal department surveys should ask officers what they think of policing strategies in terms of enhancing or hurting their ability to connect with the public. Sometimes the leadership is out of step with their rank and file, and a survey like this can be a diagnostic tool—a benchmark against which leadership can measure its effectiveness and ability to create a work environment where officers feel safe to discuss their feelings about certain aspects of the job.

1.4.2 ACTION ITEM: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

1.5 RECOMMENDATION: Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.

In communities that have high numbers of interactions with authorities for a variety of reasons, police should actively create opportunities for interactions that are positive and not related to investigation or enforcement action. Witness Laura Murphy, for example, pointed out that when law enforcement targets people of color for the isolated actions of a few, it tags an entire community as lawless when in actuality 95 percent are law abiding.²⁰ This becomes a self-reinforcing concept. Another witness, Carmen Perez, provided an example of police engaging with citizens in another way:

^{19.} Tim Richardson (senior legislative liaison, Fraternal Order of Police), in discussion with Ajima Olaghere (research assistant, COPS Office, Washington, DC), October 2014.

^{20.} Listening Session on Building Trust and Legitimacy (oral testimony of Laura Murphy to the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015).

In the community [where] I grew up in southern California, Oxnard, we had the Police Athletic League. A lot of officers in our communities would volunteer and coach at the police activities league. That became our alternative from violence, from gangs and things like that. That allows for police officers to really build and provide a space to build trusting relationships. No longer was that such and such over there but it was Coach Flores or Coach Brown.²¹

In recent years, agencies across the county have begun to institutionalize community trust building endeavors. They have done this through programs such as Coffee with a Cop (and Sweet Tea with the Chief), Cops and Clergy, Citizens on Patrol Mobile, Students Talking It Over with Police, and the West Side Story Project. Joint community and law dialogues and truth telling, as well as community and law enforcement training in procedural justice and bias, are also occurring nationally. Some agencies are even using training, dialogues, and workshops to take steps towards racial reconciliation.

Agencies engaging in these efforts to build relationships often experience beneficial results.²² Communities are often more willing to assist law enforcement when agencies need help during investigations. And when critical incidents occur, those agencies already have key allies who can help with information messaging and mitigating challenges.

1.5.1 ACTION ITEM: In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.

21. Listening Session on Building Trust and Legitimacy—Community

Force%20CSP%20Policy%20Brief%20FINAL%2002-27-15.pdf.

1.5.2 ACTION ITEM: Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.

Resident Officer Programs are arrangements where law enforcement officers are provided housing in public housing neighborhoods as long as they fulfill public safety duties within the neighborhood that have been agreed to between the housing authority and the law enforcement agency.

1.5.3 ACTION ITEM: Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.

For example, Michael Reynolds, a member of the Youth and Law Enforcement panel at the Listening Session on Community Policing and Crime Reduction, told the moving story of a police officer who saw him shivering on the street when he was six years old, took him to a store, and bought him a coat. Despite many negative encounters with police since then, the decency and kindness of that officer continue to favorably impact Mr. Reynolds' feelings towards the police.²³

1.5.4 ACTION ITEM: Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies

Representatives: Building Community Policing Organizations (oral testimony of Carmen Perez, executive director, The Gathering for Justice, for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015).

22. Constance Rice and Susan K. Lee, *Relationship–Based Policing: Achieving Safety in Watts* (Los Angeles: The Advancement Project, February 2015), http://67.20.108.158/sites/default/files/imce/President%27s%20Task%20

^{23.} Listening Session on Community Policing and Crime Reduction: Youth and Law Enforcement (oral testimony of Michael Reynolds, co-president, Youth Power Movement, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

should carefully consider and review their policies towards these populations and adopt policies if none are in place.

1.6 RECOMMENDATION: Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.

Crime reduction is not self-justifying. Overly aggressive law enforcement strategies can potentially harm communities and do lasting damage to public trust, as numerous witnesses over multiple listening sessions observed.

1.6.1 ACTION ITEM: Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

1.7 RECOMMENDATION: Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

Trust in institutions can only be achieved if the public can verify what they are being told about a product or service, who is responsible for the quality of the product or service, and what will be done to correct any problems. To operate effectively, law enforcement agencies must maintain public trust by having a transparent, credible system of accountability.

Agencies should partner with local universities to conduct surveys by ZIP code, for example, to measure the effectiveness of specific policing strategies, assess any negative impact they have on a community's view of police, and gain the community's input.

1.7.1 ACTION ITEM: The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.

A model such as the National Institute of Justice-funded National Police Research Platform could be developed and deployed to conduct such surveys. This platform seeks to advance the science and practice of policing in the United States by introducing a new system of measurement and feedback that captures organizational excellence both inside and outside the walls of the agency. The platform is managed by a team of leading police scholars from seven universities supported by the operational expertise of a respected national advisory board.

1.8 RECOMMENDATION: Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Many agencies have long appreciated the critical importance of hiring officers who reflect the communities they serve and also have a high level of procedural justice competency. Achieving diversity in entry level recruiting is important, but achieving systematic and comprehensive diversification throughout each segment of the



Task force members, along with Executive Director Ronald L. Davis, listen to testimony, Washington, D.C., February 23, 2015.

PHOTO: BRANDON TRAMEL

department is the ultimate goal. It is also important to recognize that diversity means not only race and gender but also the genuine diversity of identity, experience, and background that has been found to help improve the culture of police departments and build greater trust and legitimacy with all segments of the population.

A critical factor in managing bias is seeking candidates who are likely to police in an unbiased manner.²⁴ Since people are less likely to have biases against groups with which they have had positive experiences, police departments should seek candidates who have had positive interactions with people of various cultures and backgrounds.²⁵

1.8.1 ACTION ITEM: The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.

1.8.2 ACTION ITEM: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.

National and local affinity police organizations could be formally included in this effort. This program should also evaluate and assess diversity among law enforcement agencies around the country and issue public reports on national trends.

1.8.3 ACTION ITEM: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.

Law enforcement agencies must be continuously creative with recruitment efforts and employ the public, business, and civic communities to help.

1.8.4 ACTION ITEM: Discretionary federal funding for law enforcement programs could be influenced by that department's efforts to improve their diversity and cultural and linguistic responsiveness.

^{24.} Lorie Fridell, "Racially Biased Policing: The Law Enforcement Response to the Implicit Black-Crime Association," in *Racial Divide: Racial and Ethnic Bias in the Criminal Justice System*, eds. Michael J. Lynch, E. Britt Patterson, and Kristina K. Childs (Monsey, NY: Criminal Justice Press, 2008), 51.

^{25.} Ibid., 51-52.

1.8.5 ACTION ITEM: Law enforcement agencies should be encouraged to explore more flexible staffing models.

As is common in the nursing profession, offering flexible schedules can help officers achieve better work-life balance that attracts candidates and encourages retention, particularly for officers with sole responsibility for the care of family members.

1.9 RECOMMENDATION: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.

Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement.

1.9.1 ACTION ITEM: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.

The U.S. Department of Homeland Security should terminate the use of the state and local criminal justice system, including through detention, notification, and transfer requests, to enforce civil immigration laws against civil and nonserious criminal offenders.²⁶

In 2011, the Major Cities Chiefs Association recommended nine points to Congress and the President on this issue, noting that "immigration is a federal policy issue between the U.S. government and other countries, not local or state entities and other countries. Any immigration enforcement laws or practices should be nationally based, consistent, and federally funded."²⁷

1.9.2 ACTION ITEM: Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.²⁸

1.9.3 ACTION ITEM: The U.S. Department of Justice should not include civil immigration information in the FBI's National Crime Information Center database.²⁹

The National Crime Information Center (NCIC) database is an electronic clearinghouse that law enforcement officers can access in the field. It contains data submitted by agencies across the country aimed at helping officers identify people, property, and criminal histories. At one time, NCIC also included civil immigration detainers (nonmandatory temporary hold requests issued by a federal immigration officer), although the FBI has indicated that the practice of accepting this information was discontinued and that the information does not currently exist in the database. The U.S. Department of Justice should ensure that this remains the case.

^{26.} Listening Session on Building Trust and Legitimacy: Civil Rights/Civil Liberties (oral testimony of Maria Teresa Kumar, president and CEO, Voto Latino, for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015).

^{27. &}quot;Major Cities Chiefs Association Immigration Position October 2011," accessed February 26, 2015, http://majorcitieschiefs.com/pdf/news/immigration position112811.pdf.

^{28.} Listening Session on Building Trust and Legitimacy (written testimony of Nicholas Turner, president and director, Vera Institute of Justice, for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015).

^{29.} Listening Session on Community Policing and Crime Reduction (written testimony of Javier Valdes, executive director, Make the Road New York, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13—14, 2015).

PILLAR 2. POLICY & OVERSIGHT

Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate.

The issues addressed in the first pillar of this report, building trust and legitimacy between law enforcement agencies and the communities they serve, underlie all questions of law enforcement policy and community oversight. If police are to carry out their responsibilities according to established policies, these policies must be reflective of community values and not lead to practices that result in disparate impacts on various segments of the community. They also need to be clearly articulated to the community and implemented transparently so police will have credibility with residents and the people can have faith that their guardians are always acting in their best interests.

Paramount among the policies of law enforcement organizations are those controlling use of force. Not only should there be policies for deadly and nondeadly uses of force but a clearly stated "sanctity of life" philosophy must also be in the forefront of every officer's mind. This way of thinking should be accompanied by rigorous practical ongoing training in an atmosphere of nonjudgmental and safe sharing of views with fellow officers about how they behaved in use of force situations. At one listening session, Geoffrey Alpert described Officer-Created Jeopardy Training, in which officers who had been in situations where mistakes were made or force was used came to explain their decision making to other officers. Some explained what they did right and how potentially violent situations were resolved without violence. Other officers told what they did wrong, why they made

mistakes, what information was missing or misinterpreted, and how they could have improved their behavior and response to suspects.³⁰

Data collection, supervision, and accountability are also part of a comprehensive systemic approach to keeping everyone safe and protecting the rights of all involved during police encounters. Members of the Division of Policing of the American Society of Criminology recently wrote, "While the United States presently employs a broad array of social and economic indicators in order to gauge the overall 'health' of the nation, it has a much more limited set of indicators concerning the behavior of the police and the quality of law enforcement."³¹

That body noted that Section 210402 of the Violent Crime Control and Law Enforcement Act of 1994 requires the U.S. Attorney General to "acquire data about the use of excessive force by law enforcement officers" and to "publish an annual summary of the data acquired under this section."³² But the U.S. Department of Justice (DOJ) has never been allocated the funds necessary to undertake the serious and sustained program of research and development to fulfill this mandate. Expanded research and data collection are also necessary to knowing what works and what does not work, which policing practices are effective and which

^{30.} Listening Session on Policy and Oversight: Use of Force Research and Policies (oral testimony of Geoffrey Alpert, professor, University of South Carolina, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{31. &}quot;Recommendations to the President's Task Force on 21st Century Policing," Listening Session on Training and Education (written testimony of Anthony Braga et al., Ad Hoc Committee to the President's Task Force on 21st Century Policing, Division of Policing, American Society of Criminology, February 13—14, 2015).
32. Ibid.

ones have unintended consequences. Greater acceptance of the Federal Bureau of Investigation's (FBI) National Incident-Based Reporting System could also benefit policing practice and research endeavors.

Mass demonstrations, for example, are occasions where evidence-based practices successfully applied can make the difference between a peaceful demonstration and a riot. Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate. There are strong examples of proactive and positive communication and engagement strategies that can protect constitutional rights of demonstrators and the safety of citizens and the police.³³

2.1 RECOMMENDATION: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

The development of a service model process that focuses on the root causes of crime should include the community members themselves because what works in one neighborhood might not be equally successful in every other one. Larger departments could commit resources and personnel to areas of high poverty, limited services, and at-risk or vulnerable populations through creating priority units with specialized training and added status and pay. Chief Charlie Beck of the Los

Angeles Police Department (LAPD) described the LAPD's Community Safety Partnership, in which officers engage the community and build trust where it is needed most, in the public housing projects in Watts. The department has assigned 45 officers to serve for five years at three housing projects in Watts and at an additional housing project in East Los Angeles. Through a partnership with the Advancement Project and the Housing Authority of the City of Los Angeles, the program involves officers going into the housing developments with the intent not to make arrests but to create partnerships, create relationships, hear the community, and see what they need—and then work together to make those things happen.³⁴ The work in Watts has been documented in an Advancement Project report presented to the task force.³⁵

2.1.1 ACTION ITEM: The Federal

Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.

2.2 RECOMMENDATION: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

2.2.1 ACTION ITEM: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.

^{33.} Listening Session on Policy and Oversight: Mass Demonstrations (oral testimony of Garry McCarthy, chief of police, Chicago Police Department, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015); Listening Session on Policy and Oversight: Mass Demonstrations (oral testimony of Rodney Monroe, chief of police, Charlotte–Mecklenberg [NC] Police Department, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{34.} Listening Session on Policy and Oversight: Civilian Oversight (oral testimony of Charlie Beck, chief, Los Angeles Police Department, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{35.} Rice and Lee, Relationship-Based Policing (see note 22).

As Chuck Wexler noted in his testimony,

In traditional police culture, officers are taught never to back down from a confrontation, but instead to run *toward* the dangerous situation that everyone else is running away from. However, sometimes the best tactic for dealing with a minor confrontation is to step back, call for assistance, de-escalate, and perhaps plan a different enforcement action that can be taken more safely later.³⁶

Policies should also include, at a minimum, annual training that includes shoot/don't shoot scenarios and the use of less than lethal technologies.

2.2.2 ACTION ITEM: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

One way this can be accomplished is by the creation of multi-agency force investigation task forces comprising state and local investigators. Other ways to structure this investigative process include referring to neighboring jurisdictions or to the next higher levels of government (many smaller departments may already have state agencies handle investigations), but in order to restore and maintain trust, this independence is crucial.

In written testimony to the task force, James Palmer of the Wisconsin Professional Police Association offered an example in that state's statutes requiring that agency written policies "require an investigation that is conducted by at least two investigators . . . neither of whom is employed by

a law enforcement agency that employs a law enforcement officer involved in the officer-involved death."³⁷ Furthermore, in order to establish and maintain internal legitimacy and procedural justice, these investigations should be performed by law enforcement agencies with adequate training, knowledge, and experience investigating police use of force.

2.2.3 ACTION ITEM: The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

Strong systems and policies that encourage use of an independent prosecutor for reviewing police uses of force and for prosecution in cases of inappropriate deadly force and in-custody death will demonstrate the transparency to the public that can lead to mutual trust between community and law enforcement.

2.2.4 ACTION ITEM: Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.

In-custody deaths are not only deaths in a prison or jail but also deaths that occur in the process of an arrest. The Bureau of Justice Statistics (BJS) implemented the Arrest Related Deaths data collection in 2003 as part of requirements set forth in the Deaths in Custody Reporting Act of

^{36.} Listening Session on Policy and Oversight: Use of Force Investigations and Oversight (oral testimony of Chuck Wexler, executive director, Police Executive Research Forum, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{37.} Listening Session on Policy and Oversight (written testimony of James Palmer, executive director, Wisconsin Professional Police Association, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30–31, 2015).

2000 and reenacted in 2014. Although states receiving grants under the Edward Byrne Memorial Justice Assistance Grant Program are required to provide this data to BJS, the Arrest Related Deaths data collection is a voluntary reporting program for law enforcement agencies. Access to this data is important to gain a national picture of police use of force as well as to incentivize the systematic and transparent collection and analysis of use of force incident data at the local level. The agencyreported data should include information on the circumstances of the use of force, as well as the race, gender, and age of the decedents. Agency data should be reported to the U.S. Department of Justice through the FBI's Uniform Crime Reporting System or an expansion of collections managed by the BJS.

2.2.5 ACTION ITEM: Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.

This should also include procedures on the release of a summary statement regarding the circumstances of the incident by the department as soon as possible and within 24 hours. The intent of this directive should be to share as much information as possible without compromising the integrity of the investigation or anyone's rights.

2.2.6 ACTION ITEM: Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.

2.3 RECOMMENDATION: Law enforcement agencies are encouraged

enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.

These reviews, sometimes known as "near miss" or "sentinel event" reviews, focus on the improvement of practices and policy. Such reviews already exist in medicine, aviation, and other industries.

According to the National Institute of Justice (NIJ), a sentinel event in criminal justice would include wrongful convictions but also "near miss" acquittals and dismissals of cases that at earlier points seemed solid; cold cases that stayed cold too long; wrongful releases of dangerous or factually guilty criminals or of vulnerable arrestees with mental disabilities; and failures to prevent domestic violence within at-risk families.

Sentinel events can include episodes that are within policy but disastrous in terms of community relations, whether or not everyone agrees that the event should be classified as an error. In fact, anything that stakeholders agree can cause widespread or viral attention could be considered a sentinel event.³⁸

What distinguishes sentinel event reviews from other kinds of internal investigations of apparent errors is that they are nonadversarial. As task force member Sean Smoot has written,

For sentinel event reviews to be effective and practical, they must be cooperative efforts that afford the types of protections provided in the medical context, where state and federal laws protect the privacy of participants and prevent the disclosure of information to anyone outside of the sentinel event review Unless the sentinel event

^{38.} James M. Doyle, "Learning from Error in the Criminal Justice System: Sentinel Event Reviews," *Mending Justice: Sentinel Event Reviews* (Special Report from the National Institute of Justice, September 2014): 3—20.



Barbara O'Connor, President of the National Association of Women Law Enforcement Executives, speaks during a panel on diversity in law enforcement, Cincinnati, January 30, 2015.

PHOTO: DEBORAH SPENCE

process is honest and trustworthy, with adequate legal protections—including use immunity, privacy, confidentiality, and nondisclosure, for example—police officers, who have the very best information about how things really work and what really happened, will not be motivated to fully participate. The sentinel event review approach will have a better chance of success if departments can abandon the process of adversarial/punitive-based discipline, adopting instead "education-based" disciplinary procedures and policies.³⁹

2.4 RECOMMENDATION: Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.

A recent study by the National Academy of Sciences, Identifying the Culprit: Assessing Eyewitness Identification, studied the important role played by eyewitnesses in criminal cases, noting that research on factors affecting the accuracy of eyewitness identification procedures has given an increasingly clear picture of how identifications are made and, more important, an improved understanding of the limits on vision and memory that can lead to failure of identification.⁴⁰ Many factors, including external conditions and the witness's emotional state and biases, influence what a witness sees or thinks she sees. Memories can be forgotten, reconstructed, updated, and distorted. Meanwhile, policies governing law enforcement procedures for conducting and recording identifications are not standard, and policies and practices to address the issue of misidentification vary widely.

^{39.} Sean Smoot "Punishment-Based vs. Education-Based Discipline: A Surmountable Challenge?" in *Mending Justice: Sentinel Event Reviews* (Special Report from the National Institute of Justice, September 2014): 48–50.

^{40.} Samuel R. Gross et al., "Rate of False Conviction of Criminal Defendants who are Sentenced to Death," Proceedings of the National Academy of Sciences of the United States of America 111, no. 20 (2014): 7230–7235. http://www.pnas.org/content/111/20/7230.full.pdf+html.

2.5 RECOMMENDATION: All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.

While the BJS collects information on many aspects of police activities, there is no single data collection instrument that yields the information requested in this recommendation. Demographic data should be collected and made available to the public so communities can assess the diversity of their departments and do so in a national context. This data will also be important to better understand the impact of diversity on the functioning of departments. Malik Aziz, National Chair of the National Black Police Association (NBPA), reminded the task force that the NBPA not only urges all departments to meet the demographics of the community in which they serve by maintaining a plan of action to recruit and retain police officers of color but also has called for the DOJ to collect the annual demographic statistics from the 18,000 police agencies across the nation. "It is not enough to mandate diversity," he stated, "but it becomes necessary to diversify command ranks in departments that have historically failed to develop and/or promote qualified and credentialed officers to executive and command ranks."41

2.5.1 ACTION ITEM: The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.

2.6 RECOMMENDATION: Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.

The BJS periodically conducts the Police-Public Contact Survey, a supplement to the National Crime Victimization Survey. The most recent survey, released in 2013, asked a nationally representative sample of U.S. residents age 16 or older about experiences with police during the prior 12 months. 42 But these surveys do not reflect what is happening every day at the local level when police interact with members of the communities they serve. More research and tools along the lines of Lorie Fridell's 2004 publication, By the Numbers: A Guide for Analyzing Race Data From Vehicle Stops—to help local agencies collect and analyze their data, understand the importance of context to the analysis and reporting process, and establish benchmarks resulting from their findings—would improve understanding and lead to evidence-based policies.

^{41.} Listening Session on Policy and Oversight: Law Enforcement Culture and Diversity (oral testimony of Malik Aziz, chairman, National Black Police Association, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{42.} Lynn Langton and Matthew Durose, *Police Behavior during Traffic and Street Stops, 2011*, Special Report (Washington, DC: Office of Justice Programs Bureau of Justice Statistics, 2013), NCJ 242937; Matthew Durose and Lynn Langton, *Requests for Police Assistance, 2011*, Special Report (Washington, DC: Office of Justice Programs Bureau of Justice Statistics, 2013), NCJ 242938.

2.6.1 ACTION ITEM: The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.

2.7 RECOMMENDATION: Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.

Policies should emphasize protection of the First Amendment rights of demonstrators and effective ways of communicating with them. Superintendent Garry McCarthy of the Chicago Police Department detailed his police force training and operations in advance of the 2012 NATO Summit at the height of the "Occupy" movement. The department was determined not to turn what it knew would be a mass demonstration into a riot. Police officers refreshed "perishable" skills, such as engaging in respectful conversations with demonstrators, avoiding confrontation, and using "extraction techniques" not only on the minority of demonstrators who were behaving unlawfully (throwing rocks, etc.) but also on officers who were becoming visibly upset and at risk of losing their composure and professional demeanor.⁴³

These policies could include plans to minimize confrontation by using "soft look" uniforms, having officers remove riot gear as soon as practical, and maintaining open postures. "When officers line up in a military formation while wearing full protective gear, their visual appearance may have a dramatic influence on how the crowd perceives them and how the event ends."

2.7.2 ACTION ITEM: The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

There has been substantial media attention in recent months surrounding the police use of military equipment at events where members of the public are exercising their First Amendment rights. This has led to the creation of the President's Interagency Law Enforcement Equipment Working Group.

That group has been tasked by the Executive Order 13688 of January 16, 2015 with a number of issues, including ensuring that law enforcement agencies adopt organizational and operational practices and standards that prevent the misuse or abuse of controlled equipment and ensuring compliance with civil rights requirements resulting from receipt of federal financial assistance.

^{2.7.1} ACTION ITEM: Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

^{43.} Listening Session on Policy and Oversight (oral testimony of Garry McCarthy, Chicago Police Department, to the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{44.} Listening Session on Policy and Oversight (written testimony of Edward Maguire, American University, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

2.8 RECOMMENDATION: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

Many, but not all, state and local agencies operate with the oversight or input of civilian police boards or commissions. Part of the process of assessing the need and desire for new or additional civilian oversight should include input from and collaboration with police employees because the people to be overseen should be part of the process that will oversee them. This guarantees that the principles of internal procedural justice are in place to benefit both the police and the community they serve.

We must examine civilian oversight in the communities where it operates and determine which models are successful in promoting police and community understanding. There are important arguments for having civilian oversight even though we lack strong research evidence that it works. Therefore we urge action on further research, based on the guiding principle of procedural justice, to find evidence-based practices to implement successful civilian oversight mechanisms.

As noted by witness Brian Buchner at the Policy and Oversight Listening Session on January 30,

Citizen review is not an advocate for the community or for the police. This impartiality allows oversight to bring stakeholders together to work collaboratively and proactively to help make policing more effective and responsive to the community. Civilian oversight alone is not sufficient to gain legitimacy; without it, however, it is difficult, if not impossible, for the police to maintain the public's trust.⁴⁵

2.8.1 ACTION ITEM: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

NIJ recently announced its research priorities in policing for FY 2015, which include such topics as police use of force, body-worn cameras, and procedural justice. While proposals related to research on police oversight might fit into several of these topical areas, police oversight is not highlighted by NIJ in any of them. NIJ should specifically invite research into civilian oversight and its impact on and relationship to policing in one or more of these areas.

2.8.2 ACTION ITEM: The U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

2.9 RECOMMENDATION: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

Productivity expectations can be effective performance management tools. But testimony from Laura Murphy, Director of the Washington Legislative Office of the American Civil Liberties Union, identifies some of the negative effects of these practices:

One only needs to paint a quick picture of the state of policing to understand the dire need for reform. First, there are local and federal incentives that

^{45.} Listening Session on Policy and Oversight (oral testimony of Brian Buchner, president, National Association for Civilian Oversight of Law Enforcement, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).



Co-chair Laurie Robinson asks a panelist a question, Phoenix, February 13, 2015.

instigate arrests. At the local level, cities across the country generate much of their revenue through court fines and fees, with those who can't pay subject to arrest and jail time. These debtors' prisons are found in cities like Ferguson, where the number of arrest warrants in 2013—33,000—exceeded its population of 21,000. Most of the warrants were for driving violations.⁴⁶

2.10 RECOMMENDATION: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.

2.11 RECOMMENDATION: Law

enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 ACTION ITEM: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 RECOMMENDATION: Law

enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President's

^{46.} Listening Session on Trust and Legitimacy (oral testimony of Laura Murphy, director of the Washington Legislative Office, American Civil Liberties Union, for the President's Task Force on 21st Century Policing, Washington, DC, January 13, 2015); Joseph Shapiro, "In Ferguson, Court Fines and Fees Fuel Anger," NPR.com, last updated August 25, 2014, http://www.aclu.org/files/assets/InForAPenny web.pdf.

Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.

2.13 RECOMMENDATION: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

The task force heard from a number of witnesses about the importance of protecting the safety and dignity of all people. Andrea Ritchie noted that

gender and sexuality-specific forms of racial profiling and discriminatory policing [include] Failure to respect individuals' gender identity and expression when addressing members of the public and during arrest processing, searches, and placement in police custody.⁴⁷

Invasive searches should never be used for the sole purpose of determining gender identity, and an individual's gender identity should be respected in lock-ups and holding cells to the extent that the facility allows for gender segregation. And witness Linda Sarsour spoke to how

an issue plaguing and deeply impacting Arab-American and American Muslim communities across the country is racial and religious profiling by local, state, and federal law enforcement. We have learned through investigative reports, Freedom of Information Act (FOIA) requests, and lawsuits that agencies target communities by religion and national origin.⁴⁸

2.13.1 ACTION ITEM: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 ACTION ITEM: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 ACTION ITEM: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.⁴⁹

2.14 RECOMMENDATION: The U.S.

Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

^{47.} Listening Session on Training and Education (oral testimony of Andrea Ritchie, founder of Streetwise and Safe, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

^{48.} Listening Session on Training and Education (oral testimony of Linda Sarsour, Advocacy And Civic Engagement coordinator for the National Network for Arab American Communities, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

^{49.} IACP, Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide (Alexandria, VA: International Association of Chiefs of Police, 2011).

Half of all law enforcement agencies in the United States have fewer than ten officers, and nearly three-quarters have fewer than 25 officers.⁵⁰ Lawrence Sherman noted in his testimony that "so many problems of organizational quality control are made worse by the tiny size of most local police agencies ...less than 1 percent of 17,985 U.S. police agencies meet the English minimum of 1,000 employees or more."51 These small forces often lack the resources for training and equipment accessible to larger departments and often are prevented by municipal boundaries and local custom from combining forces with neighboring agencies. Funding and technical assistance can give smaller agencies the incentive to share policies and practices and give them access to a wider variety of training, equipment, and communications technology than they could acquire on their own.

2.15 RECOMMENDATION: The U.S.

Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

The National Decertification Index is an aggregation of information that allows hiring agencies to identify officers who have had their license or certification revoked for misconduct. It was designed as an answer to the problem "wherein a police officer is discharged for improper conduct and loses his/her certification in that state ... [only to relocate] to another state and hire on with another police department."52 Peace Officer Standards and

Table 1. Full-time state and local law enforcement employees, by size of agency, 2008

Size of agency	Number of agencies	Total number of full-time employees
All agencies	17,985	1,133,915
1,000 or more officers	83	326,197
500-999	89	94,168
250-499	237	133,024
100-249	778	174,505
500-99	1,300	136,390
25–49	2,402	124,492
10-24	4,300	98,563
5–9	3,446	32,493
2–4	3,225	11,498
0-1	2,125	2,585

Source: Brian A. Reaves, "State and Local Law Enforcement Agencies" (see note 50).

^{50.} Brian A. Reaves, *Census of State and Local Law Enforcement Agencies*, 2008, Bulletin (Washington, DC: Office of Justice Programs Bureau of Justice Statistics, 2011), NCJ 233982.

^{51.} Listening Session on the Future of Community Policing (oral testimony of Lawrence Sherman, Cambridge University, for the President's Task Force on 21st Century Policing, Washington, DC, February 24, 2015).

^{52. &}quot;National Decertification Index—FAQs," accessed February 27, 2015, https://www.iadlest.org/Portals/0/Files/NDI/FAQ/ndi faq.html.



Bill Schrier of the Office of the Chief Information Officer for the state of Washington used PowerPoint to demonstrate how agencies can use Twitter for engagement, Cincinnati, January 31, 2015.

Training (POST) boards can record administrative actions taken against certified police and correctional officers. Currently the criteria for reporting an action on an officer is determined by each POST independently, as is the granting of readonly access to hiring departments to use as part of their pre-hire screening process. Expanding this system to ensure national and standardized reporting would assist in ensuring that officers who

have lost their certification for misconduct are not easily hired in other jurisdictions. A national register would effectively treat "police professionals the way states' licensing laws treat other professionals. If anything, the need for such a system is even more important for law enforcement, as officers have the power to make arrests, perform searches, and use deadly force."53

^{53.} Roger L. Goldman, "Police Officer Decertification: Promoting Police Professionalism through State Licensing and the National Decertification Index," *Police Chief* 81 (November 2014): 40–42, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3538&issue_id=112014.

PILLAR 3. TECHNOLOGY & SOCIAL MEDIA

Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy.

We live in a time when technology and its many uses are advancing far more quickly than are policies and laws. "Technology" available to law enforcement today includes everything from body-worn cameras (BWC) to unmanned aircraft to social media and a myriad of products in between.

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Thus, despite (and because of) the centrality of technology in policing, law enforcement agencies face major challenges including determining the effects of implementing various technologies; identifying costs and benefits; examining unintended consequences; and exploring the best practices by which technology can be evaluated, acquired, maintained, and managed. Addressing these technology challenges by using research, accumulated

knowledge, and practical experiences can help agencies reach their goals,⁵⁴ but law enforcement agencies and personnel also need to recognize that technology is only a tool for doing their jobs: just because you have access to technology does not necessarily mean you should always use it.⁵⁵

BWCs are a case in point. An increasing number of law enforcement agencies are adopting BWC programs as a means to improve evidence collection, to strengthen officer performance and accountability, and to enhance agency transparency. By documenting encounters between police and the public, BWCs can also be used to investigate and resolve complaints about officer-involved incidents.

Jim Bueermann, retired chief of the Redlands (California) Police Department and President of the Police Foundation, told the task force about a seminal piece of research that demonstrated a positive impact of BWCs in policing. The researchers used the gold standard of research models, a randomized control trial, in which the people

^{54.} Elizabeth Groff and Tom McEwen, *Identifying and Measuring the Effects of Information Technologies on Law Enforcement Agencies: The Making Officer Redeployment Effective Program* (Washington, DC: Office of Community Oriented Policing Services, 2008), http://www.cops.usdoj.gov/Publications/e08084156-IT.pdf; Christopher S. Koper, Cynthia Lum, James J. Willis, Daniel J. Woods, and Julie Hibdon, *Realizing the Potential of Technology in Policing: A Multi-Site Study of the Social, Organizational, and Behavioral Aspects of Imperenting Police Technologies* (Washington, DC: National Institute of Justice, 2015), http://cebcp.org/wp-content/evidence-based-policing/ImpactTechnologyFinalBeport.

^{55.} IACP Technology Policy Framework (Alexandria, VA: International Association of Chiefs of Police, 2014), http://www.theiacp.org/Portals/0/documents/pdfs/ IACP%20Technology%20Policy%20Framework%20January%202014%20Final.pdf.

being studied are randomly assigned either to a control group that does not receive the treatment being studied or to a treatment group that does. The results of this 12-month study strongly suggest that the use of BWCs by the police can significantly reduce both officer use of force and complaints against officers. The study found that the officers wearing the cameras had 87.5 percent fewer incidents of use of force and 59 percent fewer complaints than the officers not wearing the cameras. One of the important findings of the study was the impact BWCs might have on the self-awareness of officers and citizens alike. When police officers are acutely aware that their behavior is being monitored (because they turn on the cameras) and when officers tell citizens that the cameras are recording their behavior, everyone behaves better. The results of this study strongly suggest that this increase in selfawareness contributes to more positive outcomes in police-citizen interaction.56

But other considerations make the issue of BWCs more complex. A 2014 Police Executive Research Forum (PERF) publication, funded by the Office of Community Oriented Policing Services (COPS Office), reporting on extensive research exploring the policy and implementation questions surrounding BWCs noted:

Although body-worn cameras can offer many benefits, they also raise serious questions about how technology is changing the relationship between police and the community. Body-worn cameras not only create concerns about the public's privacy rights but also can affect how officers relate to people in the community, the community's

perception of the police, and expectations about how police agencies should share information with the public.⁵⁷

Now that agencies operate in a world in which anyone with a cell phone camera can record video footage of a police encounter, BWCs help police departments ensure that events are also captured from an officer's perspective. ⁵⁸ But when the public does not believe its privacy is being protected by law enforcement, a breakdown in community trust can occur. Agencies need to consider ways to involve the public in discussions related to the protection of their privacy and civil liberties prior to implementing new technology, as well work with the public and other partners in the justice system to develop appropriate policies and procedures for use.

Another technology relatively new to law enforcement is social media. Social media is a communication tool the police can use to engage the community on issues of importance to both and to gauge community sentiment regarding agency policies and practices. Social media can also help police identify the potential nature and location of gang and other criminal or disorderly activity such as spontaneous crowd gatherings.⁵⁹

The Boston Police Department (BPD), for example, has long embraced both community policing and the use of social media. The department put its experience to good and highly visible use in April 2013 during the rapidly developing investigation that followed the deadly explosion of two bombs at the finish line of the Boston Marathon. The

^{56.} Listening Session on Technology and Social Media: Body Cameras-Research and Legal Considerations (oral testimony of Jim Bueermann, president, Police Foundation, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015); Ariel Barak, William A. Farrar, and Alex Sutherland, "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial," *Journal of Quantitative Criminology* 2014.

^{57.} Lindsay Miller and Jessica Toliver, *Implementing a Body-Wom Camera Program: Recommendations and Lessons Learned* (Washington, DC: Office of Community Oriented Policing Services, 2014), vii, http://ric-zai-inc.com/Publications/cops-p296-pub.pdf.

^{58.} Ibid., 1.

^{59.} Police Executive Research Forum, *Social Media and Tactical Considerations for Law Enforcement* (Washington, DC: Office of Community Oriented Policing Services, 2013), http://ric-zai-inc.com/Publications/cops-p261-pub.pdf.

BPD successfully used Twitter to keep the public informed about the status of the investigation, to calm nerves and request assistance, to correct mistaken information reported by the press, and to ask for public restraint in the tweeting of information from police scanners. This demonstrated the level of trust and interaction that a department and a community can attain online.⁶⁰

While technology is crucial to law enforcement, it is never a panacea. Its acquisition and use can have unintended consequences for both the organization and the community it serves, which may limit its potential. Thus, agencies need clearly defined policies related to implementation of technology, and must pay close attention to community concerns about its use.

3.1 RECOMMENDATION: The U.S.

Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

The lack of consistent standards leads to a constantly spiraling increase in technology costs. Law enforcement often has to invest in new layers of

technology to enable their systems to operate with different systems and sometimes must also make expensive modifications or additions to legacy systems to support interoperability with newer technology. And these costs do not include the additional funds needed for training. Agencies are often unprepared for the unintended consequences that may accompany the acquisition of new technologies. Implementation of new technologies can cause disruptions to daily routines, lack of buy-in, and lack of understanding of the purpose and appropriate uses of the technologies. It also often raises questions regarding how the new technologies will impact the officer's expectations, discretion, decision making, and accountability.⁶¹

Inconsistent or nonexistent standards also lead to isolated and fractured information systems that cannot effectively manage, store, analyze, or share their data with other systems. As a result, much information is lost or unavailable—which allows vital information to go unused and have no impact on crime reduction efforts. As one witness noted, the development of mature crime analysis and CompStat processes allows law enforcement to effectively develop policy and deploy resources for crime prevention, but there is a lack of uniformity in data collection throughout law enforcement, and only patchwork methods of near real-time information sharing exist.⁶² These problems are especially critical in light of the threats from terrorism and cybercrime.

^{60.} Edward F. Davis III, Alejandro A. Alves, and David Alan Sklansky, "Social Media and Police Leadership: Lessons from Boston," New Perspectives in Policing (Washington, DC: National Institute of Justice, March 2014), http://www.hks.harvard.edu/content/download/67536/1242954/version/1/file/SocialMediaandPoliceLeadership-03-14.pdf.

^{61.} Koper et al., Potential of Technology in Policing (see note 54).

^{62.} Listening Session on Technology and Social Media (oral testimony of Elliot Cohen, Maryland State Police, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).



All of the task force listening sessions were streamed live and can still be viewed at the task force website.

3.1.1 ACTION ITEM: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 ACTION ITEM: As part of national standards, the issue of technology's impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

Though all constitutional guidelines must be maintained in the performance of law enforcement duties, the legal framework (warrants, etc.) should continue to protect law enforcement

access to data obtained from cell phones, social media, GPS, and other sources, allowing officers to detect, prevent, or respond to crime.

3.1.3 ACTION ITEM: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.

3.2 RECOMMENDATION: The

implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards. While standards should be created for development and research of technology at the national level, implementation of developed technologies should remain a local decision to address the needs and resources of the community.

In addition to the expense of acquiring technology, implementation and training also requires funds, as well as time, personnel, and physical capacity. A case in point is the Phoenix Police Department's adoption of BWCs mentioned by witness Michael White, who said that the real costs came on the back end for managing the vast amount of data generated by the cameras. He quoted the Chief of the Phoenix Police Department as saying that it would cost their department \$3.5 million to not only outfit all of their officers with the cameras but also successfully manage the program.

3.2.1 ACTION ITEM: Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.

Local residents will be more accepting of and respond more positively to technology when they have been informed of new developments and their input has been encouraged. How police use technology and how they share that information with the public is critical. Task force witness Jim Bueermann, president of the Police Foundation, addressed this issue, noting that concerns about BWCs include potential compromises to the privacy of both officers and citizens, who are reluctant to speak to police if they think they are being recorded. And as the task force co-chair, Charles Ramsey, noted, "Just having the conversation can increase trust and legitimacy and help departments make better decisions."

3.2.2 ACTION ITEM: Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.⁶³

Witnesses suggested that law enforcement agencies create an advisory group when adopting a new technology.⁶⁴ Ideally, it would include line officers, union representatives, and members from other departmental units, such as research and planning, technology, and internal affairs. External stakeholders, such as representatives from the prosecutor's office, the defense bar, advocacy groups, and citizens should also be included, giving each group the opportunity to ask questions, express their concerns, and offer suggestions on policy and training.

3.2.3 ACTION ITEM: Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.

3.3 RECOMMENDATION: The U.S.

Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.

^{63.} Sharon Stolting, Shawn Barrett, and David Kurz, Best Practices Guide for Acquisition of New Technology (Alexandria, VA: International Association of Chiefs of Police, n.d.), http://www.theiacp.org/portals/0/pdfs/BP-NewTechnology.pdf.
64. Listening Session on Technology and Social Media: Body Cameras—Research and Legal Considerations (oral testimony of Michael White, professor, Arizona State University, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).

These model policies and practices should at minimum address technology usage and data and evidence acquisition and retention, as well as privacy issues, accountability and discipline. They must also consider the impact of data collection and use on public trust and police legitimacy.

3.3.1 ACTION ITEM: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

3.3.2 ACTION ITEM: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.

3.3.3 ACTION ITEM: Law enforcement agencies should review and consider the Bureau of Justice Assistance's (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.

A Body-Worn Camera Expert Panel of law enforcement leaders, recognized practitioners, national policy leaders, and community advocates convened a two-day workshop in February, 2015 to develop a toolkit and provide guidance and model policy for law enforcement agencies implementing BWC programs. Subject matter experts contributed ideas and content for the proposed toolkit while a panel composed of privacy and victim advocates contributed ideas and content for the toolkit to broaden input and ensure transparency.

3.4 RECOMMENDATION: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.

The quickly evolving nature of new technologies that collect video, audio, information, and biometric data on members of the community can cause unforeseen consequences. Public record laws, which allow public access to information held by government agencies, including law enforcement, should be modified to protect the privacy of the individuals whose records they hold and to maintain the trust of the community.

Issues such as the accessibility of video captured through dashboard or body-worn cameras are especially complex. So too are the officer use of force events that will be captured by video camera systems and then broadcast by local media outlets. Use of force, even when lawful and appropriate, can negatively influence public perception and trust of police. Sean Smoot, task force member, addressed this by recalling the shooting of a Flagstaff, Arizona, police officer whose death was recorded by his BWC. Responding to public record requests by local media, the police department released the graphic footage, which was then shown on local TV and also on YouTube. 65 This illustration also raises questions concerning the recording of police interactions with minors and the appropriateness of releasing those videos for public view given their inability to give informed consent for distribution.

3.5 RECOMMENDATION: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

^{65.} Listening Session on Technology and Social Media (Sean Smoot, task force member, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).

Table 2. What types of social media does your agency currently use, and what types of social media do you plan to begin using within the next 2 to 5 years?

Social media type	Percent of responding agencies currently using	Percent of responding agencies plan- ning to begin using in 2 to 5 years
Agency website	100	_
Facebook	82	14
Twitter	69	18
YouTube	48	20
LinkedIn	34	20

Note: PERF, with the support of the COPS Office and Target Corporation, disseminated a "Future of Policing" survey in 2012 to more than 500 police agencies; nearly 200 responded.

Source: Police Executive Research Forum, Future Trends in Policing (Washington, DC: Office of Community Oriented Policing Services, 2014), http://ric-zai-inc.com/Publications/cops-p282-pub.pdf.

These policies and practices should at a minimum increase transparency and accessibility, provide access to information (crime statistics, current calls for service), allow for public posting of policy and procedures, and enable access and usage for persons with disabilities. They should also address issues surrounding the use of new and social media, encouraging the use of social media as a means of community interaction and relationship building, which can result in stronger law enforcement. As witness Elliot Cohen noted,

We have seen social media support policing efforts in gathering intelligence during active assailant incidents: the Columbia Mall shooting and the Boston Marathon bombing. Social media allowed for a greater volume of information to be collected in an electronic format, both audibly and visually.⁶⁶

But to engage the community, social media must be responsive and current. Said Bill Schrier, "Regularly refresh the content to maintain and engage the audience, post content rapidly during incidents to dispel rumors, and use it for engagement, not just public information."⁶⁷ False or incorrect

Agencies should also develop policies and practices on social media use that consider individual officer expression, professional representation, truthful communication, and other concerns that can impact trust and legitimacy.

3.6 RECOMMENDATION: The Federal Government should support the development of new "less than lethal" technology to help control combative suspects.

The fatal shootings in Ferguson, Cleveland, and elsewhere have put the consequences of use of force front and center in the national news.

statements made via social media, mainstream media, and other means of technology deeply harm trust and legitimacy and can only be overcome with targeted and continuing community engagement and repeated positive interaction. Agencies need to unequivocally discourage falsities by underlining how harmful they are and how difficult they are to overcome.

^{66.} Listening Session on Technology and Social Media: Technology Policy (oral testimony of Elliot Cohen, lieutenant, Maryland State Police, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).

^{67.} Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).



Rev. Jeff Brown speaks on restoring trust between police and communities, Phoenix, February 13, 2015.

Policies and procedures must change, but so should the weaponry. New technologies such as conductive energy devices (CED) have been developed and may be used and evaluated to decrease the number of fatal police interventions. Studies of CEDs have shown them to be effective at reducing both officer and civilian injuries. For example, in one study that compared seven law enforcement agencies that use CEDs with six agencies that do not, researchers found a 70 percent decrease in officer injuries and a 40 percent decrease in suspect injures.⁶⁸ But new technologies should still be

68. Bruce Taylor et al., Comparing Safety Outcomes in Police Use-Of-Force Cases for Law Enforcement Agencies That Have Deployed Conducted Energy Devices and A Matched Comparison Group That Have Not: A Quasi-Experimental Evaluation (Washington, DC: Police Executive Research Forum, 2009), https://www.ncjrs.gov/pdffiles1/nij/grants/237965.pdf; John M. MacDonald, Robert J. Kaminski, and Michael R. Smith, "The Effect of Less-Lethal Weapons on Injuries in Police Use-of-Force Events," American Journal of Public Health 99, no. 12 (2009) 2268—2274, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2775771/pdf/2268.pdf; Bruce G.

subject to the appropriate use of force continuum restrictions. And Vincent Talucci made the point in his testimony that over-reliance on technological weapons can also be dangerous.⁶⁹

3.6.1 ACTION ITEM: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.

Taylor and Daniel J. Woods, "Injuries to Officers and Suspects in Police Use-of-Force Cases: A Quasi-Experimental Evaluation," *Police Quarterly* 13, no. 3 (2010): 260–289, http://pgx.sagepub.com/content/13/3/260.full.pdf.

^{69.} Listening Session on Technology and Social Media (oral testimony of Vincent Talucci, International Association of Chiefs of Police, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).

3.7 RECOMMENDATION: The Federal Government should make the development and building of segregated radio spectrum and increased bandwidth by FirstNet for exclusive use by local, state, tribal, and federal public safety agencies a top priority.⁷⁰

A national public safety broadband network which creates bandwidth for the exclusive use of law enforcement, the First Responder Network (FirstNet) is considered a game-changing public safety project, which would allow instantaneous communication in even the most remote areas whenever a disaster or incident occurs. It can also support many other technologies, including video transmission from BWCs.

^{70.} Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).



President Barack Obama delivers remarks to the press following a meeting with members of the President's Task Force on 21st Century Policing in the Roosevelt Room of the White House, March 2, 2015.

OFFICIAL WHITE HOUSE PHOTO BY CHUCK KENNEDY

PILLAR 4. COMMUNITY POLICING & CRIME REDUCTION

Community policing requires the active building of positive relationships with members of the community.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.⁷¹

Over the past few decades, rates of both violent and property crime have dropped dramatically across the United States.⁷² However, some communities and segments of the population have not benefited from the decrease as much as others, and some not at all.⁷³ Though law enforcement must concentrate their efforts in these neighborhoods to maintain public safety, sometimes those specific efforts arouse resentment in the neighborhoods the police are striving to protect.

Police interventions must be implemented with strong policies and training in place, rooted in an understanding of procedural justice. Indeed, without that, police interventions can easily devolve into racial profiling, excessive use of force, and other practices that disregard civil rights, causing negative reactions from people living in already challenged communities.

Yet mutual trust and cooperation, two key elements of community policing, are vital to protecting residents of these communities from the crime that plagues them. Community policing combines a focus on intervention and prevention through problem solving with building collaborative partnerships between law enforcement agencies and schools, social services, and other stakeholders. In this way, community policing not only improves public safety but also enhances social connectivity and economic strength, which increases community resilience to crime. And, as noted by one speaker, it improves job satisfaction for line officers, too.

In his testimony to the task force, Camden County, New Jersey, Police Chief J. Scott Thomson noted that community policing starts on the street corner, with respectful interaction between a police officer and a local resident, a discussion that need not be related to a criminal matter.⁷⁴ In fact, it is important that not all interactions be based on emergency calls or crime investigations.

Another aspect of community policing that was discussed in the listening session on this topic is the premise that officers enforce the law *with* the people not just *on* the people. In reflecting this belief, some commented on the negative

^{71.} *Community Policing Defined* (Washington, DC: Office of Community Oriented Policing Services, 2014), http://ric-zai-inc.com/Publications/cops-p157-pub.pdf.

72. "Crime Statistics for 2013 Released: Decrease in Violent Crimes and Property Crimes," Federal Bureau of Investigation, last modified November 10, 2014, <a href="http://www.fbi.gov/news/stories/2014/november/crime-statistics-for-2013-released/crime-statistics-for-2013-released/crime-statistics-for-2013-released/crime-statistics-for-2013-released/crime-statistics-for-2013-released.

^{73.} Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond [CA] Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{74.} Listening Session on Community Policing and Crime Reduction: Using Community Policing to Reduce Crime (oral testimony of J. Scott Thomson, chief, Camden County [NJ] Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

results of zero tolerance policies, which mete out automatic and predetermined actions by officers regardless of extenuating circumstances.

Community policing requires the active building of positive relationships with members of the community—on an agency as well as on a personal basis. This can be done through assigning officers to geographic areas on a consistent basis, so that through the continuity of assignment they have the opportunity to know the members of the community. It can also be aided by the use of programs such as Eagle County, Colorado's Law Enforcement Immigrant Advisory Committee, which the police department formed with Catholic Charities to help the local immigrant community. This type of policing also requires participation in community organizations, local meetings and public service activities.

To be most effective, community policing also requires collaborative partnerships with agencies beyond law enforcement, such as Philadelphia's successful Police Diversion Program described by Kevin Bethel, Deputy Commissioner of Patrol Operations in the Philadelphia Police Department in his testimony to the task force. ⁷⁶ This partnership with the Philadelphia Department of Human Services, the school district, the District Attorney's office, Family Court, and other stakeholders significantly reduced the number of arrests of minority youths for minor offenses.

Problem solving, another key element of community policing, is critical to prevention. And problems must be solved in partnership with the community in order to effectively address chronic crime and disorder problems. As Office of Community Oriented Policing Services Director Ronald L. Davis has said, "We need to teach new recruits that law enforcement is more than just cuffing 'perps'—it's understanding why people do what they do."⁷⁷

In summary, law enforcement's obligation is not only to reduce crime but also to do so fairly while protecting the rights of citizens. Any prevention strategy that unintentionally violates civil rights, compromises police legitimacy, or undermines trust is counterproductive from both ethical and cost-benefit perspectives. Ignoring these considerations can have both financial costs (e.g., lawsuits) and social costs (e.g., loss of public support).

It must also be stressed that the absence of crime is not the final goal of law enforcement. Rather, it is the promotion and protection of public safety while respecting the dignity and rights of all. And public safety and well-being cannot be attained without the community's belief that their well-being is at the heart of all law enforcement activities. It is critical to help community members see police as allies rather than as an occupying force and to work in concert with other community stakeholders to create more economically and socially stable neighborhoods.

4.1 RECOMMENDATION: Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.

^{75.} Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond [CA] Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{76.} Listening Session on Community Policing and Crime Reduction: Using Community Policing to Reduce Crime (oral testimony of Kevin Bethel, deputy police commissioner, Philadelphia Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{77.} Faye Elkins, "Five COPS Office Directors Look Back and Think Forward at the 20th Anniversary Celebration," *Community Policing Dispatch* 8, no. 1 (January 12, 2014), https://cops.usdoj.gov/html/dispatch/01-2015/cops office 20th anniversary.asp.

Community policing is not just about the relationship between individual officers and individual neighborhood residents. It is also about the relationship between law enforcement leaders and leaders of key institutions in a community, such as churches, businesses, and schools, supporting the community's own process to define prevention and reach goals.

Law enforcement agencies cannot ensure the safety of communities alone but should seek to contribute to the strengthening of neighborhood capacity to prevent and reduce crime through informal social control. More than a century of research shows that informal social control is a much more powerful mechanism for crime control and reduction than is formal punishment. And perhaps the best evidence for the preventive power of informal social control may be the millions of unguarded opportunities to commit crime that are passed up each day.⁷⁸

4.1.1 ACTION ITEM: Law enforcement agencies should consider adopting preferences for seeking "least harm" resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.

4.2 RECOMMENDATION: Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.

Community policing must be a way of doing business by an entire police force, not just a specialized unit of that force.⁷⁹ The task force heard testimony from Police Chief J. Scott Thomson of Camden County, New Jersey, who noted:

Community policing cannot be a program, unit, strategy or tactic. It must be the core principle that lies at the foundation of a police department's culture. The only way to significantly reduce fear, crime, and disorder and then sustain these gains is to leverage the greatest force multiplier: the people of the community.⁸⁰

This message was closely echoed by Chris Magnus, the police chief in Richmond, California. To build a more effective partnership with residents and transform culture within the police department as well as in the community, the Richmond police made sure that *all* officers, not just a select few, were doing community policing and neighborhood problem solving. Every officer is expected to get to know the residents, businesses, community groups, churches, and schools on their beat and work with them to identify and address public safety challenges, including quality of life issues such as blight. Officers remain in the same beat or district for several years or more—which builds familiarity and trust.⁸¹

Testimony from a number of witnesses also made clear that hiring, training, evaluating, and promoting officers based on their ability and track record in community engagement—not just traditional measures of policing such as arrests, tickets, or tactical skills—is an equally important component of the successful infusion of community policing throughout an organization.

^{78.} Lawrence Cohen and Marcus Felson, "Social Change and Crime Rate Trends: A Routine Activities Approach," *American Sociological Review* 44 (August 1979): 588–607.

^{79.} Tracey Meares, "Praying for Community Policing," *California Law Review* 90 (2002): 1593—1634, http://digitalcommons.law.yale.edu/fss_papers/518/.

^{80.} Listening Session on Community Policing and Crime Reduction: Using Community Policing to Reduce Crime (oral testimony of J. Scott Thomson, chief, Camden County [NJ] Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{81.} Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond [CA] Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

4.2.1 ACTION ITEM: Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.

4.2.2 ACTION ITEM: Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.

4.2.3 ACTION ITEM: The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

4.3 RECOMMENDATION: Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Collaborative approaches that engage professionals from across systems have emerged as model practices for addressing community problems that are not resolvable by the police alone. These team approaches call upon law enforcement agencies, service providers, and community support networks to work together to provide the right resources for the situation and foster sustainable change. Multiple witnesses before the task force spoke of departments coordinating mental health response teams that include mental health professionals, social workers, crisis counselors, and

other professionals making decisions alongside the police regarding planning, implementing, and responding to mental health crisis situations. But this model is applicable to a number of community problems that regularly involve a police response, including homelessness, substance abuse, domestic violence, human trafficking, and child abuse. Ultimately, the idea is for officers to be trained and equipped to make use of existing community resources in the diffusion of crisis situations.

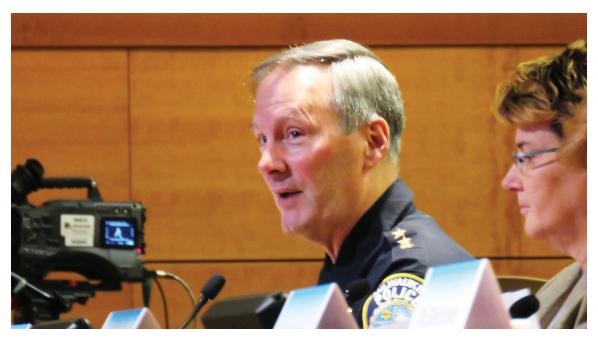
4.3.1 ACTION ITEM: The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.

4.3.2 ACTION ITEM: Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.

4.3.3 ACTION ITEM: Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.

4.4 RECOMMENDATION: Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.

The task force heard many different ways of describing a positive culture of policing. David Kennedy suggested there could be a Hippocratic



Chief Edward Flynn of the Milwaukee Police Department, Phoenix, February 14, 2015.

Oath for Policing: First, Do No Harm. 82 Law enforcement officers' goal should be to avoid use of force if at all possible, even when it is allowed by law and by policy. Terms such as fair and impartial policing, rightful policing, constitutional policing, neighborhood policing, procedural justice, and implicit bias training all address changing the culture of policing. Respectful language; thoughtful and intentional dialogue about the perception and reality of profiling and the mass incarceration of minorities; and consistent involvement, both formal and informal, in community events all help ensure that relationships of trust between police and community will be built. The vision of policing in the 21st century should be that of officers as guardians of human and constitutional rights.

4.4.1 ACTION ITEM: Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the

importance of language used and adopt policies directing officers to speak to individuals with respect.

4.4.2 ACTION ITEM: Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 RECOMMENDATION: Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

As Delores Jones Brown testified, "Neighborhood policing provides an opportunity for police departments to do things with residents in the co-production of public safety rather than doing

^{82.} Listening Session on Community Policing and Crime Reduction: Using Community Policing to Reduce Crime (oral testimony of David Kennedy, professor, John Jay College of Criminal Justice, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

things to or for them."⁸³ Community policing is not just about the behavior and tactics of police; it is also about the civic engagement and capacity of communities to improve their own neighborhoods, their quality of life, and their sense of safety and well-being. Members of communities are key partners in creating public safety, so communities and police need mechanisms to engage with each other in consistent and meaningful ways. One model for formalizing this engagement is through a civilian governance system such as is found in Los Angeles. As Chief Charlie Beck explained in testimony to the task force,

The Los Angeles Police Department is formally governed by the Board of Police Commissioners, a five-person civilian body with each member appointed by the mayor. The commission has formal authority to hire the chief of police, to set broad policy for the department, and to hold the LAPD and its chief accountable to the people.⁸⁴

Community policing, therefore, is concerned with changing the way in which citizens respond to police in more constructive and proactive ways. If officers feel unsafe and threatened, their ability to operate in an open and shared dialogue with community is inhibited. On the other hand, the police have the responsibility to understand the culture, history, and quality of life issues of the entire community—youth, elders, faith communities, special populations—and to educate the community, including its children, on the role and function of police and ways the community can

4.5.1 ACTION ITEM: Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 ACTION ITEM: Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 ACTION ITEM: Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.

Larger agencies should establish multiple committees to ensure they inform all levels of the organization. The makeup of these committees should reflect the demographics of the community or neighborhood being served.

4.5.4 ACTION ITEM: Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

As several witnesses, including Bill Geller, testified, public safety and the economic health of communities go hand in hand.⁸⁵ It is therefore important

protect itself, be part of solving problems, and prevent crime. Community and police jointly share the responsibility for civil dialogue and interaction.

^{83.} Listening Session on Community Policing and Crime Reduction: Community Policing and Crime Prevention Research (oral testimony of Delores Jones Brown, professor, Department of Law, Police Science & Criminal Justice Administration, John Jay College of Criminal Justice, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{84.} Listening Session on Policy and Oversight: Civilian Oversight (oral testimony of Charles Beck, chief, Los Angeles Police Department, for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

^{85.} Listening Session on Community Policing and Crime Reduction: Community Policing and Crime Prevention Research (oral testimony of Bill Geller, director, Geller & Associates, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

for agencies to work with local, state, and federal partners on projects devoted to enhancing the economic health of the communities in which departments are located.

4.6 RECOMMENDATION: Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

The past decade has seen an explosion of knowledge about adolescent development and the neurological underpinnings of adolescent behavior. Much has also been learned about the pathways by which adolescents become delinquent, the effectiveness of prevention and treatment programs, and the long-term effects of transferring youths to the adult system and confining them in harsh conditions. These findings have raised doubts about a series of policies and practices of "zero tolerance" that have contributed to increasing the school-to-prison pipeline by criminalizing the behaviors of children as young as kindergarten age. Noncriminal offenses can escalate to criminal charges when officers are not trained in child and adolescent development and are unable to recognize and manage a child's emotional, intellectual, and physical development issues. School district policies and practices that push students out of schools and into the juvenile justice system cause great harm and do no good.

One witness told the task force a stunning story about what happened to him one day when he was a high school freshman:

As I walked down the hall, one of the police officers employed in the school noticed I did not have my identification badge with me. Before I could explain why I did not have my badge, I was escorted to the office and suspended for an entire week. I had to leave the school premises immediately. Walking to the bus stop, a different police officer pulled me over and demanded to know why I was not in school. As I tried to explain, I was thrown into the back of the police car. They drove back to my school to see if I was telling the truth, and I was left waiting in the car for over two hours. When they came back, they told me I was in fact suspended, but because the school did not provide me with the proper forms, my guardian and I both had to pay tickets for me being off of school property. The tickets together were 600 dollars, and I had a court date for each one. Was forgetting my ID worth missing school? Me being kicked out of school did not solve or help anything. I was at home alone watching Jerry Springer, doing nothing.86

4.6.1 ACTION ITEM: Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.⁸⁷

^{86.} Listening Session on Community Policing and Crime Prevention (oral testimony of Michael Reynolds for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{87.} For more information about such policies and procedures, see the U.S. Department of Justice's Civil Rights Division and U.S. Department of Education's Office for Civil Rights, "Joint'Dear Colleague' Letter," last updated February 4, 2014, http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html.

4.6.2 ACTION ITEM: In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 ACTION ITEM: Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

The Federal Government could incentivize schools to adopt this practice by tying federal funding to schools implementing restorative justice practices.

4.6.4 ACTION ITEM: Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 ACTION ITEM: Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

4.6.6 ACTION ITEM: Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.

4.6.7 ACTION ITEM: Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.

Although this recommendation—and therefore its action items—specifically focuses on juveniles, this task force believes that law enforcement agencies should also work with communities to play a role in re-entry programs for adults leaving prisons and jails.

4.6.8 ACTION ITEM: Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.

Such agreements could include provisions for special training for School Resource Officers to help them better understand and deal with issues involving youth.

4.6.9 ACTION ITEM: The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.



Task force executive director Ronald L. Davis and co-chairs Laurie Robinson and Charles Ramsey, Washington, D.C., February 23, 2015.

4.7 RECOMMENDATION: Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

Youth face unique challenges when encountering the criminal justice system. Law enforcement contacts for apparent infractions create trauma and fear in children and disillusionment in youth, but proactive and positive youth interactions with police create the opportunity for coaching, mentoring, and diversion into constructive alternative activities. Moving testimony from a panel of young people allowed the task force members to hear how officers can lead youth out of the conditions that keep them in the juvenile justice system and into self-awareness and self-help.

Phoenix native Jose Gonzales, 21, first went to jail at age nine and had a chaotic childhood, but in turning his life towards a productive and healthy future, he vividly remembers one officer who made a difference:

Needless to say, I have had a fair amount of interaction with law enforcement in my youth. Some has been very positive. Like the time that a School Resource Officer got me involved in an after school club. Officer Bill D. helped me stop being a bad kid and assisted with after school activities. He sought me out to be a part of a club that included all sorts of youth—athletes, academics—and helped me gain confidence in reaching out to other social circles beyond my troubled community. The important idea I'd like to convey is that approach is everything.⁸⁸

^{88.} Listening Session on Community Policing and Crime Reduction: Youth and Law Enforcement (oral testimony of Jose Gonzales for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

4.7.1 ACTION ITEM: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.

4.7.2 ACTION ITEM: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.

PILLAR 5. TRAINING & EDUCATION

Hiring officers who reflect the community they serve is important not only to external relations but also to increasing understanding within the agency.

As our nation becomes more pluralistic and the scope of law enforcement's responsibilities expands, the need for more and better training has become critical. Today's line officers and leaders must meet a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis. All states and territories and the District of Columbia should establish standards for hiring, training, and education.

The skills and knowledge required to effectively deal with these issues requires a higher level of education as well as extensive and ongoing training in specific disciplines. The task force discussed these needs in depth, making recommendations for basic recruit and in-service training, as well as leadership development in a wide variety of areas:

- Community policing and problem-solving principles
- Interpersonal and communication skills
- Bias awareness
- Scenario-based, situational decision making
- Crisis intervention
- Procedural justice and impartial policing
- Trauma and victim services
- Mental health issues
- Analytical research and technology
- Languages and cultural responsiveness

Many who spoke before the task force recommended that law enforcement partner with academic institutions; organizations such as the International Association of Chiefs of Police (IACP), the Major Cities Chiefs Association (MCCA), the National Organization of Black Law Enforcement Executives (NOBLE), and the Police Executive Research Forum (PERF); and other sources of appropriate training. Establishing fellowships and exchange programs with other agencies was also suggested.

Other witnesses spoke about the police education now offered by universities, noting that undergraduate criminal justice and criminology programs provide a serviceable foundation but that short courses of mixed quality and even some graduate university degree programs do not come close to addressing the needs of 21st-century law enforcement.

In addition to discussion of training programs and educational expectations, witnesses at the listening session made clear that new approaches to recruitment, hiring, evaluation, and promotion are also essential to developing a more highly educated workforce with the character traits and social skills that enable effective policing and positive community relationships.

To build a police force capable of dealing with the complexity of the 21st century, it is imperative that agencies place value on both educational achievements and socialization skills when making hiring decisions. Hiring officers who reflect the

To be effective in an ever-changing world, training must continue throughout an officer's career.

community they serve is also important not only to external relations but also to increasing understanding within the agency. On the other hand, task force member Constance Rice described the best line officer she knew—White, but better at relating to the African-American community than his Black colleagues. Her recommendation was to look for the character traits that support fairness, compassion, and cultural sensitivity.⁸⁹

The need for understanding, tolerance, and sensitivity to African Americans, Latinos, recent immigrants, Muslims, and the LGBTQ community was discussed at length at the listening session, with witnesses giving examples of unacceptable behavior in law enforcement's dealings with all of these groups. Participants also discussed the need to move towards practices that respect all members of the community equally and away from policing tactics that can unintentionally lead to excessive enforcement against minorities.

Witnesses noted that officers need to develop the skills and knowledge necessary in the fight against terrorism by gaining an understanding of the links between normal criminal activity and terrorism, for example. What is more, this training must be ongoing, as threats and procedures for combatting terrorism evolve.

The need for realistic, scenario-based training to better manage interactions and minimize using force was discussed by a number of witnesses. Others focused more on content than delivery: Dennis Rosenbaum suggested putting procedural justice at the center of training, not on the

fringes.⁹⁰ Ronal Serpas recommended training on the effects of violence not only on the community and individual victims but also on police officers themselves, noting that exposure to violence can make individuals more prone to violent behavior.⁹¹ And witnesses Bruce Lipman and David Friedman both spoke about providing officers with historical perspectives of policing to provide context as to why some communities have negative feelings toward the police and improve understanding of the role of the police in a democratic society.⁹²

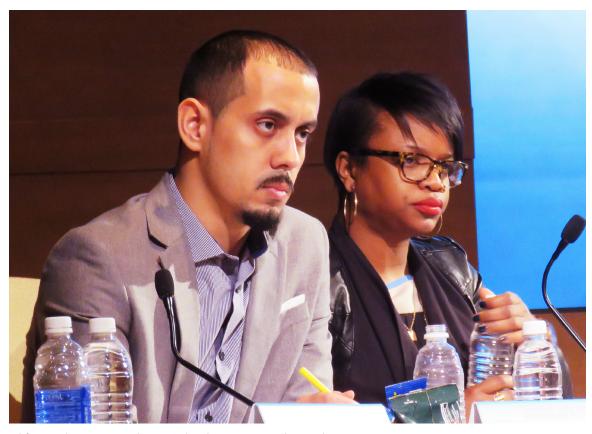
Though today's law enforcement professionals are highly trained and highly skilled operationally, they must develop specialized knowledge and understanding that enable fair and procedurally just policing and allow them to meet a wide variety of new challenges and expectations. Tactical skills are important, but attitude, tolerance, and interpersonal skills are equally so. And to be effective in an ever-changing world, training must continue throughout an officer's career.

The goal is not only effective, efficient policing but also procedural justice and fairness. Following are the task force's recommendations for implementing career-long education and training practices for law enforcement in the 21st century.

^{89.} Listening Session on Training and Education (Constance Rice, task force member, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

^{90.} Listening Session on Community Policing and Crime Reduction: Community Policing and Crime Prevention Research (oral testimony of Dennis Rosenbaum, professor, University of Illinois at Chicago, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).

^{91.} Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Ronal Serpas, advisory board member, Cure Violence Chicago, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
92. Listening Session on Training and Education: Special Training on Building Trust (oral testimony of David C. Friedman, director of National Law Enforcement Initiatives, Anti-Defamation League, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Bruce Lipman, Procedural Justice Training, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).



Task force members Jose Lopez and Brittany Packnett listen to testimony, Phoenix, February 14, 2015.

5.1 RECOMMENDATION: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.

A starting point for changing the culture of policing is to change the culture of training academies. The designation of certain training academies as federally supported regional "training innovation hubs" could act as leverage points for changing training culture while taking into consideration regional variations. Federal funding would be a powerful incentive to these designated academies to conduct the necessary research to develop and implement the highest quality curricula focused on the needs of 21st century American policing, along with cutting-edge delivery modalities.

5.1.1 ACTION ITEM: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

5.1.2 ACTION ITEM: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.

5.1.3 ACTION ITEM: The Department of Justice should build a stronger relationship with the International Association of Directors of Law

Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).

The POSTs are critical to the development and implementation of statewide training standards and the certification of instructors and training courses, as well as integral to facilitating communication, coordination, and influence with the more than 650 police academies across the nation. This relationship would also serve as a pipeline for disseminating information and creating discussion around best practices.

5.2 RECOMMENDATION: Law enforcement agencies should engage community members in the training process.

Not only can agencies make important contributions to the design and implementation of training that reflects the needs and character of their communities but it is also important for police training to be as transparent as possible. This will result in both a better informed public and a better informed officer.

Where appropriate and through managed programs, the community would

- learn about and evaluate the existing training within departments;
- provide input into shaping that some training content and delivery;
- in some cases, participate in training alongside officers.

5.2.1 ACTION ITEM: The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.

5.3 RECOMMENDATION: Law enforcement agencies should provide leadership training to all personnel throughout their careers.

Standards and programs need to be established for every level of leadership from the first line to middle management to executive leadership. If there is good leadership and procedural justice within the agency, the officers are more likely to behave according to those standards in the community. As Chief Edward Flynn of the Milwaukee Police Department noted, "Flexible, dynamic, insightful, ethical leaders are needed to develop the informal social control and social capital required for a civil society to flourish."93 One example of leadership training is Leading Police Organizations, a program developed by the IACP and modeled after the West Point Leadership Program, which offers training for all levels of agency management in programs based on a behavioral science approach to leading people groups, change, and organizations, focusing on the concept of "every officer a leader."

5.3.1 ACTION ITEM: Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.

This training should focus on organizational procedural justice, community policing, police accountability, teaching, coaching, mentoring, and communicating with the media and the public. Chief Kim Jacobs noted this in her testimony discussing current issues with training on reviewing investigations of police actions and prepare comprehensive reports for all stakeholders,

^{93.} Listening Session on Training and Education (oral testimony of Edward Flynn, chief, Milwaukee Police Department, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

including the media and citizens.⁹⁴ These standards should also influence requirements for promotion and continuing/ongoing education should also be required to maintain leadership positions.

5.3.2 ACTION ITEM: The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.

5.3.3 ACTION ITEM: The U.S. Department of Justice should support and encourage cross-discipline leadership training.

This can be within the criminal justice system but also across governments, nonprofits, and the private sector, including social services, legal aid, businesses, community corrections, education, the courts, mental health organizations, civic and religious organizations, and others. When people come together from different disciplines and backgrounds, there is a cross-fertilization of ideas that often leads to better solutions. Furthermore, by interacting with a more diverse group of professionals, police can establish a valuable network of contacts whose knowledge and skills differ from but complement their own. This opportunity does exist for front-line staff on a variety of specialized topics but also needs to happen at decision/policy maker levels. For example, the National Alliance for Drug Endangered Children is an especially appropriate model for the value of cross-discipline training. Their written testimony to the task force explains how their training approach focuses on the formation of community partnerships that

engage law enforcement and professionals from multiple disciplines to collaboratively identify and protect drug endangered children and their families.⁹⁵

5.4 RECOMMENDATION: The U.S.

Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

To advance American law enforcement, we must advance its leadership. To that end, the task force recommends the establishment of a top quality graduate institute of policing to provide ongoing leadership training, education, and research programs which will enhance the quality of law enforcement culture, knowledge, skills, practices and policies. Modeled after the Naval Postgraduate School in Monterey, California, this institute will be staffed with subject matter experts and instructors drawn from the nation's top educational institutions, who will focus on the real world problems that challenge today's and tomorrow's law enforcement, teaching practical skills and providing the most current information for improving policing services throughout the nation. This institute could even, as witness Lawrence Sherman proposed, "admit qualified applicants to a three-month residential course for potential police executives, concluding in an assessment center and examination that would certify qualified graduates to serve as chief police executives anywhere in the United States."96

^{94.} Listening Session on Training and Education (oral testimony of Kim Jacobs, chief, Columbus [OH] Division of Police, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

^{95.} Listening Session on Training and Education (written testimony of the National Alliance for Drug Endangered Children for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

^{96.} Listening Session on The Future of Community Policing (oral testimony of Lawrence Sherman, Wolfson Professor of Criminology, University of Cambridge, and Distinguished University Professor, University of Maryland, for the President's Task Force on 21st Century Policing, Washington, DC, February 24, 2015).

5.5 RECOMMENDATION: The U.S.

Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.⁹⁷

The Office of Community Oriented Policing Services (COPS Office) and the Office of Justice Programs (OJP) should work with the law enforcement professional organizations to encourage modification of their curricula—for example, the Senior Management Institute for Police run by PERF and the Police Executive Leadership Institute managed by the Major Cities Chiefs Association.

5.6 RECOMMENDATION: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

Crisis intervention training (CIT) was developed in Memphis, Tennessee, in 1988 and has been shown to improve police ability to recognize symptoms of a mental health crisis, enhance their confidence in addressing such an emergency, and reduce inaccurate beliefs about mental illness ⁹⁸ It has

been found that after completing CIT orientation, officers felt encouraged to interact with people suffering a mental health crisis and to delay their "rush to resolution." Dr. Randolph Dupont, Chair of the Department of Criminology and Criminal Justice at the University of Memphis, spoke to the task force about the effectiveness of the Memphis Crisis Intervention Team (CIT), which stresses verbal intervention and other de-escalation techniques.

Noting that empathy training is an important component, Dr. Dupont said the Memphis CIT includes personal interaction between officers and individuals with mental health problems. Officers who had contact with these individuals felt more comfortable with them, and hospital mental health staff who participated with the officers had more positive views of law enforcement. CIT also provides a unique opportunity to develop cross-disciplinary training and partnerships.

5.6.1 ACTION ITEM: Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.

5.7 RECOMMENDATION: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

These include topics such as critical thinking, social intelligence, implicit bias, fair and impartial policing, historical trauma, and other topics that address capacity to build trust and legitimacy in diverse communities and offer better skills for gaining compliance without the use of physical

^{97.} Listening Session on Training and Education: Supervisory, Leadership and Management Training (oral testimony of Kimberly Jacobs, chief, Columbus [OH] Division of Police, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education (e-mail of Annie McKee, senior fellow, University of Pennsylvania, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13—14, 2015); Listening Session on Training and Education (written testimony of Anthony Braga et al. for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 13—14, 2015).
98. Natalie Bonfine, Christian Ritter, and Mark R. Munetz, "Police Officer Perceptions of the Impact of Crisis Intervention Team (CIT) Programs," *International Journal of Law and Psychiatry* 37, no. 4 (July—August 2014): 341—350, doi:10.1016/j.ijlp.2014.02.004.

^{99.} Kelly E. Canada, Beth Angell, and Amy C. Watson, "Crisis Intervention Teams in Chicago: Successes on the Ground," *Journal of Police Crisis Negotiations* 10, no. 1–2 (2010), 86–100, doi:10.1080/15332581003792070.



Task force member Bryan Stevenson asks a panelist a question, Phoenix, February 13, 2015.

force. Basic recruit training must also include tactical and operations training on lethal and nonlethal use of force with an emphasis on de-escalation and tactical retreat skills.

5.8 RECOMMENDATION: POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.

It is important that officers be able to recognize the signs of addiction and respond accordingly when they are interacting with people who may be impaired as a result of their addiction. Science has demonstrated that addiction is a disease of the brain—a disease that can be prevented and treated and from which people can recover.

The growing understanding of this science has led to a number of law enforcement agencies equipping officers with overdose-reversal drugs such as naloxone and the passage of legislation in many states that shield any person from civil and criminal liability if they administer naloxone.

The Obama Administration's drug policy reflects this understanding and emphasizes access to treatment over incarceration, pursuing "smart on crime" rather than "tough on crime" approaches to drug-related offenses, and support for early health interventions designed to break the cycle of drug use, crime, incarceration, and re-arrest. 100 And the relationship between incarceration and addiction is a significant one. A 2004 survey by the U.S.

^{100.} *A Drug Policy for the 21st Century, July 2014*, accessed February 27, 2015, http://www.whitehouse.gov/ondcp/drugpolicyreform.

Department of Justice estimated that about 70 percent of state and 64 percent of federal prisoners regularly used drugs prior to incarceration.¹⁰¹

5.9 RECOMMENDATION: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

As the nation becomes more diverse, it will become increasingly important that police officers be sensitive to and tolerant of differences. It is vital that law enforcement provide training that recognizes the unique needs and characteristics of minority communities, whether they are victims or witnesses of crimes, subjects of stops, or criminal suspects.

Keeshan Harley, a young Black man, testified that he estimates that he's been stopped and frisked more than 100 times and that he felt that the problem is not just a few individual bad apples, but the systemic way policing treats certain communities—including low-income and young people, African Americans, LGBTQ people, the homeless, immigrants, and people with psychiatric disabilities. In so doing, police have produced communities of alienation and resentment. 102 He is arguably not alone in his opinions, given that

research has shown that "of those involved in traffic and street stops, a smaller percentage of Blacks than Whites believed the police behaved properly during the stop." ¹⁰³

And in a 2012 survey of LGBTQ/HIV contact with police, 25 percent of respondents with any recent police contact reported at least one type of misconduct or harassment, such as being accused of an offense they did not commit, verbal assault, being arrested for an offense they did not commit, sexual harassment, physical assault, or sexual assault.¹⁰⁴

5.9.1 ACTION ITEM: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

5.9.2 ACTION ITEM: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.

^{101.} C. Mumola and J.C. Karberg, *Drug Use and Dependence, State and Federal Prisoners, 2004* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2007), http://www.bjs.gov/content/pub/pdf/dudsfp04.pdf.

^{102.} Listening Session on Training and Education: Voices in the Community (oral testimony of Keeshan Harley, member, Communities United for Police Reform, for the President's Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); see also Tracey L. Meares, "Programming Errors: Understanding the Constitutionality of Stop-and-Frisk as a Program, Not an Incident," University of Chicago Law Review (forthcoming).

^{103.} Langton and Durose, *Traffic and Street Stops, 2011* (see note 42).
104. Listening Session on Policy and Oversight (written testimony of Lambda Legal for the President's Task Force on 21st Century Policing, Cincinnati, OH, January 30–31, 2015); Lambda Legal, *Protected and Served? Survey of LGBT/HIV Contact with Police, Courts, Prisons, and Security, 2014*, accessed February 28, 2015, http://www.lambdalegal.org/protected-and-served.

Table 3. College degree requirements for full-time instructors in state and local law enforcement training academies, by type of operating agency, 2006

Primary operating agency	Total percentage of academies with a minimum educational requirement that included a college degree	Percentage of academies requiring a 4-year degree	Percent of academies requiring a 2-year degree
All types	19	11	8
State Peace Officer Standards and Training	13	13	0
State police	11	7	5
Sheriff's office	2	0	2
County police	5	0	5
Municipal police	7	4	3
College/university	35	22	13
Multiagency	15	2	13
Other types	8	8	0

Source: Brian A. Reaves, *State and Local Law Enforcement Training Academies*, *2006*, *Special Report* (Washington, DC: Bureau of Justice Statistics, 2009), http://www.bjs.gov/content/pub/pdf/slleta06.pdf.

5.10 RECOMMENDATION: POSTs should require both basic recruit and in-service training on policing in a democratic society.

Police officers are granted a great deal of authority, and it is therefore important that they receive training on the constitutional basis of and the proper use of that power and authority. Particular focus should be placed on ensuring that Terry stops¹⁰⁵ are conducted within constitutional guidelines.

5.11 RECOMMENDATION: The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.

While many believe that a higher level of required education could raise the quality of officer performance, law enforcement also benefits from a diverse range of officers who bring their cultures, languages, and life experiences to policing.

Offering entry level opportunities to recruits without a college degree can be combined with the provision of means to obtain higher education throughout their career, thereby ensuring the benefits of a diverse staff with a well-educated police force and an active learning culture. Current student loan programs allow repayment based on income, and some already provide tuition debt forgiveness after 120 months of service in the government or nonprofit sector.

5.11.1 ACTION ITEM: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.

This could be modeled on similar programs that already exist for government service and other fields or the reinstitution of funding for programs such as the 1960s and 70s Law Enforcement Education Program.

^{105.} Terry v. Ohio, 392 U.S. 1 (1968).

5.12 RECOMMENDATION: The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

This will lead to new modalities that enhance the effectiveness of the learning experience, reduce instructional costs, and ensure the broad dissemination of training through platforms that do not require time away from agencies.

This would be especially helpful for smaller and more rural departments who cannot spare the time for their officers to participate in residential/in-person training programs. Present day technologies should also be employed more often—web-based learning, behavior evaluations through body worn camera videos, software programs for independent learning, scenario-based instruction through videos, and other methods. This can also increase access to evidence-based research and other sources of knowledge.

5.13 RECOMMENDATION: The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

This is critical in terms of changing officer culture. Field Training Officers impart the organizational culture to the newest members. The most common current program, known as the San Jose Model, is more than 40 years old and is not based on current research knowledge of adult learning modalities. In many ways it even conflicts with innovative training strategies that encourage problem-based learning and support organizational procedural justice.

5.13.1 ACTION ITEM: The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

A potential model for this is the Police Training Officer program developed by the COPS Office in collaboration with PERF and the Reno (Nevada) Police Department. This problem-based learning strategy used adult learning theory and problem solving tools to encourage new officers to think with a proactive mindset, enabling the identification of and solution to problems within their communities.

5.13.2 ACTION ITEM: The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.

PILLAR 6. OFFICER WELLNESS & SAFETY

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety.

Most law enforcement officers walk into risky situations and encounter tragedy on a regular basis. Some, such as the police who responded to the carnage of Sandy Hook Elementary School, witness horror that stays with them for the rest of their lives. Others are physically injured in carrying out their duties, sometimes needlessly, through mistakes made in high stress situations. The recent notable deaths of officers are stark reminders of the risk officers face. As a result, physical, mental, and emotional injuries plague many law enforcement agencies.

However, a large proportion of officer injuries and deaths are not the result of interaction with criminal offenders but the outcome of poor physical health due to poor nutrition, lack of exercise, sleep deprivation, and substance abuse. Yet these causes are often overlooked or given scant attention. Many other injuries and fatalities are the result of vehicular accidents.

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety. An officer whose capabilities, judgment, and behavior are adversely affected by poor physical or psychological health not only may be of little use to the community he or she serves but also may be a danger to the community and to other officers. As task force member Tracey Meares observed, "Hurt people can hurt people." 106

106. Listening Session on Officer Safety and Wellness (comment of Tracey Meares, task force member, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

Commenting on the irony of law enforcement's lack of services and practices to support wellness and safety, Dr. Laurence Miller observed in his testimony that supervisors would not allow an officer to go on patrol with a deficiently maintained vehicle, an un-serviced duty weapon, or a malfunctioning radio—but pay little attention to the maintenance of what is all officers' most valuable resource: their brains.¹⁰⁷

Officer suicide is also a problem: a national study using data of the National Occupational Mortality Surveillance found that police died from suicide 2.4 times as often as from homicides. And though depression resulting from traumatic experiences is often the cause, routine work and life stressors—serving hostile communities, working long shifts, lack of family or departmental support—are frequent motivators too.

In this pillar, the task force focused on many of the issues that impact and are impacted by officer wellness and safety, focusing on strategies in several areas: physical, mental, and emotional health; vehicular accidents; officer suicide; shootings and assaults; and the partnerships with social services, unions, and other organizations that can support solutions.

^{107.} Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

Physical injuries and death in the line of duty, while declining, are still too high. According to estimates of U.S. Bureau of Labor Statistics, more than 100,000 law enforcement professionals are injured in the line of duty each year. Many are the result of assaults, which underscores the need for body armor, but most are due to vehicular accidents.

To protect against assaults, Orange County (Florida) Sheriff Jerry Demings talked about immersing new officers in simulation training that realistically depicts what they are going to face in the real world. "I subscribe to an edict that there is no substitute for training and experience . . . deaths and injuries can be prevented through training that is both realistic and repetitive." ¹⁰⁸

But to design effective training first requires collecting substantially more information about the nature of injuries sustained by officers on the job. Dr. Alexander Eastman's testimony noted that the field of emergency medicine involves the analysis of vast amounts of data with regard to injuries in order to improve prevention as well as treatment.

In order to make the job of policing more safe, a nationwide repository for [law enforcement officer] injuries sustained is desperately needed. A robust database of this nature, analyzed by medical providers and scientists involved in law enforcement, would allow for recommendations in tactics, training, equipment, medical care and even policies/procedures that are grounded in that interface between scientific evidence, best medical practice, and sound policing.¹⁰⁹

Poor nutrition and fitness are also serious threats, as is sleep deprivation. Many errors in judgment can be traced to fatigue, which also makes it harder to connect with people and control emotions. But administrative changes such as reducing work shifts can improve officer's feelings of well-being, and the implementation of mental health strategies can lessen the impact of the stress and trauma.

However, the most important factor to consider when discussing wellness and safety is the culture of law enforcement, which needs to be transformed. Support for wellness and safety should permeate all practices and be expressed through changes in procedures, requirements, attitudes, and behaviors. An agency work environment in which officers do not feel they are respected, supported, or treated fairly is one of the most common sources of stress. And research indicates that officers who feel respected by their supervisors are more likely to accept and voluntarily comply with departmental policies. This transformation should also overturn the tradition of silence on psychological problems, encouraging officers to seek help without concern about negative consequences.

Partnerships are another crucial element. An agency cannot successfully tackle these issues without partners such as industrial hygienists, chaplains, unions, and mental health providers. But no program can succeed without buy-in from agency leadership as well as the rank and file.

The "bulletproof cop" does not exist. The officers who protect us must also be protected—against incapacitating physical, mental, and emotional health problems as well as against the hazards of their job. Their wellness and safety are crucial for them, their colleagues, and their agencies, as well as the well-being of the communities they serve.

^{108.} Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Jerry Demings, sheriff, Orange County, FL, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

^{109.} Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).



Elliot Cohen of the Maryland State Police speaks about technology usage while Madhu Grewal of the Constitution Project waits her turn to testify, Cincinnati, January 31, 2015.

PHOTO: DEBORAH SPENCE

6.1 RECOMMENDATION: The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.

As noted by all task force members during the listening session, officer wellness and safety supports public safety. Officers who are mentally or physically incapacitated cannot serve their communities adequately and can be a danger to the people they serve, to their fellow officers, and to themselves.

6.1.1 ACTION ITEM: Congress should establish and fund a national "Blue Alert" warning system.

Leveraging the current Amber Alert program used to locate abducted children, the Blue Alert would enlist the help of the public in finding suspects after a law enforcement officer is killed in the line of duty. Some similar state systems do exist, but there are large gaps; a national system is needed. In addition to aiding the apprehension of suspects, it would send a message about the importance of protecting law enforcement from undue harm.

6.1.2 ACTION ITEM: The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.

Law enforcement officers are subject to more stress than the general population owing to the nature of their jobs. In addition to working with difficult—even hostile—individuals, responding to tragic events, and sometimes coming under fire themselves, they suffer from the effects of everyday stressors—the most acute of which often come from their agencies, because of confusing messages or non-supportive management; and their families, who do not fully understand the pressures the officers face on the job. And as witness Laurence Miller said, "When both work and family relations fray, the individual's coping abilities can be stretched to the limit, resulting in alcohol abuse, domestic violence, overaggressive policing, even suicide."

^{110.} Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

To add to the problems of those suffering from psychological distress, law enforcement culture has not historically supported efforts to treat or even acknowledged mental health problems, which are usually seen as a sign of "weakness." The challenges and treatments of mental health issues should therefore be viewed within the context of law enforcement's unique culture and working environment.

This task force should also look to establish a national toll-free mental health hotline specifically for police officers. This would be a fast, easy, and confidential way for officers to get advice whenever they needed to; and because they would be anonymous, officers would be more likely to take advantage of this resource. Since nobody understands the challenges an officer faces like another officer, it should be peer driven—anonymously connecting callers to officers who are not in the same agency and who could refer the caller to professional help if needed. An advisory board should be formed to guide the creation of this hotline service.

6.1.3 ACTION ITEM: The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.

Currently, most mental health checks are ordered as interventions for anger management or substance abuse and are ordered reactively after an incident. Mental health checks need to be more frequent to prevent problems. Because officers are exposed to a wide range of stressors on a continuous basis as part of their daily routines, mental and physical health check-ups should be conducted on an ongoing basis. Furthermore, officer nutrition and fitness issues change with time, varying widely from those of the new academy graduate

to those of the veteran who has spent the last five years sitting in a squad car. Many health problems—notably cardiac issues—are cumulative.

6.1.4 ACTION ITEM: Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

Officers who have been injured in the line of duty can exist in limbo, without pay, unable to work but also unable to get benefits because the "fitness for duty" examinations given by their agencies are not recognized as valid proof of disability. And since officers, as public servants, cannot receive social security, they can end up in a precarious financial state.

6.1.5 ACTION ITEM: Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

Families should not be penalized because an officer died in the line of duty but was not wearing a seat belt or body armor. Though these precautions are very important and strongly encouraged, there are occasions when officers can be more effective without them.¹¹¹

A couple of situations were mentioned by task force member Sean Smoot, who described the efforts of an officer who took off his seat belt to tend to the injuries of a victim in the back of the car as his partner sped to the hospital. Another

^{111.} Listening Session on Officer Safety and Wellness: Voices from the Field (oral testimony of William Johnson, executive director, National Association of Police Organizations, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

scenario he mentioned was the rescue of a drowning woman by an officer who shed his heavy body armor to go into the water. Charles Ramsey, task force co-chair, also noted that these types of situations could be further mitigated by the invention of seatbelts that officers could quickly release without getting tangled on their belts, badges, and radios, as well as body armor that is lighter and more comfortable.

6.2 RECOMMENDATION: Law enforcement agencies should promote safety and wellness at every level of the organization.

Safety and wellness issues affect all law enforcement professionals, regardless of their management status, duty, or tenure. Moreover, line officers are more likely to adopt procedures or change practices if they are advised to do so by managers who also model the behavior they encourage. According to witness David Orr, buy-in from the leaders as well as the rank and file is essential to the success of any program.¹¹²

6.2.1 ACTION ITEM: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

6.3 RECOMMENDATION: The U.S.

Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

It has been established by significant bodies of research that long shifts can not only cause fatigue, stress, and decreased ability to concentrate but also lead to other more serious consequences. Fatigue and stress undermine not only the immune system but also the ability to work at full capacity, make decisions, and maintain emotional equilibrium. Though long shifts are understandable in the case of emergencies, as a standard practice they can lead to poor morale, poor job performance, irritability, and errors in judgment that can have serious, even deadly, consequences.

6.3.1 ACTION ITEM: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

Though legislation and funding from the Federal Government is necessary in some cases, most of the policies, programs, and practices recommended by the task force can and should be implemented at the local level. It is understood, however, that there are no "one size fits all" solutions and that implementation will vary according to agency size, location, resources, and other factors.

^{112.} Listening Session on Officer Safety and Wellness (oral testimony of David Orr, sergeant, Norwalk [CT] Police Department, to the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

^{113.} Bryan Vila, *Tired Cops: The Importance of Managing Police Fatigue*, (Washington, DC: Police Executive Research Forum, 2000); Mora L. Fiedler, *Officer Safety and Wellness: An Overview of the Issues* (Washington, DC: Office of Community Oriented Policing Services, 2011), 4, http://cops.usdoj.gov/pdf/OSWG/e091120401-OSWGReport.pdf.



Christina Brown of Black Lives Matter Cincinnati speaks about mass demonstrations while Superintendent Garry McCarthy of the Chicago Police
Department looks on, Cincinnati, January 30, 2015.

PHOTO: DEBORAH SPENCE

6.4 RECOMMENDATION: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

Task force witness Dr. Alexander Eastman, who is a trauma surgeon as well as a law enforcement professional, noted that tactical first aid kits would significantly reduce the loss of both officer and civilian lives due to blood loss. Already available to members of the military engaged in combat missions, these kits are designed to save lives by controlling hemorrhaging. They contain tourniquets, an Olaes modular bandage, and QuikClot gauze and would be provided along with training in hemorrhage control. Dr. Eastman estimated that the kits could cost less than \$50 each and require about two hours of training, which could be provided through officers who have completed "train the trainer" programs.¹¹⁴

This would be a national adoption of the Hartford Consensus, which calls for agencies to adopt hemorrhage control as a core law enforcement skill and

114. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

to integrate rescue/emergency medical services personnel into community-wide active shooter preparedness and training. These activities would complement the current "Save Our Own" law enforcement-based hemorrhage control programs.¹¹⁵

To further reduce officer deaths, the task force also strongly recommends the provision of body armor to all officers with replacements when necessary.

6.4.1 ACTION ITEM: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 ACTION ITEM: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

Created by statute in 1998, this program is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. Based on data collected and recorded by Bureau of Justice Assistance staff,

^{115.} M. Jacobs Lenworth, Jr., "Joint Committee to Create a National Policy to Enhance Survivability from Mass Casualty Shooting Events: Hartford Consensus II," *Journal of the American College of Surgeons* 218, no. 3 (March 2014): 476–478.

in FY 2012 protective vests were directly attributed to saving the lives of at least 33 law enforcement and corrections officers.

6.5 RECOMMENDATION: The U.S.

Department of Justice should expand efforts to collect and analyze data not only on officer deaths but also on injuries and "near misses."

Another recommendation mentioned by multiple witnesses is the establishment of a nationwide repository of data on law enforcement injuries, deaths, and near misses. Though the Federal Bureau of Investigation (FBI) does maintain a database of information pertinent to police procedures on officers killed in the line of duty, it does not contain the medical details that could be analyzed by medical providers and scientists to improve medical care, tactics, training, equipment, and procedures that would prevent or reduce injuries and save lives. The Police Foundation, with the support of a number of other law enforcement organizations, launched an online Law Enforcement Near Miss Reporting System in late 2014, but it is limited in its ability to systematically analyze national trends in this important data by its voluntary nature. 116

6.6 RECOMMENDATION: Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

According to task force witness Craig Floyd, traffic accidents have been the number one cause of officer fatalities in recent years, and nearly half of those officers were not wearing seat belts.¹¹⁷ He

suggests in-car cameras and seat belt sensors to encourage use along with aggressive safety campaigns. Some witnesses endorsed mandatory seat belt policies as well.

The Prince George's County (Maryland) Arrive Alive Campaign initiated by task force witness Chief Mark Magraw to promote 100 percent seat belt usage relied on incentives and peer pressure for success. The message was, "it is not just about you, it is also about your family and your department." 118

There were also many calls for mandatory requirements that all officers wear soft body armor any time they are going to be engaging in enforcement activities, uniformed or not. It was also suggested that law enforcement agencies be required to provide these for all commissioned personnel.

6.7 RECOMMENDATION: Congress should develop and enact peer review error management legislation.

The task force recommends that Congress enact legislation similar to the Healthcare Quality Improvement Act of 1986¹¹⁹ that would support the development of an effective peer review error management system for law enforcement similar to what exists in medicine. A robust but nonpunitive peer review error management program—in which law enforcement officers could openly and frankly discuss their own or others' mistakes or

Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

118. Listening Session on Officer Safety and Wellness (oral testimony of Mark Magraw, chief, Prince Georges County [MD] Police Department, for the President's Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

119. The Health Care Quality Improvement Act of 1986 (HCQIA), 42 USC §11101 et seq., sets out standards for professional review actions. If a professional review body meets these standards, then neither the professional review body nor any person acting as a member or staff to the body will be liable in damages under most federal or state laws with respect to the action. For more information, see "Medical Peer Review," American Medical Association, accessed February 28, 2015, https://www.ama-assn.org/ama/pub/physician-resources/legal-topics/medical-peer-review.page.

^{116.} Deborah L. Spence, "One on One with LEO Near Miss," *Community Policing Dispatch* 8, no. 2 (February 2015), http://cops.usdoj.gov/html/dispatch/02-2015/leo_near_miss.asp.

^{117.} Listening Session on Officer Safety and Wellness (oral testimony of Craig Floyd, National Law Enforcement Officer Memorial Foundation, for the President's

near misses without fear of legal repercussions—would go a long way toward reducing injuries and fatalities by improving tactics, policies, and procedures. Protecting peer review error management findings from being used in legal discovery would enable the widespread adoption of this program by law enforcement.

The Near Miss anonymous reporting system developed by the Police Foundation in Washington, D.C., currently collects anonymous data that can be very helpful in learning from and preventing mistakes, fatalities, and injuries—but a program that enabled peer review of errors would provide even more valuable perspectives and solutions.

6.8 RECOMMENDATION: The U.S.

Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention "smart car" technology that will reduce the number of accidents.

Given that the FBI's 2003 to 2012 Law Enforcement Officers Killed in Action report showed that 49 percent of officer fatalities were a result of vehicle-related accidents, the need for protective devices cannot be understated. New technologies such as vehicle collision prevention systems should be explored.

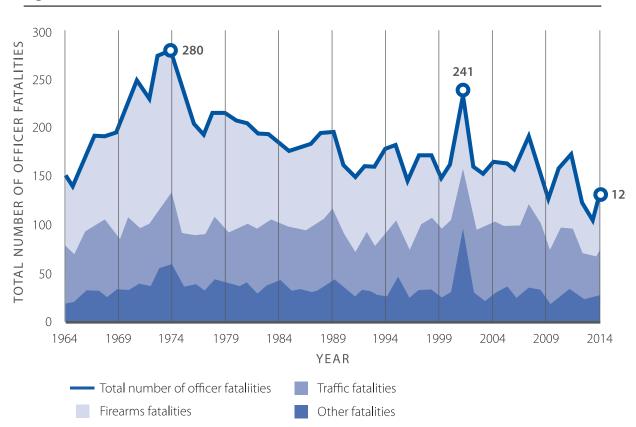


Figure 3. Total law enforcement fatalities from 1964-2014

Source: "126 Law Enforcement Fatalities Nationwide in 2014," *Preliminary 2014 Law Enforcement Officer Fatalities Report* (Washington, DC: National Law Enforcement Officers Memorial Fund, December 2014), https://www.nleomf.org/assets/pdfs/reports/Preliminary-2014-Officer-Fatalities-Report.pdf.

IMPLEMENTATION

The members of the President's Task Force on 21st Century Policing are convinced that these 59 concrete recommendations for research, action, and further study will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities. But we also recognize that the Administration, through policies and practices already in place, can start right now to move forward on the bedrock recommendations in this report. Accordingly, we propose the following items for immediate action.

7.1 RECOMMENDATION: The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 RECOMMENDATION: The U.S.
Department of Justice should explore
public-private partnership opportunities,
starting by convening a meeting with local,
regional, and national foundations to discuss
the proposals for reform described in this
report and seeking their engagement and
support in advancing implementation of
these recommendations.

7.3 RECOMMENDATION: The U.S.
Department of Justice should charge its
Office of Community Oriented Policing
Services (COPS Office) with assisting the law
enforcement field in addressing current and
future challenges.

For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.
- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to
 - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police;



PHOTO: BRANDON TRAMEL

- provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;
- compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.
- Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

- Collaborate with the NIJ and the BJS to publish an annual report on the "State of Policing" in the United States.
- Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.
- Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.

APPENDIX A. PUBLIC LISTENING SESSIONS & WITNESSES

The President's Task Force on 21st Century Policing hosted multiple public listening sessions to gain broad input and expertise from stakeholders. The information collected in these meetings informed and advised the task force in developing its recommendations.

Listening Session 1. Building Trust & Legitimacy

Washington, D.C., January 13, 2015 Panel One: Subject Matter Experts

Jennifer Eberhardt, Associate Professor of Psychology, Stanford University

Charles Ogletree, Jesse Climenko Professor of Law, Harvard Law School

Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology, Yale Law School

Samuel Walker, Emeritus Professor of Criminal Justice, University of Nebraska Omaha

Panel Two: Community Representatives

Carmen Perez, Executive Director, The Gathering for Justice

Jim St. Germain, Co-Founder, Preparing Leaders of Tomorrow, Inc.

Jim Winkler, President and General Secretary, National Council of Churches of Christ in the USA

Panel Three: Law Enforcement Organizations

Richard Beary, President, International Association of Chiefs of Police

Chuck Canterbury, National President, Fraternal Order of Police

Andrew Peralta, National President, National Latino Peace Officers Association

Richard Stanek, Immediate Past President, Major County Sheriffs' Association

Panel Four: Civil Rights / Civil Liberties

Sherrilyn Ifill, President and Director-Counsel, National Association for the Advancement of Colored People Legal Defense and Educational Fund

Maria Teresa Kumar, President and CEO, Voto Latino

Laura Murphy, Director, Washington Legislative Office, American Civil Liberties Union

Vikrant Reddy, Senior Policy Analyst, Texas Public Policy Foundation Center for Effective Justice

Panel Five: Mayors

Kevin Johnson, Sacramento **Michael Nutter**, Philadelphia

Stephanie Rawlings-Blake, Baltimore

Listening Session 2. Policy & Oversight

Cincinnati, Ohio, January 30, 2015
Panel One: Use of Force Research and

Policies

Geoffrey Alpert, Professor, University of South Carolina

Mick McHale, President, National Association of Police Organizations

Harold Medlock, Chief, Fayetteville (North Carolina) Police Department

Rashad Robinson, Executive Director, Color of Change

Panel Two: Use of Force Investigations and Oversight

Sim Gill, District Attorney, Salt Lake County, Utah

Jay McDonald, President, Fraternal Order of Police of Ohio

Kirk Primas, Assistant Sheriff, Las Vegas Metropolitan Police Department

Chuck Wexler, Executive Director, Police Executive Research Forum

Panel Three: Civilian Oversight

Charlie Beck, Chief, Los Angeles Police Department

Brian Buchner, President, National Association for Civilian Oversight of Law Enforcement

Darius Charney, Senior Staff Attorney, Center for Constitutional Rights

Panel Four: Mass Demonstrations

Christina Brown, Founding Organizer, Black Lives Matter: Cincinnati

Garry McCarthy, Superintendent, Chicago Police Department

Rodney Monroe, Chief, Charlotte-Mecklenburg (North Carolina) Police Department

Sean Whent, Chief, Oakland (California) Police Department

Panel Five: Law Enforcement Culture and Diversity

Malik Aziz, National Chairman, National Black Police Association

Hayley Gorenberg, Deputy Legal Director, Lambda Legal

Kathy Harrell, President, Fraternal Order of Police, Queen City Lodge #69, Cincinnati, Ohio

Barbara O'Connor, President, National Association of Women Law Enforcement Executives

Listening Session 3. Technology & Social Media

Cincinnati, Ohio, January 31, 2015 Panel One: Body Cameras—Research

and Legal Considerations

Jim Bueermann, President, Police Foundation

Scott Greenwood, Attorney

Tracie Keesee, Co-Founder and Director of Research Partnerships, Center for Policing Equity

Bill Lewinski, Founder and Director, Force Science Institute

Michael White, Professor, School of Criminology and Criminal Justice, Arizona State University

Panel Two: Body Cameras—Implementation

Johanna Miller, Advocacy Director, New York Civil Liberties Union **Ken Miller**, Chief, Greenville (South Carolina) Police Department

Kenton Rainey, Chief, Bay Area Rapid Transit, San Francisco

Richard Van Houten, Sergeant, Fort Worth (Texas) Police Officers Association

Panel Three: Technology Policy

Eliot Cohen, Lieutenant, Maryland State Police

Madhu Grewal, Policy Counsel, The Constitution Project

Bill Schrier, Senior Policy Advisor, Office of the Chief Information Officer, State of Washington

Vincent Talucci, Executive Director / Chief Executive Officer, International Association of Chiefs of Police

Panel Four: Social Media, Community Digital Engagement and Collaboration

Hassan Aden, Director, Research and Programs, International Association of Chiefs of Police

DeRay McKesson, This is the Movement

Steve Spiker, Research and Technology Director, Urban Strategies Council

Lauri Stevens, Founder and Principal Consultant, LAwS Communications

Listening Session 4. Community Policing & Crime Reduction

Phoenix, Arizona, February 13, 2015
Panel One: Community Policing and
Crime Prevention Research

Bill Geller, Director, Geller & Associates

Dr. Delores Jones-Brown, Professor, John Jay College of Criminal Justice, City University of New York

Dr. Dennis Rosenbaum, Professor, University of Illinois at Chicago

Dr. Wesley G. Skogan, Professor, Northwestern University

Panel Two: Building Community Policing Organizations

Anthony Batts, Police Commissioner, Baltimore Police Department

Jeffrey Blackwell, Chief, Cincinnati (Ohio) Police Department

Chris Magnus, Chief, Richmond (California) Police Department

Patrick Melvin, Chief, Salt River Police Department (Salt River Pima-Maricopa Indian Community)

Panel Three: Using Community Policing to Reduce Crime

Kevin Bethel, Deputy Police Commissioner, Philadelphia Police Department

Melissa Jones, Senior Program Officer, Boston's Local Initiatives Support Corporation

David Kennedy, Professor, John Jay College of Criminal Justice, City University of New York

J. Scott Thomson, Chief, Camden County (New Jersey)
Police Department

George Turner, Chief, Atlanta Police Department

Panel Four: Using Community Policing to Restore Trust

Rev. Jeff Brown, Rebuilding Every City Around Peace

Dwayne Crawford, Executive Director, National Organization of Black Law Enforcement Executives

Justin Hansford, Assistant Professor of Law, Saint Louis University School of Law

Cecil Smith, Chief, Sanford (Florida) Police Department

Panel Five: Youth and Law Enforcement

Delilah Coleman, Member, Navajo Nation (Senior at Flagstaff High School)

Jose Gonzales, Alumnus, Foster Care and Crossover Youth

Jamecia Luckey, Youth Conference Committee Member, Cocoa (Florida) Police Athletic League

Nicholas Peart, Staff Member, The Brotherhood-Sister Sol (Class Member, *Floyd, et al. v. City of New York, et al.*)

Michael Reynolds, Co-President, Youth Power Movement

Listening Session 5. Training & Education

Phoenix, Arizona, February 14, 2015 Panel One: Basic Recruit Academy

Arlen Ciechanowski, President, International Association of Directors of Law Enforcement Standards and Training

William J. Johnson, Executive Director, National Association of Police Organizations

Benjamin B. Tucker, First Deputy Commissioner, New York City Police Department

Dr. Steven Winegar, Coordinator, Public Safety Leadership Development, Oregon Department of Public Safety Standards and Training

Panel Two: In-Service Training

Dr. Scott Decker, Professor, Arizona State University

Aaron Danielson, President, Public Safety Employee Association/ AFSCME Local 803, Fairbanks, Alaska

Dr. Cheryl May, Director, Criminal Justice Institute and National Center for Rural Law Enforcement

John Ortolano, President, Arizona Fraternal Order of Police

Gary Schofield, Deputy Chief, Las Vegas Metropolitan Police Department

Panel Three: Supervisory, Leadership and Management Training

Edward Flynn, Chief, Milwaukee (Wisconsin) Police Department

Sandra Hutchens, Sheriff, Orange County (California) Sheriff's Department

Kimberly Jacobs, Chief, Columbus (Ohio) Division of Police

John Layton, Sheriff, Marion County (Indiana) Sheriff's Office

Dr. Ellen Scrivner, Executive Fellow, Police Foundation

Panel Four: Voices in the Community

Allie Bones, MSW, Chief Executive Officer, Arizona Coalition to End Sexual and Domestic Violence

Renaldo Fowler, Senior Staff Advocate, Arizona Center for Disability Law

Keeshan Harley, Member, Communities United for Police Reform

Andrea Ritchie, Senior Policy Counsel, Streetwise and Safe

Linda Sarsour, Executive Director, Arab American Association of New York

Panel Five: Special Training on Building Trust

Lt. Sandra Brown (retired), Principal Trainer, Fair and Impartial Policing

Dr. Randolph Dupont, Professor and Clinical Psychologist, University of Memphis

David C. Friedman, Regional Director of National Law Enforcement Initiatives, Anti-Defamation League

Lt. Bruce Lipman (retired), Procedural Justice /Police Legitimacy Training

Dr. Ronal Serpas, Advisory Board Member, Cure Violence Chicago

Listening Session 6. Officer Safety & Wellness

Washington, D.C., February 23, 2015 Panel One: Officer Wellness

Dr. Laurence Miller, Clinical Forensic Psychologist and Law Enforcement Educator

David Orr, Sergeant, Norwalk (Connecticut) Police Department

Dr. Sandra Ramey, Assistant Professor, University of Iowa College of Nursing

Dr. John Violanti, Research Professor, State University of New York Buffalo

Yost Zakhary, Public Safety Director, City of Woodway, Texas

Panel Two: Officer Safety

Jane Castor, Chief, Tampa (Florida) Police Department

Jerry L. Demings, Sheriff, Orange County (Florida) Sheriff's Office

Dr. Alexander L. Eastman, Lieutenant and Deputy Medical Director, Dallas Police Department

Craig W. Floyd, Chairman and Chief Executive Officer, National Law Enforcement Officers Memorial Fund

Panel Three: Voices from the Field

Dianne Bernhard, Executive Director, Concerns of Police Survivors

Robert Bryant, Chief, Penobscot Nation

Chuck Canterbury, National President, Fraternal Order of Police

William J. Johnson, Executive Director, National Association of Police Organizations

Jonathan Thompson, Executive Director, National Sheriffs' Association

Panel Four: Labor/Management Relations

Dr. Chuck Wexler, Executive Director, Police Executive Research Forum

Karen Freeman-Wilson, Mayor, Gary, Indiana

Mark Magaw, Chief, Prince George's County (Maryland)
Police Department

James Pasco, Executive Director, Fraternal Order of Police

Dustin Smith, President, Sacramento (California) Police Officers Association

Listening Session 7. Future of Community Policing

Washington, D.C., February 24, 2015 Panel: Future of Community Policing

Dr. Phillip Goff, Professor, University of California, Los Angeles

Jim McDonnell, Sheriff, Los Angeles County Sheriff's Department

Dr. Daniel Nagin, Teresa and H. John Heinz III Professor of Public Policy, Carnegie Mellon University

Dr. Lawrence Sherman, Director of the Institute of Criminology of the University of Cambridge, United Kingdom

Jeremy Travis, President, John Jay College of Criminal Justice, City University of New York

APPENDIX B. INDIVIDUALS & ORGANIZATIONS THAT SUBMITTED WRITTEN TESTIMONY

In addition to receiving testimony from those individuals that appeared as witnesses during public listening sessions, the President's Task Force on 21st Century Policing accepted written testimony from any individual or organization to ensure that its information gathering efforts included as many people and perspectives as possible. The task force thanks the individuals and organizations who submitted written testimony for their time and expertise.

This list reflects organizational affiliation at the time of testimony submission and may not represent submitters' current positions.

Individuals

Robert Abraham, Chair, Gang Resistance Education & Training (GREAT) National Policy Board

Phillip Agnew, Executive Director, Dream Defenders

Kilolo Ajanaku, National Executive Director, World Conference of Mayors' Dr. Martin Luther King, Jr. American Dream Initiative

Barbara Attard, Past President, National Association for Civilian Oversight of Law Enforcement

Paul Babeu, Vice President, Arizona Sheriffs Association

Monifa Bandele, Communities United for Police Reform

Dante Barry, Executive Director, Million Hoodies

David Bayley, Distinguished Professor Emeritus, University of Albany

Michael Bell, Lt. Colonel (retired), United States Air Force

Michael Berkow, Chief, Savannah (Georgia) Police Department

Greg Berman and **Emily Gold LaGratta**, Center for Court Innovation

Angela Glover Blackwell, Founder and CEO, PolicyLink

Mark Bowman, Assistant Professor of Justice Studies, Methodist University **Eli Briggs**, Director of Government Affairs, National Association of County and City Health Officials (NACCHO)

Cherie Brown, Executive Director, National Coalition Building Institute

Steven Brown, Journalist / Public Relations Consultant

Chris Calabrese, Senior Policy Director, Center for Democracy and Technology—with **Jake Laperruque**, Fellow on Privacy, Surveillance, and Security

Melanie Campbell, President and CEO, National Coalition on Black Civic Participation

Mo Canady, Executive Director, National Association of School Resource Officers (NASRO)

Hugh Carter Donahue, Adjunct Professor, Department of History, Rowan University

Anthony Chapa, President, Hispanic American Police Command Officers Association

Lorig Charkoudian, Executive Director, Community Mediation Maryland

Ralph Clark, President and CEO, SST Inc.

Faye Coffield CJ Federal Task Force

The Hon. LaDoris Cordell, Office of the Independent Police Auditor, San Jose, California

Jill Corson Lake, Director of Global Advising, Parsons The New School for Design

David Couper, Chief of Police (retired), Madison (Wisconsin) Police Department

Madeline deLone, Executive Director, The Innocence Project—with **Marvin Anderson**, Board Member

Jimmie Dotson, Police Chief (retired), Houston Independent School District / GeoDD GeoPolicing Team

Ronnie Dunn, Professor, Cleveland State University

Lauren-Brooke Eisen and **Nicole Fortier** — Counsel, Justice Program, Brennan Center for Justice at NYU School of Law

Christian Ellis, CEO, Alternative Ballistics

Jeffrey Fagan, Professor of Law, Columbia Law School

Mai Fernandez, Executive Director, National Center for Victims of Crime

Johnny Ford, Founder, Alabama Conference of Black Mayors and Mayor, Tuskegee, Alabama

Lisa Foster, Director, Access to Justice Initiative, U.S. Department of Justice

Neill Franklin, Executive Director, Law Enforcement Against Prohibition

S. Gabrielle Frey, Interim Executive Director, National Association of Community Mediation

Lorie Fridell, Associate Professor of Criminology, University of South Florida

Allen Frimpong, Activist—Malcolm X Grassroots Movement: New York's Self Defensive Campaign

Ethan Garcia, Youth Specialist, Identity Inc.

Michael Gennaco, Principal, OIR Group

Al Gerhardstein, Civil Rights Attorney

James Gierach, Executive Board Vice Chairman, Law Enforcement Against Prohibition

Fred Ginyard, Organizing Director, Fabulous Independent Educated Radical for Community Empowerment (FIERCE)

Mark Gissiner, Past President, International Association for Civilian Oversight of Law Enforcement

Becca Gomby, SDR Academy

Rev. Aaron Graham, Lead Pastor, The District Church

Fatima Graves, Vice President, National Women's Law Center—with **Lara S. Kaufmann**, Senior Counsel and Director of Education Policy for At-Risk Students

Virgil Green, Chairman, Future America National Crime Solution Commission

Sheldon Greenberg, Professor, School of Education, Division of Public Safety Leadership, The Johns Hopkins University

Robert Haas, Police Commissioner, Cambridge (Massachusetts)
Police Department

David Harris, Distinguished Faculty Scholar and Professor of Law Associates Dean for Research, University of Pittsburgh School of Law

W. Craig Hartley, Executive Director, CALEA

Steven Hawkins, Executive Director, Amnesty International USA

Louis Hayes, The Virtus Group, Inc.

Wade Henderson, President and CEO, The Leadership Conference on Civil and Human Rights—with **Nancy Zirkin**, Executive Vice President

Maulin Chris Herring, Trainer/Consultant, Public Safety

Sandy Holman, Director, The Culture CO-OP

Zachary Horn and Kent Halverson, Aptima, Inc. with Rebecca Damari and Aubrey Logan-Terry, Georgetown University

Tanya Clay House, Director of Public Policy, Lawyers' Committee for Civil Rights Under Law

Susan Hutson, Office of the Independent Police Monitor, New Orleans

Ingram Janaye, Executive Director, National Action Network

Melanie Jeffers

Megan Johnston, Executive Director, Northern Virginia Mediation Service

Nola Joyce, Deputy Commissioner, Philadelphia Police Department

Keith Kauffman, Captain, Hawthorne (California)
Police Department

Gwendolyn Puryear Keita, Executive Director, American Psychological Association, Public Interest Directorate

Stanley Knee, Chief, Austin (Texas) Police Department

Laura Kunard, Senior Research Scientist, CNA Corporation

David Kurz, Chief, Durham (New Hampshire) Police Department

Deborah Lauter, Director of Civil Rights, Anti-Defamation League—with **Michael Lieberman**, Washington Counsel

Cynthia Lum and **Christopher Koper**, George Mason University, Center for Evidence-Based Crime Policy

Bruce Lumpkins

Edward Maguire, Professor of Justice, Law & Criminology, American University

Baron Marquis, Member, Riverside Church, New York

Travis Martinez, Lieutenant, Redlands (California) Police Department

Mike Masterson, Chief, Boise (Idaho) Police Department

Andrew Mazzara, Executive Director, International Law Enforcement Forum—with **Colin Burrows** QMP (U.K.), ILEF Advisory Board Chair

R. Paul McCauley, Past President, Academy of Criminal Justice Sciences

V. Michael McKenzie

Harvey McMurray, Chair, Department of Criminal Justice, North Carolina Central University

Pamela Meanes, President, National Bar Association

Doug Mellis, President, Massachusetts Chiefs of Police Association—with **Brian Kyes**, President, Massachusetts Major City Chiefs Association

Seth Miller, President, The Innocence Network

Charlene Moe, Program Coordinator, Center for Public Safety and Justice, Institute of Government and Public Affairs, University of Illinois

Marc Morial, CEO, National Urban League

Richard Myers, Chief, Newport News (Virginia) Police Department

Toye Nash, Sergeant, Phoenix Police Department

Rebecca Neri and **Anthony Berryman** – UCLA Improvement by Design Research Group

Chuck Noerenberg, President, National Alliance for Drug Endangered Children

Newell Normand, Sheriff, Jefferson Parish (Louisiana) Sherriff's Office—submitted with Adrian Garcia, Sheriff, Harris County (Texas) Sheriff's Office; David Mahoney, Sheriff, Dane County (Wisconsin) Sheriff's Office; Anthony Normore, Ph.D., Criminal Justice Commission for Credible Leadership Development; and Mitch Javidi, Ph.D., International Academy of Public Safety

Gbadegesin Olubukola, St. Louis University

Patrice O'Neill, CEO/Executive Producer, Not In Our Town

Jim Palmer, Executive Director, Wisconsin Professional Police Association

Julie Parker, Media Relations Division Director, Prince George's County (Maryland) Police Department

George Patterson, Associate Professor, City University of New York

David Perry, President, International Association of Campus Law Enforcement Administrators (IACLEA)

Megan Price, Director, Insight Conflict Resolution Program, School for Conflict Analysis and Resolution, George Mason University

Sue Quinn, Past President, National Association for Civilian Oversight of Law Enforcement

Tess Raser, Teacher, Brooklyn, New York

Darakshan Raja, Program Manager, Washington Peace Center

Sir Desmond Rea and **Robin Masefield**, Northern Ireland Policing Board

Nuno Rocha

Edwin Roessler, Jr., Chief, Fairfax County (Virginia) Police Department

Jeffrey Rojek, University of Texas at El Paso

Iris Roley, Black United Front of Cincinnati

Julia Ryan, Community Safety Initiative Director, LISC

Robert Samuels, Former Acting Director, DOJ Executive Office for Weed and Seed

Kami Chavis Simmons, Professor of Law and Director of the Criminal Justice Program, Wake Forest University School of Law

Russell Skiba, Professor and Director, Equity Project at Indiana University

Ronald Sloan, President, Association of State Criminal Investigative Agencies

Samuel Somers, Jr., Chief, Sacramento Police Department

Brett Stoudt, Morris Justice Project and Professor, John Jay College of Criminal Justice

"Think Tank Johnny"

Don Tijerina, President, Hispanic American Police Command Officers Association

Nicholas Turner, President and Director, Vera Institute of Justice

James Unnever, Professor of Criminology, University of South Florida

Javier Valdes, Executive Director, Make the Road New York

Kim Vansell, Director, National Center for Campus Public Safety

Nina Vinik, Program Director, Gun Violence Prevention, The Joyce Foundation

Vincent Warren, Executive Director, Center for Constitutional Rights

Barbara Weinstein, Associate Director, Religious Action Center of Reform Judaism

Jenny Yang, Chair, U.S. Equal Employment Opportunity Commission

Organizations

American Friends Service Committee

American Society of Criminology, Division of Policing, Ad Hoc Committee to the President's Task Force on 21st Century Policing (Anthony Braga, Rod K. Brunson, Gary Cordner, Lorie Fridell, Matthew Hickman, Cynthia Lum, Stephen D. Mastrofski, Jack McDevitt, Dennis P. Rosenbaum, Wesley G. Skogan, and William Terrill)

Brooklyn Defender Services

The Bronx Defenders

Center for Popular Democracy

Civil Rights Coalition on Police Reform

CNA Corporation (George Fachner, Michael D. White, James R. Coldren, Jr., and James K. Stewart)

Color of Change

Dignity in Schools Campaign

Ethics Bureau at Yale (Lawrence Fox, Supervising Lawyer)

Evangelical Lutheran Church in America

Harvard Kennedy School (John F. Kennedy School of Government)

Illinois Coalition for Immigrant and Refugee Rights

Immigrant Defense Project

International Association for Human Values (IAHV) / Works of Wonder International

Latino Justice

Lawyers' Committee for Civil Rights Under Law (including A. Phillip Randolph Institute, Black Youth Vote, Empowerment Movement, Hip Hop Caucus, Leadership Conference on Civil and Human Rights, Muslim Advocates, National Association for the Advancement of Colored People [NAACP], NAACP Legal Defense Fund, National Coalition on Black Civic Participation, National Council of Churches of Christ in the USA, PICO National Network, and Rainbow PUSH Coalition)

Local Initiatives Support Corporation (LISC)

Major County Sheriffs' Association

Make the Road New York

National Action Network (NAN)

National Association for Civilian Oversight of Law Enforcement

National Association of Counties

National Association of Police Organizations

National Association of Women Law Enforcement Executives

National Collaborative for Health Equity, Dellums Commission

National Day Laborer Organizing Network

National Immigration Law Center

National Fraternal Order of Police

National Organization of Black Law Enforcement Executives (NOBLE)

National Sheriffs' Association

New Sanctuary Coalition of New York

Northern Manhattan Coalition for Immigrant Rights

Northwest Immigrant Rights Project

PICO National Network

Public Science Project

Santa Fe College and the Santa Fe College Police Department, Gainesville, Florida

Southern Poverty Law Center

Streetwise & Safe

Team Kids

Works of Wonder International

APPENDIX C. EXECUTIVE ORDER 13684 OF DECEMBER 18, 2014

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to identify the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust, it is hereby ordered as follows:

Section 1. *Establishment*. There is established a President's Task Force on 21st Century Policing (Task Force).

- **Sec. 2.** *Membership.* (a) The Task Force shall be composed of not more than eleven members appointed by the President. The members shall include distinguished individuals with relevant experience or subject-matter expertise in law enforcement, civil rights, and civil liberties.
- (b) The President shall designate two members of the Task Force to serve as Co-Chairs.
- **Sec. 3.** *Mission*. (a) The Task Force shall, consistent with applicable law, identify best practices and otherwise make recommendations to the President on how policing practices can promote effective crime reduction while building public trust.
- (b) The Task Force shall be solely advisory and shall submit a report to the President by March 2, 2015.
- **Sec. 4.** Administration. (a) The Task Force shall hold public meetings and engage with Federal, State, tribal, and local officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

- (b) The Director of the Office of Community Oriented Policing Services shall serve as Executive Director of the Task Force and shall, as directed by the Co-Chairs, convene regular meetings of the Task Force and supervise its work.
- (c) In carrying out its mission, the Task Force shall be informed by, and shall strive to avoid duplicating, the efforts of other governmental entities.
- (d) The Department of Justice shall provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for the Task Force to carry out its mission to the extent permitted by law and subject to the availability of appropriations.
- (e) Members of the Task Force shall serve without any additional compensation for their work on the Task Force, but shall be allowed travel expenses, including per diem, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C.5701-5707).
- **Sec. 5.** *Termination*. The Task Force shall terminate 30 days after the President requests a final report from the Task Force.
- **Sec. 6.** *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:
- (i) the authority granted by law to a department, agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act") may apply to the Task Force, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Attorney General.

THE WHITE HOUSE, December 18, 2014.

APPENDIX D. TASK FORCE MEMBERS' BIOGRAPHIES

Co-Chairs

Charles Ramsey

Charles Ramsey is the commissioner of the Philadelphia Police Department (PPD), a position he has held since 2008. Since 2010, he has served as president of the Major Cities Chiefs Association and the Police Executive Research Forum. Commissioner Ramsey began his law enforcement career in 1968 as a cadet with the Chicago Police Department (CPD). Over the next 30 years, he held various positions with the CPD, including commander of the Narcotics Division, deputy chief of the Patrol Division, and deputy superintendent, a role he held from 1994 to 1998. In 1998, he was named chief of the Metropolitan Police Department of the District of Columbia (MPDC), where he served until early 2007. In 2007, Commissioner Ramsey served on the Independent Commission on Security Forces of Iraq, leading a review of the Iraqi Police Force. In addition to his current role at the PPD, he also serves as a member of the Homeland Security Advisory Council. Commissioner Ramsey received a BS and MS from Lewis University.

Laurie Robinson

Laurie Robinson is the Clarence J. Robinson Professor of Criminology, Law and Society at George Mason University, a position she has held since 2012. She served as assistant attorney general for the Office of Justice Programs (OJP) in the U.S. Department of Justice (DOJ) from 2009 to 2012. Prior to that, Ms. Robinson served as the Principal deputy assistant attorney general for OJP and acting assistant attorney general for OJP. Previously, she was a member of the Obama-Biden Transition Team. From 2003 to 2009, Ms. Robinson was the director of the Master of Science Program in Criminology at the University of Pennsylvania. From 1993 to 2000, she served her first term as assistant attorney general for OJP. Before joining DOJ, Ms. Robinson spent over 20 years with the American Bar Association, serving as assistant staff director of the Criminal Justice Section from 1972 to 1979, director of the Criminal Justice Section from 1979 to 1993, and director of the Professional Services Division from 1986 to 1993. She is a senior fellow at the George Mason University Center for Evidence-Based Crime Policy and serves as cochair of the Research Advisory Committee for the International Association of Chiefs of Police. She also serves on the board of trustees of the Vera Institute of Justice. Ms. Robinson received a BA from Brown University.

Members

Cedric L. Alexander

Cedric L. Alexander is the deputy chief operating officer for Public Safety in DeKalb County, Georgia, a position he has held since late 2013. Dr. Alexander is also the national president of the National Organization of Black Law Enforcement Executives. In 2013, he served as chief of police for the DeKalb County Police Department. Prior to this, Dr. Alexander served as federal security director for the Transportation Security Administration (TSA) at Dallas/Fort Worth International Airport from 2007 to 2013. And from 2006 to 2007, he was deputy commissioner of the New York State Division of Criminal Justice Services. From 2005 to 2006, Dr. Alexander was chief of the Rochester (New York) Police Department (RPD), where he previously served as deputy chief of police from 2002 to 2005. Before joining RPD, Dr. Alexander was a faculty member in the Department of Psychiatry at the University of Rochester Medical Center from 1998 to 2002. He began his career as a deputy sheriff in Florida from 1977 to 1981, before joining the Miami-Dade Police Department, where he was as an officer and detective from 1981 to 1992. He received a BA and MS from St. Thomas University in Miami, Florida, and a PsyD from Wright State University.

Jose Lopez

Jose Lopez is currently the lead organizer at Make the Road New York (MRNY), a Brooklyn-based non-profit community organization focused on civil rights, education reform, and combating poverty. He became lead organizer of MRNY in 2013. Mr. Lopez began his career in 2000 as youth organizer with Make the Road by Walking, which later merged with the Latin American Integration Center to form MRNY in 2007. He continued to serve as youth organizer with MRNY until 2009 when he became senior organizer. Since 2011, Mr. Lopez has represented MRNY on the steering

committee of Communities United for Police Reform, a New York City organization advocating for law enforcement reform. From 2001 to 2004, he was an active contributor to the Radio Rookies Project, an initiative of New York Public Radio. He received a BA from Hofstra University.

Tracey L. Meares

Tracey Meares is the Walton Hale Hamilton Professor of Law at Yale Law School, a position she has held since 2007. From 2009 to 2011, she also served as deputy dean of Yale Law School. Before joining the faculty at Yale, she served as a professor at the University of Chicago Law School from 1995 to 2007. She has served on the Committee on Law and Justice, a National Research Council Standing Committee of the National Academy of Sciences. She was appointed by Attorney General Eric Holder to serve on the inaugural U.S. Department of Justice, Office of Justice Programs Science Advisory Board. She also currently serves on the board of directors of the Joyce Foundation. Ms. Meares began her legal career as a law clerk for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit. She later served as a trial attorney in the Antitrust Division at the U.S. Department of Justice. Ms. Meares received a BS from the University of Illinois and a JD from the University of Chicago Law School.

Brittany N. Packnett

Brittany Packnett is currently executive director of Teach For America in St. Louis, Missouri, a position she has held since 2012. From 2010 to 2012, she was a director on the Government Affairs Team at Teach For America. Ms. Packnett was a legislative assistant for the U.S. House of Representatives from 2009 to 2010. From 2007 to 2009, she was a third grade teacher in Southeast Washington, D.C., as a member of the Teach For America Corps. Ms. Packnett has volunteered as executive director

of Dream Girls DMV, a mentoring program for young girls, and was the founding co-chair of The Collective-DC, a regional organization for Teach For America alumni of color. She currently serves on the board of New City School, the COCA (Center of Creative Arts) Associate Board, the Urban League of Metro St. Louis Education Committee, and the John Burroughs School Board Diversity Committee. Ms. Packnett received a BA from Washington University in St. Louis and an MA from American University.

Susan Lee Rahr

Susan Rahr is executive director of the Washington State Criminal Justice Training Commission, a position she has held since 2012. From 2005 to 2012, she served as the first female sheriff in King County, Washington. Ms. Rahr spent over 30 years as a law enforcement officer, beginning as a patrol officer and undercover narcotics officer. While serving with the King County Sheriff's Office, she held various positions including serving as the commander of the Internal Investigations and Gang Units; commander of the Special Investigations Section; and police chief of Shoreline, Washington. Ms. Rahr received a BA from Washington State University. She has served as a member of the National Institute of Justice and Harvard Kennedy School Executive Session on Policing and Public Safety; president of the Washington State Association of Sheriffs and Police Chiefs. and an executive board member of the National Sheriffs' Association.

Constance Rice

Constance Rice is a civil rights attorney and co-director of the Advancement Project, an organization she co-founded in 1999. In 2003, Ms. Rice was selected to lead the Blue Ribbon Rampart Review Panel, which investigated the largest police corruption scandal in Los Angeles Police Department history. In 1991, Ms. Rice joined the NAACP Legal Defense and Educational Fund, and she became co-director of the Los Angeles office in 1996. She was previously an associate at Morrison & Foerster and began her legal career as a law clerk to Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit. Ms. Rice received a BA from Harvard College and a JD from the New York University School of Law.

Sean Michael Smoot

Sean Smoot is currently director and chief counsel for the Police Benevolent & Protective Association of Illinois (PB&PA) and the Police Benevolent Labor Committee (PBLC), positions he has held since 2000. He began his career with PB&PA and PBLC as a staff attorney in 1995, before becoming chief counsel of both organizations in 1997. Since 2001, Mr. Smoot has served as the treasurer of the National Association of Police Organizations and has served on the Advisory Committee for the National Law Enforcement Officers' Rights Center since 1996. From 2008 to 2009, he was a policy advisor to the Obama-Biden Transition Project on public safety and state and local police issues and was a member of the National Institute of Justice and Harvard Kennedy School of Government Executive Session on Policing and Public Safety from 2008 to 2011. Mr. Smoot served as police commissioner of Leland Grove, Illinois, from 1998 to 2008. He received a BS from Illinois State University and a JD from Southern Illinois University School of Law.

Bryan Stevenson

Bryan Stevenson is founder and executive director of the Equal Justice Initiative (EJI), a private, nonprofit organization headquartered in Montgomery, Alabama. In addition to directing the EJI since 1989, he is a clinical professor at New York University School of Law. He previously has served as a visiting professor of law at the University of Michigan School of Law. Mr. Stevenson has received the American Bar Association's Wisdom Award for public service, the ACLU's National Medal of Liberty, and the MacArthur Foundation "Genius" Award Prize. Mr. Stevenson received a BA from Eastern College (now Eastern University), a JD from Harvard Law School, and an MPP from the John F. Kennedy School of Government at Harvard University.

Roberto Villaseñor

Roberto Villaseñor is chief of police for the Tucson (Arizona) Police Department (TPD), a position he has held since 2009. He joined the TPD in 1980 and has served as officer, sergeant, lieutenant, and captain and as assistant chief from 2000 to 2009. Chief Villaseñor was named Officer of the Year for the TPD in 1996 and has been awarded the TPD Medal of Merit three times. He also received the TPD Medal of Distinguished Service. Chief Villaseñor is the incoming president of the Arizona Association of Chiefs of Police and a board member of the Police Executive Research Forum (PERF). He received a BS from Park University and a MEd from Northern Arizona University.

APPENDIX E. RECOMMENDATIONS AND ACTIONS

0.1 Overarching Recommendation:

The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

0.2 Overarching Recommendation:

The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

- 1.1 RECOMMENDATION: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs' departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.
- 1.2 RECOMMENDATION: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.
- 1.2.1 ACTION ITEM: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

- 1.3 RECOMMENDATION: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.
- 1.3.1 ACTION ITEM: To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department's website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.
- 1.3.2 ACTION ITEM: When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.
- 1.4 RECOMMENDATION: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.
- 1.4.1 ACTION ITEM: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.
- 1.4.2 ACTION ITEM: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing

additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

- 1.5 RECOMMENDATION: Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.
- 1.5.1 ACTION ITEM: In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.
- 1.5.2 ACTION ITEM: Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.
- 1.5.3 ACTION ITEM: Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.
- 1.5.4 ACTION ITEM: Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies should carefully consider and review their policies towards these populations and adopt policies if none are in place.

- 1.6 RECOMMENDATION: Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.
- 1.6.1 ACTION ITEM: Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.
- 1.7 RECOMMENDATION: Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.
- 1.7.1 ACTION ITEM: The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.
- 1.8 RECOMMENDATION: Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.
- 1.8.1 ACTION ITEM: The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.

- 1.8.2 ACTION ITEM: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.
- 1.8.3 ACTION ITEM: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.
- 1.8.4 ACTION ITEM: Discretionary federal funding for law enforcement programs could be influenced by that department's efforts to improve their diversity and cultural and linguistic responsiveness.
- 1.8.5 ACTION ITEM: Law enforcement agencies should be encouraged to explore more flexible staffing models.
- 1.9 RECOMMENDATION: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.
- 1.9.1 ACTION ITEM: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.
- 1.9.2 ACTION ITEM: Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.

- 1.9.3 ACTION ITEM: The U.S. Department of Justice should not include civil immigration information in the FBI's National Crime Information Center database.
- 2.1 RECOMMENDATION: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.
- 2.1.1 ACTION ITEM: The Federal Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.
- 2.2 RECOMMENDATION: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.
- 2.2.1 ACTION ITEM: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.
- 2.2.2 ACTION ITEM: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

- 2.2.3 ACTION ITEM: The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.
- 2.2.4 ACTION ITEM: Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.
- 2.2.5 ACTION ITEM: Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.
- 2.2.6 ACTION ITEM: Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.
- 2.3 RECOMMENDATION: Law enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.
- 2.4 RECOMMENDATION: Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.

- 2.5 RECOMMENDATION: All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.
- 2.5.1 ACTION ITEM: The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.
- 2.6 RECOMMENDATION: Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.
- 2.6.1 ACTION ITEM: The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.
- 2.7 RECOMMENDATION: Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.

2.7.1 ACTION ITEM: Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a quardian mindset.

2.7.2 ACTION ITEM: The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

2.8 RECOMMENDATION: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

2.8.1 ACTION ITEM: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

2.8.2 ACTION ITEM: The U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

2.9 RECOMMENDATION: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate

investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

2.10 RECOMMENDATION: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable

cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.

2.11 RECOMMENDATION: Law

enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 ACTION ITEM: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 RECOMMENDATION: Law

enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President's Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.

2.13 RECOMMENDATION: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

2.13.1 ACTION ITEM: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 ACTION ITEM: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 ACTION ITEM: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.

2.14 RECOMMENDATION: The U.S.

Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

2.15 RECOMMENDATION: The U.S.

Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

3.1 RECOMMENDATION: The U.S.

Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

3.1.1 ACTION ITEM: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 ACTION ITEM: As part of national standards, the issue of technology's impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

3.1.3 ACTION ITEM: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.

3.2 RECOMMENDATION:

The implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards.

- 3.2.1 ACTION ITEM: Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.
- 3.2.2 ACTION ITEM: Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.
- 3.2.3 ACTION ITEM: Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.
- 3.3 RECOMMENDATION: The U.S. Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.
- 3.3.1 ACTION ITEM: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

- 3.3.2 ACTION ITEM: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.
- 3.3.3 ACTION ITEM: Law enforcement agencies should review and consider the Bureau of Justice Assistance's (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.
- 3.4 RECOMMENDATION: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.
- 3.5 RECOMMENDATION: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.
- 3.6 RECOMMENDATION: The Federal Government should support the development of new "less than lethal" technology to help control combative suspects.
- 3.6.1 ACTION ITEM: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.
- 3.7 RECOMMENDATION: The Federal Government should make the development and building of segregated radio spectrum

and increased bandwidth by FirstNet for exclusive use by local, state, tribal, and federal public safety agencies a top priority.

- 4.1 RECOMMENDATION: Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.
- 4.1.1 ACTION ITEM: Law enforcement agencies should consider adopting preferences for seeking "least harm" resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.
- 4.2 RECOMMENDATION: Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.
- 4.2.1 ACTION ITEM: Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.
- 4.2.2 ACTION ITEM: Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.
- 4.2.3 ACTION ITEM: The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of

non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

- 4.3 RECOMMENDATION: Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.
- 4.3.1 ACTION ITEM: The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.
- 4.3.2 ACTION ITEM: Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.
- 4.3.3 ACTION ITEM: Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.
- 4.4 RECOMMENDATION: Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.
- 4.4.1 ACTION ITEM: Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect.

4.4.2 ACTION ITEM: Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 RECOMMENDATION: Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

4.5.1 ACTION ITEM: Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 ACTION ITEM: Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 ACTION ITEM: Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.

4.5.4 ACTION ITEM: Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

4.6 RECOMMENDATION: Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

4.6.1 ACTION ITEM: Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.

4.6.2 ACTION ITEM: In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 ACTION ITEM: Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

4.6.4 ACTION ITEM: Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 ACTION ITEM: Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students,

families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

- 4.6.6 ACTION ITEM: Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.
- 4.6.7 ACTION ITEM: Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.
- 4.6.8 ACTION ITEM: Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.
- 4.6.9 ACTION ITEM: The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.
- 4.7 RECOMMENDATION: Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

- 4.7.1 ACTION ITEM: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.
- 4.7.2 ACTION ITEM: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.
- 5.1 RECOMMENDATION: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.
- 5.1.1 ACTION ITEM: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.
- 5.1.2 ACTION ITEM: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.
- 5.1.3 ACTION ITEM: The Department of Justice should build a stronger relationship with the International Association of Directors of Law Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).

- 5.2 RECOMMENDATION: Law enforcement agencies should engage community members in the training process.
- 5.2.1 ACTION ITEM: The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.
- 5.3 RECOMMENDATION: Law enforcement agencies should provide leadership training to all personnel throughout their careers.
- 5.3.1 ACTION ITEM: Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.
- 5.3.2 ACTION ITEM: The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.
- 5.3.3 ACTION ITEM: The U.S. Department of Justice should support and encourage cross-discipline leadership training.
- 5.4 RECOMMENDATION: The U.S. Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

5.5 RECOMMENDATION: The U.S.

Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.

- 5.6 RECOMMENDATION: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.
- 5.6.1 ACTION ITEM: Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.
- 5.7 RECOMMENDATION: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.
- 5.8 RECOMMENDATION: POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.
- 5.9 RECOMMENDATION: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.
- 5.9.1 ACTION ITEM: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and

related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

- 5.9.2 ACTION ITEM: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.
- 5.10 RECOMMENDATION: POSTs should require both basic recruit and in-service training on policing in a democratic society.
- 5.11 RECOMMENDATION: The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.
- 5.11.1 ACTION ITEM: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.
- 5.12 RECOMMENDATION: The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

5.13 RECOMMENDATION: The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

5.13.1 ACTION ITEM: The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

5.13.2 ACTION ITEM: The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.

- 6.1 RECOMMENDATION: The U.S.

 Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.
- 6.1.1 ACTION ITEM: Congress should establish and fund a national "Blue Alert" warning system.
- 6.1.2 ACTION ITEM: The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.
- 6.1.3 ACTION ITEM: The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.

6.1.4 ACTION ITEM: Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

6.1.5 ACTION ITEM: Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

6.2 RECOMMENDATION: Law enforcement agencies should promote safety and wellness at every level of the organization.

6.2.1 ACTION ITEM: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

6.3 RECOMMENDATION: The U.S.

Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

6.3.1 ACTION ITEM: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

6.4 RECOMMENDATION: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

6.4.1 ACTION ITEM: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 ACTION ITEM: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

6.5 RECOMMENDATION: The U.S.

Department of Justice should expand efforts to collect and analyze data not only on officer deaths but also on injuries and "near misses."

6.6 RECOMMENDATION: Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

6.7 RECOMMENDATION: Congress should develop and enact peer review error management legislation.

6.8 RECOMMENDATION: The U.S.

Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention "smart car" technology that will reduce the number of accidents.

7.1 RECOMMENDATION: The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 RECOMMENDATION: The U.S.

Department of Justice should explore publicprivate partnership opportunities, starting by convening a meeting with local, regional, and national foundations to discuss the proposals for reform described in this report and seeking their engagement and support in advancing implementation of these recommendations.

7.3 RECOMMENDATION: The U.S.

Department of Justice should charge its Office of Community Oriented Policing Services (COPS Office) with assisting the law enforcement field in addressing current and future challenges.

For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.

- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative.
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to
 - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police;
 - provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;

- compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.
- Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

- Collaborate with the NIJ and the BJS to publish an annual report on the "State of Policing" in the United States.
- Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.
- Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.

"When any part of the American family does not feel like it is being treated fairly, that's a problem for all of us. It means that we are not as strong as a country as we can be. And when applied to the criminal justice system, it means we're not as effective in fighting crime as we could be."

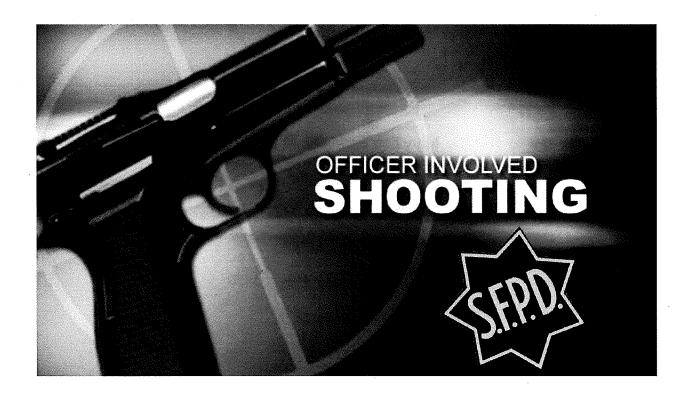
—President Barack Obama

These remarks underpin the mission of the President's Task Force on 21st Century Policing: to identify ways to build trust between citizens and their law enforcement officers so that all components of a community treat one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.

U.S. Department of Justice
Office of Community Oriented Policing Services
145 N Street NE
Washington, DC 20530
To obtain details on COPS Office programs,
call the COPS Office Response Center at 800-421-6770.
Visit the COPS Office online at www.cops.usdoj.gov.

INTO THE OPEN: OPPORTUNITIES FOR MORE TIMELY AND TRANSPARENT INVESTIGATIONS OF FATAL SAN FRANCISCO POLICE DEPARTMENT OFFICER-INVOLVED SHOOTINGS

JUNE 2016





City and County of San Francisco Civil Grand Jury, 2015-2016

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THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name.

Disclosure of information about individuals interviewed by the jury is prohibited.

California Penal Code Section 929

STATE LAW REQUIREMENT

Pursuant to California Penal Code Section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

As to each finding, the responding party must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation, the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

TABLE OF CONTENTS

MEMBERS OF THE CIVIL GRAND JURY	2
THE CIVIL GRAND JURY	3
STATE LAW REQUIREMENT	3
TABLE OF CONTENTS	4
SUMMARY	7
INTRODUCTION	8
BACKGROUND	10
OBJECTIVES, SCOPE AND METHODOLOGY	12
DISCUSSION	14
Every Fatal OIS Incident, By Definition, Results in the Loss of a Life	14
The Investigation of SFPD OIS Incidents: A Primer	15
Agencies, Departments & Divisions Involved	17
San Francisco Police Department	17
San Francisco Police Commission	20
Office of the Chief Medical Examiner	21
Office of the District Attorney	21
Office of Citizen Complaints	21
Written Policies and Procedures Relating to OIS Investigations	22
Two Separate, Concurrent Investigations: Criminal & Administrative	23
OIS Investigation Timeline	24
Day 1	24
Immediately or As Soon As Practical	24
The First Ten Days After the Incident	25
Within 45 Days of the Incident	26
In Response to DA's Criminal Charges Against an Officer, If Any	27
Within 60 Days of the Incident	27

Within 90 Days of the Incident	27
Within 210 Days of the Incident	27
(Historically) At Any Point	28
Justice Delayed Is Justice Denied	28
OIS Investigations Should Be Streamlined and Accurately Reflected in SFPD General Orders	31
SFPD's Field Operations Bureau Should Adopt a Uniform, Modern Method to Alert All Essential Responders of OIS Incidents	32
SFPD and DA's Office Need a New Memorandum of Understanding Regarding OIS Investigations	33
DA's Office Needs to Complete Its OIS Investigations and Issue Charging Decision Letters More Quickly	34
OCME Is To Be Commended for Its Improved Turnaround Times and More-Detailed Reports in OIS Cases	37
OCC Should Receive Increased Funding to Pay for Interview Transcription Services	39
Impediments to and Opportunities for Transparency in OIS Investigations	40
As Long As SFPD Is the Lead Agency on Its Own OIS Investigations, the Public Will Have the Perception the Investigations Are Biased	42
The City Should Create an Oversight Task Force to Mitigate the Perception of Bias in Fatal OIS Investigations and Ensure They Are Completed Expeditiously	44
SFPD Should Do a Better Job on Its Website of Informing the Public About Each OIS Investigation and Provide Statistics About OIS Incidents	45
SFPD Should Formalize Its Practice of Providing As Much <i>Factual</i> Information As Possible As Early As Possible After Each OIS Incident	50
SFPD Should Make It Official Policy to Release the Names of All Officers Involved in Each OIS Incident Within Ten Days, Unless a	52

The DA's Office Should Make a Public Announcement When It Issues Its Charging Decision Letters in OIS Cases and Make Them More Easily Accessible Online	53
At the End of Each Fatal OIS Investigation, a Comprehensive "Debriefing" Report Should Be Issued to the Public	54
CONCLUSION	56
REQUEST FOR RESPONSES	58
ACRONYM KEY (As Used in This Report)	66
APPENDICES	67
Appendix A	
Summary Accounts of Fatal SFPD OIS Incidents from 2011 - June 12, 2016	67
Appendix B	
Composition of SFPD Return to Duty Panel and Composition of SFPD Firearm Discharge Review Board	87
Appendix C	
Applicable SFPD General Orders and Department Bulletins	88
Appendix D	
SFPD General Order 8.11: Investigation of Officer Involved Shootings and Discharges	90
Appendix E	
SFPD Department Bulletin 15-128: Officer-involved Shooting and Discharge Investigations (Revisions to Definitions in DGO 8.11)	97
Appendix F	
Complete OIS Investigation Timeline	98

SUMMARY

The San Francisco Police Department ("SFPD") faces a crisis in confidence from those whom it is meant to protect and serve over the recent spate of fatal officer-involved shootings ("OIS"). The 2015-2016 San Francisco Civil Grand Jury calls upon all City agencies involved in the investigation of these incidents — from the SFPD and the Police Commission to the District Attorney's Office ("DA" or "DA's Office") and the Office of Citizen Complaints ("OCC") — to take immediate action to complete the investigations more timely and make the entire process more transparent.

After a five-month investigation that included a review of written policies and procedures, as well as interviews with City personnel in each agency involved in the investigation of fatal OIS incidents, the Civil Grand Jury reached two main conclusions:

- Investigations of fatal OIS incidents take too long; and
- The public has access to very little information both about the general process by which OIS incidents are investigated and about each individual fatal OIS investigation.

The citizens of San Francisco are not provided enough information to determine whether the current OIS investigation process works properly or whether the results of these investigations are fair and just.

To create an environment where City residents are able to make such a determination, the Civil Grand Jury makes the following recommendations.

With the goal of more *timely* OIS investigations:

- The SFPD and the DA's Office should streamline and prioritize OIS investigations with the goal that investigations be completed timely.
- The Police Commission should revise the SFPD's General Orders to accurately reflect the OIS investigation process and the time involved to complete such investigations.
- The DA's Office should work to complete its OIS criminal investigations more quickly.

With the goal of more transparent OIS investigations:

- Each City agency involved in the investigation of OIS incidents should create a webpage to educate the public about that agency's role in these investigations.
- SFPD should keep the public informed about each OIS investigation.
- SFPD should provide a more robust set of statistics about OIS incidents.

With both goals in mind:

- The City should create an oversight task force to mitigate the perception of bias in fatal OIS investigations and ensure that fatal OIS investigations are completed expeditiously and transparently.
- At the conclusion of each fatal OIS investigation, this newly created task force should issue a comprehensive "debriefing" report to the public.

INTRODUCTION

"There is no greater responsibility placed on members of law enforcement than the authority to use lethal force in the line of duty."

— Then SFPD Assistant Chief of Police Morris Tabak¹

"Sunlight is said to be the best of disinfectants..."

— United States Supreme Court Justice Louis Brandeis²

Transparency, it is said, is a cornerstone of democracy — the obligation to make information accessible to the public. Democracies prize and thrive on openness; they shun secrecy.

For over two hundred and fifty years, our society has recognized the necessity of transparency. In 1765, John Adams wrote: "[L]iberty cannot be preserved without a general knowledge among the people, who have a right . . . and a desire to know" In 2002, federal appellate court judge Damon J. Keith wrote: "Democracies die behind closed doors."

Transparency has no more important place than in the actions of our country's law enforcement personnel.

Police officers have extraordinary authority; authority to investigate us, to detain us, to search us, to arrest us if they have reason to believe we have committed a crime. But with that power comes a tremendous responsibility and, in a democratic society, a need for transparency. Policing experts have observed that public disclosure provides the strongest form of oversight. A "secret police" is not often a hallmark of a free democracy, for good reason.

A police officer's decision to use his or her authority to shoot to kill or use lethal force is the ultimate government power — the ability of our government to control our behavior⁵ — and is, therefore, when the need for transparency and accountability is the strongest.⁶ When details of a

¹ Then SFPD Assistant Chief of Police Morris Tabak, *Officer-Involved Shootings: A Five-Year Study* ii (Jan. 20, 2010), *available at* http://wayback.archive-it.org/1895/20100415184524/http://www.sf-police.org/Modules/ShowDocument.aspx?documentid=24139. (Ed. note: The Civil Grand Jury confirmed that all citation links to websites and online documents provided in this report were active at the time it published this report.)

² Louis D. Brandeis, *Other People's Money and How the Bankers Use It* 92 (Frederick A. Stokes Co. 1914), *available at* https://archive.org/stream/otherpeoplesmone00bran#page/92/mode/2up.

³ John Adams, *A Dissertation on the Canon and Feudal Law* (1765), *available at* http://teachingamericanhistory.org/library/document/a-dissertation-on-the-canon-and-feudal-law/.

⁴ Detroit Free Press v. Ashcroft, 303 F.3d 681, 683 (6th Cir. 2002), available at <a href="https://scholar.google.com/scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=15974758987197656757&hl=en&as-sdt=6&as-vis=1&oi=scholar-case?case=159747589871976767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-sdt=6&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-vis=1&oi=scholar-case=1597475898719767&hl=en&as-vis=1&oi=scholar-case=1597475898719

⁵ See Power (social and political), https://en.wikipedia.org/wiki/Power (social and political).

⁶ See Peter Bibring, California Supreme Court Rules for Police Transparency, ACLU of Southern California (May 29, 2014), https://www.aclusocal.org/california-supreme-court-rules-police-transparency/.

fatal OIS incident⁷ or other use of lethal force⁸ are disclosed to the public, the community can determine for itself whether the involved officer's actions are justified.

There are justifiable reasons for withholding some details of deadly force incidents until the circumstances have been thoroughly investigated. But there is a common perception that far too often, too many details are left out and never publicly revealed. Police departments and related agencies have traditionally been reluctant to expose their actions to public review. And the media — usually the community's watchdog — often move on to the next story and fail to follow up on previous ones, particularly when investigations drag on for many months. As a result, the public is deprived of its right to know what occurred and what the investigations into the incidents revealed.

In today's climate, which has been destabilized by the spate of high-profile fatal shootings by police, it is more important than ever that investigations of OIS incidents and other uses of lethal force be handled as independently, timely, and transparently as possible.⁹

⁷ An "officer-involved shooting" or "OIS" is defined by SFPD Department Bulletin 15-128 as follows: An officer's intentional discharge of a firearm to stop a threat (as described in Department General Order 5.02.I.C.a, b, and c)—whether or not physical injury or death results—shall be investigated as an Officer-involved Shooting. A negligent discharge that results in the injury or the death of a person shall also be investigated as an Officer-involved Shooting.

SFPD Department Bulletin 15-128 (05/26/15), available at http://sanfranciscopolice.org/sites/default/files/fileS/fileCenter/Documents/27696-DB%2015-128%3B%20Officer-Involved%20Shooting%20and%20Discharge%20Investigations.pdf). Our inquiry focused on the investigation of fatal OIS incidents, but many of our findings and recommendations apply as readily to investigations of non-fatal OIS incidents. Therefore, to the extent possible, we intend our findings and recommendations to apply to all OIS incidents, regardless of whether the individual shot was killed.

⁸ While our focus is on fatal shootings, we believe that our findings and recommendations apply equally to any incident in which SFPD officers use lethal amounts of force. The type of force an SFPD officer uses that results in a person's death is not material. We believe the same expeditiousness and transparency should be used in investigating *any* use of lethal force incident.

⁹ See Editorial, *Trust in Police Requires Transparency*, Asbury Park Press, Aug. 28, 2015, *available at* http://www.app.com/story/opinion/editorials/2015/08/28/police-involved-shootings-brick/71332952/.

BACKGROUND

OIS incidents and their aftermath have shaken San Franciscans' trust in their police force. From autopsy results that have raised questions about SFPD accounts of the death of Amilcar Perez-Lopez, the shooting death of Mario Woods caught on cell phone video, and the drama-filled Alejandro Nieto wrongful death trial, to the hunger strike of the "Frisco Five," the controversial shooting death of Jessica Williams, and the resulting ouster of the Chief of Police, San Francisco has had its share of stark reminders that it is not immune from deaths of its citizens at the hands of its police. During the past five and a half years, from the start of 2011 through the beginning of June 2016, 18 people have been shot and killed in incidents involving SFPD officers. Six were killed in 2015 alone, and two already have been shot to death this year.

The SFPD and the DA's Office, the two entities fundamental to OIS investigations, recognize the importance of accountability in OIS investigations:

Peace officers perform a vital and often dangerous job in our communities. Situations occur where peace officers must use deadly force; however we expect that such force will be used only when legally necessary and as prescribed by law. When peace officers use deadly force, the public has a right to expect that a thorough and neutral examination will be conducted into these incidents and that all parties will be held legally accountable for their actions.¹¹

This report is the work of 19 citizens of San Francisco who are concerned about the number of OIS incidents in our City and the transparency — or lack thereof — of the official investigations of those shootings. We, the Civil Grand Jury, are individuals of varying ages; diverse ethnic, religious and socio-economic backgrounds; different political philosophies and opinions about the role of government. We are a varied lot. But despite our differing life experiences and worldviews, we share the view that the investigations of OIS incidents in our City lack transparency — that the citizens of San Francisco are not provided enough information to feel certain that the OIS investigation process works properly and that the results of such investigations are fair and just.

There are glimmers of hope that actions of the SFPD may become more transparent. In February 2016, the SFPD unveiled its new "Professional Standards and Principled Policing Bureau," as "part of an overall effort to increase transparency and accountability in order to better serve citizens of the City of San Francisco." And in June 2016, the Police Commission approved a body-worn camera policy for SFPD officers after reaching a compromise on its contents with the

¹⁰ This report reflects incidents and developments through June 12, 2016.

¹¹ Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings and In-Custody Deaths, Preamble, at 1 (July 15, 2005).

¹² http://sanfranciscopolice.org/professional-standards-and-principled-policing-bureau.

SFPD police officers' union, the San Francisco Police Officers Association. The new policy paves the way for SFPD officers to begin wearing cameras as early as August 2016.¹³

But much more is needed . . . especially with regard to OIS investigations. We unanimously undertook this investigation with the hope that our findings and recommendations will result in a more timely and transparent OIS investigation process that:

- Puts the responsibility for keeping the public informed about the status and results of OIS
 investigations on those City agencies involved in the process, not on tenacious reporters
 or community activists;
- Allows citizens to keep an eye on the institutions meant to protect and serve them;
- Publicly vindicates those SFPD officers who follow department policy and the law and holds accountable those who do not;
- Assures the community, including the families and friends of those individuals who lose their lives at the hands of SFPD officers, that the system works fairly and justly; and
- Provides clear evidence that the system works properly, or to support change, if, and when, it fails.

¹³ See Vivian Ho, SF Police Commission OKs Body Cameras, San Francisco Chronicle, June 2, 2016, at A5, available at http://www.sfgate.com/news/article/SF-Police-Commission-weighs-body-cameras-7958492.php.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this investigation are to:

- Review the stated policies and procedures of the SFPD and other City agencies involved in the investigation of fatal OIS incidents;
- Determine whether the actual investigations of recent fatal SFPD OIS incidents follow the stated policies and procedures;
- Assess the timeliness and transparency of the stated policies and procedures and the actual investigations; and
- Provide recommendations to expedite the OIS investigation process and to enhance its transparency.

Our report is not an analysis of the SFPD's current policy on the use of lethal force or a judgment on the propriety of its use in any of the 18 incidents described in this report. Other groups with greater resources than the Civil Grand Jury have undertaken such an analysis.¹⁴

Our report also is not a review of the recent or proposed changes to SFPD's "use of force" policies, although we do support measures that should result in fewer OIS incidents, including de-escalation tactics, approaches that "create time and distance," more widespread training and better use of Crisis Intervention Teams, and similar efforts. 15

Finally, our report does not attempt to tackle the complex, controversial relationship between race and law enforcement. We do, however, acknowledge the work being done and change being effected by groups like Black Lives Matter, Justice and Love for Alex Nieto Coalition, Justice4Amilcar, Justice 4 Mario Woods Coalition and others, which are working to bridge the current divide between communities of color and law enforcement here in San Francisco and around the country.

Instead, we make our recommendations to encourage a more timely, transparent, and accountable process for investigating and reporting on OIS incidents and other uses of lethal force . . . to lift the veil that shrouds these investigations . . . and to ensure that the lessons to be learned from the deaths of these 18 men and women are *actually* learned, and not lost.

Given our objectives, we reviewed documents relating to the policies and procedures used by those City agencies involved in OIS investigations.

¹⁴ As examples, we reference the San Francisco District Attorney-convened Blue Ribbon Panel on Transparency, Accountability & Fairness in Law Enforcement (www.sfdistrictattorney.org) and the United States Department of Justice's Office of Community Oriented Policing Services Collaborative Reform Initiative (http://sanfranciscopolice.org/Us-department-justice-collaborative-reform-initiative).

¹⁵ See, e.g., SFPD Department Bulletin 13-120, Response to Mental Health Calls with Armed Suspects (06/17/13), available at http://sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentBulletins/15-106.pdf).

available at http://sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentBulletins/15-106.pdf).

For each of the 18 fatal OIS incidents that have occurred since the beginning of 2011, we reviewed the charging decision letters¹⁶ issued by the DA's Office in those cases in which it has completed its investigation, final reports of the OCC in those cases in which it was called upon by a citizen to investigate, and the autopsy reports issued by the Office of the Chief Medical Examiner ("OCME").

We interviewed:

- Command staff at the SFPD;
- Commissioners and staff of the San Francisco Police Commission;
- Representatives of the San Francisco Police Officers Association;
- Investigators and prosecutors in the DA's Office;
- Management and attorneys at the OCC;
- Medical and administrative personnel at the OCME; and
- A lead forensic expert at the Crime Lab.

We attended public hearings of the DA-convened Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement; public listening sessions conducted by the United States Department of Justice Office of Community Oriented Policing Services ("DOJ COPS") Collaborative Reform Initiative; and the San Francisco Public Defender's Justice Summit 2016 on the "use of force."

We also toured parts of the SFPD Training Academy where we observed the training of both recruits and seasoned officers. We even put ourselves in a police officer's proverbial shoes by participating side-by-side with SFPD officers in a perishable skills training course using a force option simulator. The simulator provides practice selecting and using reasonable force options to resolve a variety of tense, rapidly evolving real-life simulations. The goal of simulated use-of-force training is to reduce deaths and injuries and improve safety for both police officers and those they encounter.

Finally, we performed an extensive review of news articles, editorials, white papers, blogs, websites, and scholarly publications discussing "best practices" in the handling of investigations of OIS incidents and other uses of lethal force.

We conducted this investigation between February and June 2016.

¹⁶ For the definition of a "charging decision letter," see p. 15.

DISCUSSION

Every Fatal OIS Incident, By Definition, Results in the Loss of a Life

Upon delving into an examination of investigations into fatal SFPD OIS incidents, it is important to note the consequence of the actions taken by members of the SFPD in these incidents. Regardless of the propriety of the actions of those involved on either side, the ultimate consequence in every one of these occurrences is the loss of a life. Table 1 lists the names of the individuals killed in each of the 18 fatal OIS incidents which are the impetus for our report. Appendix A provides a synopsis of the events surrounding each fatal OIS incident.

Year	Name	Date
2016	Jessica Williams	May 19, 2016
	Luis Gongora	April 7, 2016
2015	Mario Woods	December 2, 2015
	Javier Ivan Lopez Garcia	November 11, 2015
	Herbert Benitez	October 15, 2015
	Alice Brown	March 17, 2015
	Amilcar Perez-Lopez	February 26, 2015
	Matthew Hoffman	January 4, 2015
2014	O'Shaine Evans	October 7, 2014
	Giovany Contreras-Sandoval	September 25, 2014
	Alejandro Nieto	March 21, 2014
2013	Dale S. Wilkerson	April 17, 2013
0010	Pralith Pralourng	July 18, 2012
2012	Dennis Hughes	May 9, 2012
2011	Steven Young	December 14, 2011
	Peter Woo	October 3, 2011
	Kenneth Wade Harding	July 16, 2011
	Joshua Smith	June 7, 2011

Table 1. Victims in Fatal SFPD OIS Incidents from January 2011 through June 12, 2016. (Source: Compiled by the Civil Grand Jury from various sources.)¹⁷

¹⁷ Table 1 includes only *fatal* OIS incidents. For statistics for *all* SFPD OIS incidents (both fatal and non-fatal) between 2009 and 2015, see Figure 4, p. 46.

The Investigation of SFPD OIS Incidents: A Primer

To conduct an informed and meaningful analysis into the transparency of the City's official process of investigating OIS incidents, we felt it important to understand exactly how the investigative process works: who is involved, what policies and procedures inform and guide the process, and the timeline involved.

We attempted to obtain this information from the websites of the various City agencies we believed to be fundamental to OIS investigations: the SFPD, the DA's Office and the OCC. But, in large part, we were unable to obtain the information we sought, because it does not appear on these agencies' websites.

• SFPD (http://sanfranciscopolice.org/)

We located General Orders and Department Bulletins on the "use of force," including those specifically dealing with OIS incidents;¹⁸ press releases relating to specific OIS incidents;¹⁹ and some statistics relating to OIS incidents.²⁰ We were unable, however, to find any information specifically designed to give the average citizen an overview of the process by which OIS incidents are investigated within the SFPD.

Notably, the SFPD's homepage displays a tab for "Information" about the agency that reveals a list of links to almost 50 different topics, the majority of them under the heading "public interest." And while OIS incidents currently lie at the center of a firestorm of public interest not only here in San Francisco, but across the nation, the only topics on the list related to OIS are links to internal "use of force" General Orders, which are highly technical, complicated, difficult to understand, and, with regard to at least one, General Order 8.11, as we discuss later in this report, is not adhered to by the SFPD in day-to-day practice.

• DA's Office (http://sfdistrictattorney.org/)

We located "charging decision letters" issued by the DA's Office at the end of its investigation of each OIS incident, in which the DA announces whether criminal charges against the officers involved are warranted, and sets forth relevant facts, applicable law and legal analysis supporting the decision.²¹ Again, however, we were unable to find any information specifically designed to give the average citizen an overview of the DA's role in OIS investigations.

¹⁸ http://sanfranciscopolice.org/dgo.

¹⁹ See http://sanfranciscopolice.org/news.

²⁰ See, e.g., http://sanfranciscopolice.org/sites/default/files/SFPDOfficer InvolvedSuspectInvolvedShootings2000-Present.xlsx.

²¹ http://sfdistrictattorney.org/officer-involved-shooting-letters.

• OCC (http://sfgov.org/occ/)

We located general information related to how one goes about making a complaint, as well as the resulting investigation process, but nothing specifically related to the investigation by the OCC of complaints made regarding OIS incidents.²²

We also found summaries of OCC investigations of certain, specific OIS incidents, but only by poring through months of "openness reports." Even then, the summaries were sanitized so as not to reveal the identities of the individuals shot or the SFPD officers involved.

The only way we were able to fully understand and appreciate the overall OIS investigation process was through detective work, intensive online research, discussions with employees in these and other City agencies, and the examination of internal department documents not publicly available.

FINDING

F.1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.

RECOMMENDATION

- R.1. Each of the three City agencies fundamental to OIS investigations SFPD, DA's Office and OCC should create a "OIS Investigations" web page specifically devoted to educating the public about that agency's role in the investigation of OIS incidents. Each agency's web page should be comprehensive and answer the following questions:
 - Who is involved in the investigation and what are their roles and responsibilities;
 - Why is the agency involved in OIS investigations;
 - What is the investigation's purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why;
 - When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame:
 - How does the OIS investigation process work; and
 - Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.

Each agency should make its "OIS Investigations" web page available in English, Spanish, Chinese and Filipino (Tagalog).

Each agency should provide a link from its home page to its "OIS Investigations" web page, so that it can be accessed easily.

²² http://sfgov.org/occ/complaint-process.

Each agency should add its "OIS Investigations" web page to its website as soon as possible, but no later than six months after the date this report is published.

Because of the current lack of information readily available to the average San Franciscan, accompanied by our belief that everyone should have the opportunity to learn how the OIS investigative process works, we outline below how such an investigation occurs.

Agencies, Departments & Divisions Involved

Several units and divisions within the SFPD, as well as the DA's Office, the OCC and other City agencies, participate in the investigation of OIS incidents. The key players and their general functions are described below. Their specific role and timeline in OIS investigations are described later in the report.

San Francisco Police Department

• Homicide Detail

"The Homicide Detail of the SFPD is responsible for investigating unlawful deaths, officer involved shootings with injury, in custody deaths, and deaths that are deemed suspicious by the San Francisco Medical Examiner."²³

"With regard to Officer Involved Shootings, the mission of the Homicide Detail is to conduct timely and complete criminal investigations of all Officer Involved Shootings."²⁴

The Homicide Detail responds to all incidents of lethal force by an officer. It takes command of the scene and leads the investigation.

• Forensic Services Division

"The mission of the Forensic Services Division is to assist in the criminal justice system through efficient and reliable identification, collection, evaluation, analysis, and comparison of physical evidence and to provide clear, objective interpretations of all findings."²⁵

The Forensic Services Division includes:

 Crime Scene Investigation ("CSI"), which provides scene processing and documentation; evidence collection; associated field forensic work, such as latent print processing, bloodshed splatter interpretation, trajectory analysis, crime scene sketches; incident reconstruction, if needed; and the securing of officer firearms used in OIS incidents.

²³ http://sanfranciscopolice.org/investigations-2-homicide-detail.

²⁴ Tabak, Officer-Involved Shootings, p. 79.

²⁵ *Id.* at p. 86.

• Crime Laboratory, which performs test firing, comparison, examination and forensic analysis on firearms involved in the shooting (both officer(s) and suspect(s)); gunshot residue analysis; DNA analysis; and any other crime lab work required by the investigation.

• Behavioral Science Unit ("BSU")

"The mission of the Behavioral Science Unit is to provide and coordinate psychological support and education to all members of the San Francisco Police Department. [Its] role is to advise and consult with the chain of command on the impact of psychological issues; to minimize the negative effects of incident trauma on department members; and to assist all department members and their dependents with access to their psychological benefits and services." ²⁶

• Psychiatric Liaison Unit

"The Psychiatric Liaison Unit's mission is to provide support and education regarding mental health issues" for the SFPD. The Psychiatric Liaison Unit assists at the scene of OIS incidents to defuse the situation, to gather information about the psychiatric history of those individuals with mental illness from family, coworkers, neighbors, etc., and to provide appropriate referrals to medical or mental health professionals.²⁷

• Return to Duty Panel

The Return to Duty Panel is tasked with reviewing the facts surrounding the OIS incident and determining "whether it is appropriate for the involved member to return to duty." The Panel asks: "Are there issues or indicators that preclude the officer from returning to his/her regular assignment at this time?" 29

The Panel is comprised of high ranking SFPD officers and incident investigators.³⁰

It is important to note that the panel does *not* consider whether the use of lethal force was "in policy" or "not in policy." That determination is made at a later date by the Firearm Discharge Review Board ("FDRB").

The Chief of Police may either concur or disagree with the Return to Duty Panel's recommendation. The Chief of Police forwards his or her decision in writing to the Police

²⁷ *Id.* at pp. 94-95.

²⁶ *Id.* at p. 91.

²⁸ SFPD General Order 8.11, *Investigation of Officer Involved Shootings and Discharges* § II.G.4, p. 5 (09/21/05), available at http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO8.11.pdf.

²⁹ Sgt. John Crudo, SFPD Internal Affairs Division, *The Process of SFPD Officer-Involved Shooting (OIS) Investigations* 11 (May 5, 2015).

³⁰ See Appendix B for the composition of the SFPD Return to Duty Panel.

Commission. At its first meeting after it receives the Chief of Police's report, the Police Commission meets with the Chief of Police in *closed session* to review the Return to Duty Panel's findings and the Chief of Police's decision.

Risk Management Office

"The Risk Management Office ("RMO") controls all Internal Affairs Units, the Legal Division, the Professional Standards Unit, and the [Equal Employment Opportunity] Unit in the SFPD. RMO investigates cases that involve officer misconduct and officer involved shootings. The RMO uses a structured system that identifies and manages behaviors that result in performance related problems by individual members." ³¹

o Internal Affairs Division ("IA" or "IAD")

The Internal Affairs Division is responsible for investigating officer misconduct as well as officer-involved shootings/discharges. Two units within the Internal Affairs Division are responsible for investigating allegations against SFPD officers: one is criminal, while the other is administrative.

■ Internal Affairs Criminal Unit

"The mission of the . . . Criminal Investigations Unit is to conduct thorough, timely, and impartial investigations into allegations of criminal misconduct by SFPD employees," including any potential criminal conduct by SFPD officers involved in OIS incidents.

■ Internal Affairs Administrative Unit

"The mission of the . . . Administrative Investigations Unit is to continue to conduct thorough, timely, and impartial investigations of allegations of procedural violations by [SFPD officers]. It is comprised of both sworn and civilian legal staff. Additionally, this unit also administratively investigates all officer-involved shootings and in-custody deaths." ³³

o Legal Division

"The function of the Legal Division is to be prepared to assist the Office of the City Attorney for future possible civil litigation in defense of the SFPD."³⁴

³¹ http://sanfranciscopolice.org/chief-staff

³² Ibid.

³³ Ibid.

³⁴ Tabak, Officer-Involved Shootings, p. 93.

FDRB

According to SFPD General Order 3.10:35

It is the duty of the San Francisco Police Department to review every instance in which a firearm is discharged whether or not such discharge results in an injury or death. The Firearm Discharge Review Board³⁶ shall review every discharge of a firearm by a member.

The purpose of this review is to ensure that the department is continually reviewing its training, policy and procedures in light of the circumstances that lead to firearm discharges by members and to determine if the discharge was in policy.37

San Francisco Police Commission

According to the Police Commission website:³⁸

The mission of the Police Commission is to set policy for the Police Department and to conduct disciplinary hearings on charges of police misconduct filed by the Chief of Police or Director of the Office of Citizen Complaints, impose discipline in such cases as warranted, and hear police officers' appeals from discipline imposed by the Chief of Police.

Commissioners are appointed by the Mayor [four seats] and the Board of Supervisors [three seats] and they oversee the Police Department and the Office Of Citizen Complaints....³⁹

With regard to OIS cases, the Police Commission meets with members of the Return to Duty Panel and the Chief of Police to determine whether involved officers shall be allowed to return to

"In Policy" means:

"The actions of the officer in response to the circumstances leading to the

discharge of his/her firearm were appropriate and consistent with department

policy."

"Not in Policy" means: "The discharge of the firearm was not appropriate under the circumstances and was not consistent with department policy. This finding shall be accompanied by a recommendation for discipline, or a referral to [Internal Affairs] for further investigation. The Firearm Discharge Review Board shall assign a due date for cases found Not in Policy and referred back to [Internal Affairs] for further investigation."

SFPD General Order 3.10, Firearm Discharge Review Board § I.D.4, p. 3 (09/21/05), available at http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf.

³⁵ SFPD General Order 3.10, Firearm Discharge Review Board (09/21/05), available at http://sanfranciscopolice.org /sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf.

³⁶ See Appendix B for the composition of the SFPD Firearm Discharge Review Board.

³⁷ As defined by SFPD General Order 3.10:

³⁸ http://sanfranciscopolice.org/police-commission.

³⁹ Ihid.

duty; receives and considers periodic reports on the status of OIS investigations from SFPD IAD; and conducts disciplinary hearings on any charges of misconduct filed by the Chief of Police or the OCC against any officer arising from an OIS incident.

OCME

The function of the OCME is to protect the public health and legal requirements of the City and County relating to forensic pathology. It performs the autopsy on the deceased in OIS incidents and determines the cause, circumstances, manner and mode of death.⁴⁰

DA's Office

"The District Attorney's role in an officer-involved shooting is to conduct an independent criminal investigation. The purpose of the District Attorney's investigation is to accurately, thoroughly, and objectively determine the potential criminal liability, or lack thereof, of any party involved."⁴¹

In other words, the DA determines if any criminal laws appear to have been violated. The DA's Office conducts its own investigation, then reviews evidence obtained from that investigation and evidence provided to it by the SFPD Homicide Detail, analyzes the pertinent laws, determines whether any appear to have been violated and considers whether sufficient evidence exists to bring criminal charges against any of the involved officers.

OCC

"The mission of the Office of Citizen Complaints is to promptly, fairly and impartially investigate civilian complaints against San Francisco police officers and make policy recommendations concerning San Francisco Police Department practices." 42

The OCC was created by a charter amendment in 1982 as a civilian-staffed agency charged with the duty to take complaints from members of the public regarding SFPD officer misconduct or improper performance while on duty. All complaints are investigated unless it can be determined from the allegations themselves that the officer's conduct was proper or the accusations are outside the OCC's jurisdiction.

The OCC performs four main tasks:

- Investigates complaints, makes findings on those complaints, and, when warranted, makes recommendations on discipline to the SFPD Chief of Police and/or Police Commission;
- Mediates complaints;
- Makes policy recommendations concerning SFPD policies, practices and procedures; and
- Performs community outreach.

⁴⁰ Tabak, Officer-Involved Shootings, p. 90.

⁴¹ *Id.* at p. 81.

⁴² Id. at p. 84.

Historically, the OCC responded to the scene of each OIS incident to obtain a general understanding of what occurred but did not begin any type of investigation unless and until someone filed a complaint regarding the incident with the office. On June 7, 2016, the voters of San Francisco overwhelmingly passed Proposition D, an initiative ordinance amending the Administrative Code to require the OCC to "investigate any incident occurring within the City in which a San Francisco police officer fires a gun killing or physically injuring someone."⁴³

Written Policies and Procedures Relating to OIS Investigations

Certain SFPD General Orders and Department Bulletins deal with the investigation of OIS incidents and use of force specifically or deal with topics which may encompass such incidents. See Appendix C1. The primary document setting forth SFPD department policy and procedure relating to OIS incidents is General Order 8.11, "Investigation of Officer Involved Shootings and Discharges," (Appendix D) as revised by Department Bulletin 15-128, Officer-involved Shooting and Discharge Investigations (Revision to Definitions in DGO 8.11) (Appendix E).

Other SFPD policies concern the use of firearms and force generally, and while they do not specifically relate to the *investigation* of OIS incidents, they do help give a comprehensive view of the policies and procedures related to all aspects of OIS incidents. See Appendix C2.

The SFPD also has other published policies which guide their interactions, contact and communications with the community, which, while not specific to officer-involved shootings and use of lethal force, serve to build an expectation of transparency within the SFPD. See Appendix C3.

To the extent that these documents dictate, guide or inform the investigation of OIS incidents, we incorporate that information into the Investigation Timeline that follows.

⁴³ See Proposition D: Office of Citizen Complaints Investigations, available at http://voterguide.sfelections.org/en/office-citizen-complaints-investigations. Proposition D passed with more than 80 percent of the vote. See http://www.sfelections.org/results/20160607/. Section 96.11 of the Administrative Code now reads: Sec. 96.11 INVESTIGATIONS OF OFFICER-INVOLVED SHOOTINGS.

The OCC shall conduct a timely and complete investigation of any incident occurring within the City and County of San Francisco in which a member of the uniformed ranks of the San Francisco Police Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental. The Police Department and its officers and employees shall provide the OCC with prompt and full cooperation and assistance in connection with the OCC's investigations under this Section 96.11.

San Francisco, California, Admin. Code § 96.11. *See Proposition D: Office of Citizen Complaints Investigations*, Legal Text, available at http://voterguide.sfelections.org/en/office-citizen-complaints-investigations.

Two Separate, Concurrent Investigations: Criminal & Administrative

OIS incidents mandate two separate, but concurrent, immediate investigations: (i) criminal; and (ii) administrative.⁴⁴

A criminal investigation is conducted to determine whether anyone involved in the incident committed a crime, including whether the officers involved exhibited criminal conduct or criminal negligence during the shooting. In other words:

"Did the officers break any law by taking the action they did?"

Two different law enforcement agencies begin immediate independent criminal investigations once an OIS occurs:

- The SFPD Homicide Detail; and
- The DA's Office.

If the OIS criminal investigation uncovers or raises significant issues, state and federal agencies may also participate in or conduct their own investigation, typically at the request of the City. These agencies may include the Department of Justice or Office of the Attorney General at the state level, and the United States Department of Justice or the Federal Bureau of Investigation at the federal level.

An administrative investigation is also conducted to determine whether the officers involved violated any SFPD policy or procedure during the shooting. In other words:

"Did the officers act in accordance with SFPD policy and procedure and use appropriate law enforcement tactics under the circumstances or should the officers be disciplined, retrained or fired because of their actions?"

SFPD IAD conducts these administrative investigations.

The OCC also conducts an independent administrative investigation by: (i) sending their own investigators to the scene to observe; (ii) conducting an independent review and analysis of evidence that is forwarded to it after being collected by the SFPD Homicide Detail; and (iii) performing any additional investigative tasks and interviews that it deems necessary to conduct a thorough investigation of the incident.

⁴⁴ We obtained much of the information contained in this section regarding the process of OIS investigations from a document entitled "Officer-Involved Shootings: A Five-Year Study," commissioned by George Gascon shortly after he was sworn in as San Francisco Chief of Police on August 7, 2009, and written by then Assistant Chief of Police Morris Tabak. We are indebted to the late Mr. Tabak for his work and commend it to the reader. A copy of the report may be found at http://wayback.archive-it.org/1895/20100415184524/http://www.sf-police.org/Modules/ShowDocument.aspx?documentid=24139.

The reason for separate criminal and administrative investigations is because, while police officers receive due process protections and Fifth Amendment rights against self-incrimination as subjects of a *criminal* investigation, along with specific protections under the Peace Officer's Bill of Rights (Cal. Gov't Code § 3300 *et seq.*), police officers can be compelled by their employer to make a "statement against interest" as subjects of an *administrative* investigation. (See Cal. Gov't Code § 3303.)⁴⁶

Therefore, it is necessary to maintain a one-way flow of information: While investigators from the administrative investigation get all information and evidence obtained from the criminal investigation, the criminal investigation receives no information from the administrative investigation.

We were informed, but have not been able to substantiate, that the administrative investigation work, by and large, is completed within a few months following an OIS incident. However, it cannot be fully wrapped up and no disciplinary proceedings may occur until after the criminal investigation is fully completed and the DA's Office has issued its charging decision letter.

OIS Investigation Timeline

When an OIS occurs, per the General Orders of the SFPD and other internal and related documents, the subsequent investigation should proceed as follows:.⁴⁷



- I. Day 1
 - **A.** An officer-involved shooting occurs.
- II. Immediately or As Soon As Practical

A. SFPD

- Involved officers shall notify their immediate supervisor and Emergency Communications Division ("ECD"), which notifies the Field Operations Bureau, which then notifies key responders to OIS incident scenes, including personnel from SFPD: Command Staff, Homicide, Crisis Incident Response Team ("CIRT"), IAD, FDRB, Legal Division, RMO, Police Commission; DA; and OCC.
- Supervisor shall be responsible for scene until Homicide arrives.

⁴⁵ A "statement against interest is a statement a person would not normally make . . . which would put them in a disadvantaged position to that they would have had if they had not made the statement in the first place." (https://en.wikipedia.org/wiki/Statement_against_interest.)

⁴⁶ Notably, we learned that in the administrative investigations of each of the OIS incidents at the center of this report, the SFPD officers involved gave statements voluntarily. Therefore, it was not necessary to compel any of them to make a "statement against interest."

⁴⁷ This outline is designed to provide a much consolidated overview of what should occur at each stage of an OIS investigation and the projected amount of time each stage should take according to SFPD General Orders. A more extensive and comprehensive outline is provided at Appendix F.

- Homicide Detail, upon arriving at scene, shall assume command of scene and investigation, coordinate with all responders, and manage all aspects of evidence collection, non-officer witness interviews, and incident scene "walkthroughs."
- IAD representatives shall participate in "walk through" of scene and observe Homicide interviews of officers via closed circuit feed.
- **CSI** shall collect physical evidence, and perform associated forensic field work.
- **Legal Division** shall ensure evidence beneficial for litigation is seized and document scene.
- **BSU** shall send members of CIRT to offer psychological support to involved officers.
- **Media Relations Unit** shall provide information to the media and act as a liaison with the family of the individual shot during the incident.
- Police Range personnel shall replace involved officers' firearms.

B. OCME

 Medical Examiner Staff, when a fatality occurs, shall provide expert resources to criminal and administrative investigators at scene, remove the body from the scene, and conduct an autopsy on the remains.

C. DA's Office

• On-Call Assistant DA and DA Investigators, upon arriving at scene, shall meet with Homicide Detail to walk-through scene, participate in collection and documentation of evidence, participate in non-compelled interviews of law enforcement witnesses and interviews of civilian witnesses, and confer with Homicide Detail regarding investigative process to follow.

D. OCC

 On-Call OCC Investigator, upon arriving at scene shall walk-through and observe scene with Homicide Detail, so that the investigator has a basic understanding of the circumstances and environment of incident.



III. The First Ten Days After the Incident

A. SFPD

• Involved officer(s) shall be assigned to respective Bureau Headquarters for a minimum of ten calendar days and shall not be allowed to return to duty until cleared by the Chief of Police and reviewed by the Police Commission. During that time, the officer(s) shall: (i) participate in mandatory debriefing with BSU; (ii) report to Police Range for post-discharge firearm debriefing, (iii) report to

Training Academy for modified force options training, and (iv) participate in interview with IAD.

- **Homicide Detail** shall meet within 72 hours with DA, CSI, Forensic Services Division, and other offices and disciplines to determine investigative actions to be taken.
- **Crime Laboratory** shall conduct ballistics and firearms examinations, and perform DNA and other testing as requested.
- **Media Relations Unit** shall respond to media inquiries and to convey information to family of individual shot.
- **BSU** shall conduct a mandatory debriefing with involved officers within 72 hours, assess involved officer's ability to return to duty or need for additional support, participate in Return to Duty Panel hearing for involved officers and provide follow-up and psychological support.
- Return to Duty Panel shall conduct a return to duty hearing (not open to the public) within five business days of the incident, in which it reviews preliminary investigative findings by IA criminal investigators and votes on whether to recommend that involved officer(s) should be allowed to return to regular duty.
- Chief of Police shall determine, after consulting with the Return to Duty Panel, whether the involved officer(s) should be returned to regular field assignment and then forward written decision (not available to public) to Police Commission and OCC.
- **Police Commission** shall meet in *closed session* with the Chief of Police to review the Chief of Police's findings and decision regarding whether to allow involved officers to return to regular duty.
- IAD shall schedule interview of involved officer(s) and witness officers, obtain information from Homicide Detail and other evidence-processing personnel, and participate in return to duty hearing for involved officer(s).

B. OCME

• **Medical Examiner Staff** shall notify Homicide Detail of any physical evidence collected during autopsy.

C. DA's Office

• **DA Personnel** shall meet with Homicide Detail investigators to: (i) review the status of the evidence collected and witness and involved officer statements; (ii) obtain copies of all relevant case documents; (iii) agree on evidence to be submitted for further analysis and testing; (iv) agree on next steps to investigation; and (v) participate in interviews of additional witnesses.



IV. Within 45 Days of the Incident

A. SFPD

- **Homicide Detail** shall submit its final criminal investigation report to FDRB.
- IAD shall prepare final recommendation and report for submission to FDRB and Chief of Police.

• Legal Division shall work with IAD and OCC regarding evidence/document production and obtain incident report for any claim investigation.

B. DA's Office

• **DA's Office** shall, upon conclusion of its independent investigation and receipt of all reports from Homicide Detail, evaluate all evidence to determine potential criminal liability, or lack thereof, of any party and then notify SFPD of its decision in writing.

V. In Response to DA's Criminal Charges Against an Officer, If Any

A. SFPD

- Chief of Police shall suspend accused officer without pay when the officer is charged with a felony or any serious crime.
- Accused Officer shall remain on suspension pending resolution of criminal prosecution and adjudication of any pending administrative investigation.



VI. Within 60 Days of the Incident

A. SFPD

• IAD shall submit to the FDRB the completed administrative investigation with recommendations.

VII. Within 90 Days of Incident

A. SFPD

• **FDRB** shall convene within thirty days of receipt of the Internal Affairs investigative report (i.e., within ninety days of incident).



210

VIII. Within 210 Days of Incident

A. SFPD

• **FDRB**, within 120 days following their first meeting (i.e., within 210 days of incident), shall complete its investigation and issue its findings in accordance with General Order 3.10.

B. OCC

 OCC Director shall attend FDRB as an advisory member and receive and review FDRB's quarterly reports to Police Commission and provide written responses as appropriate.

IX. (Historically) At Any Point

A. OCC

- OCC Investigators, within 10 days of receiving a civilian complaint of police misconduct or improper performance [but likely immediately now based on the recent passage of Proposition D], shall interview the complainant and begin its own investigation of the allegations by requesting all documents and evidence accessible from or through the complainant; requesting records, documents and information from the SFPD and OCME; and identifying and scheduling interviews of witnesses
- OCC Investigators, upon receipt of records from SFPD, OCME and other agencies, shall review all reports, chronologies, interviews, and evidence and interview involved and witness officers.
- OCC, upon conclusion of the OCC's administrative investigation, shall prepare written findings as to whether or not allegations are sustained. In cases resulting in a sustained finding, OCC provides the Chief of Police a written report summarizing evidence, giving basis for the findings, and providing recommendations for discipline. (Only a sanitized version of the report, without the names of the victim, complainant or officers involved, is made available to the public.)

Justice Delayed Is Justice Denied

While the investigative process specified by the SFPD's General Orders as outlined above would lead one to believe that most OIS investigations are wrapped up within a reasonable timeframe of approximately seven months after the incident occurs, this is far from the case. In reality, we found that OIS investigations can and most often do take three to four times that long.

Both the SFPD and DA's Office acknowledge that criminal investigations of OIS incidents can easily take two years or longer to complete.

In an internal document entitled *The Process of SFPD Officer-Involved Shooting (OIS) Investigations*, the SFPD includes a "Flow of Criminal Investigations" chart which shows that the Homicide Detail and DA criminal investigations can take 26 months or longer just to get to the Internal Affairs Division for review. (*See* Figure 1, *Flow of Criminal Investigations*, on page 29.)

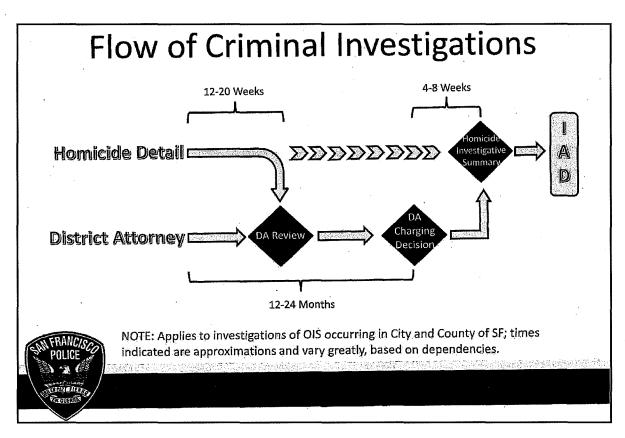


Figure 1. Flow of Criminal Investigations in OIS Incidents. (Source: *The Process of SFPD Officer-Involved Shooting Investigations*, p. 23 (SFPD, May 5, 2015).)

In the same *Process of SFPD Officer-Involved Shooting (OIS) Investigations* document, the SFPD includes a "Flow of Administrative Investigations" chart, which shows that the Administrative Investigation, concluding with the Internal Affairs Investigative Summary, can take 24-30 months to complete. (*See* Figure 2, *Flow of Administrative Investigations*, on page 30.) And this timeframe does not include the amount of time a hearing before the Police Commission would entail in those cases in which the administrative investigation reveals that disciplinary proceedings are warranted.

We believe a timeframe of this length is unacceptable. Even if a timeframe of this length included points where updates were given to the public — which as will be shown later in this report, it does not — a two-to-three-year investigation gives an appearance — justified or not — of, at one end of the spectrum, foot-dragging or a lack of concern, and, at the other end of the spectrum, bungling or a cover-up.

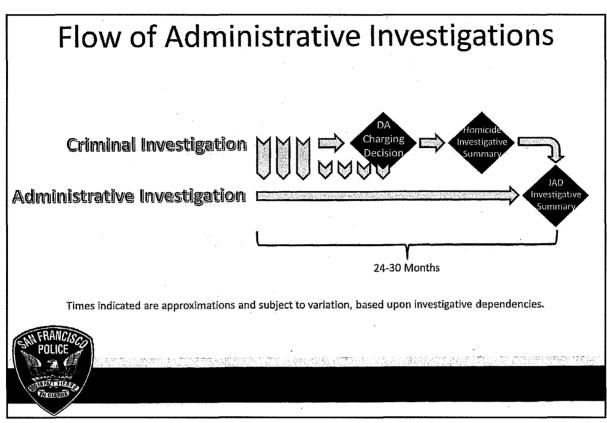


Figure 2. Flow of Administrative Investigations in OIS Incidents. (Source: *The Process of SFPD Officer-Involved Shooting Investigations*, p. 29 (SFPD, May 5, 2015).)

With investigations of this length, justice delayed truly is justice denied. This is true for all parties involved:

- For the family and friends of the person shot, who must await the outcome of the criminal and administrative investigations to put closure on an enduring tragedy;
- For the officers involved in the OIS incident, who, while they may have returned to duty, perform their duties under a cloud of uncertainty, not knowing whether they will have criminal charges filed against them or face disciplinary hearings; and
- For the community, which, with such an inordinate amount of time, wonders whether the killing was justified or questions why officers who may have committed a crime are still in a position of great authority and power and whether the system of determining one or the other is broken.

Because little information is made public during these OIS investigations, without inside information, it is difficult, if not impossible, to determine why they take so long. Using the authority of the Civil Grand Jury, however, we have been able to learn details about the process generally and certain investigations specifically that explain some of the delay. Based on the facts we uncovered, we make the findings and recommendations that follow with the goal of

reducing the time it takes to complete both the criminal and administrative OIS investigations to an acceptable length.

OIS Investigations Should Be Streamlined and Accurately Reflected in SFPD General Orders

General Order 8.11⁴⁸ sets forth a process and timeline which investigations of OIS incidents are to follow:

- Homicide Detail Investigation. The criminal investigation prepared by the Homicide Detail shall be completed and received by the Chair of the Firearm Discharge Review Board within forty-five-calendar days of the shooting event.
- Management Control Division Investigation.⁴⁹ The administrative investigation prepared by the Management Control Division shall be completed and submitted to the Chair of the Firearms Discharge Review Board within sixty-days of the shooting event.
- The Firearm Discharge Review Board. The Firearm Discharge Review Board shall convene within thirty calendar days of receipt of the Management Control Division investigation report. Within 120 calendar days following the first meeting of the Firearm Discharge Review Board, the panel shall complete its investigation and issue its findings in accordance with Department General Order 3.10.

General Order 3.10⁵⁰ outlines the functions and responsibilities of the FDRB and sets forth the procedures for reviewing, investigating, and reporting to the Police Commission cases in which SFPD officers discharge a firearm.

General Order 3.10 includes dates that are parallel to General Order 8.11 regarding the time by which the FDRB shall complete its investigation and issue its findings.

A review of investigations of OIS incidents that have occurred since January 2011 reveals that no investigation has met the timeframes set forth in the SFPD General Orders.

While we hope that the SFPD would attempt to bring its OIS investigations into alignment with the timeline set forth in its General Orders, we also realize that OIS investigations can be complicated, with many moving parts, numerous agencies and departments, and include a large number of variables and dependencies which can add to the length of the investigation process.

⁴⁸ http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO8.11.pdf

⁴⁹ Management Control Division is now called the Internal Affairs Division.

⁵⁰ http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf

F.2. Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.

RECOMMENDATION

- R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.
- R.2.B. After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.

SFPD's Field Operations Bureau Should Adopt a Uniform, Modern Method to Alert All Essential Responders of OIS Incidents

The SFPD's Field Operations Bureau uses different methods to alert different agencies that an OIS incident has occurred. These methods include both modern means, e.g., sending text alerts to SFPD personnel, and antiquated means, e.g., calling the telephone number of one of a number of rotating, "on-call" assistant District Attorneys.

It is our understanding that the SFPD's Field Operations Bureau uses a phone tree system to contact some of the essential responders, i.e., informing responders serially by using a hierarchical contact list. Further, in at least one incident the Field Operations Bureau left an alert of an OIS incident in the wrong voice mailbox, causing the on-call assistant DA and DA investigators to be substantially delayed in responding to the scene. The delay caused ripple delaying effects in the subsequent investigation.

FINDING

F.3. The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.

RECOMMENDATION

R.3.A. The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.

R.3.B. The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.

SFPD and DA's Office Need a New Memorandum of Understanding Regarding OIS Investigations

The policies and procedures that govern the duties, roles and cooperation between the SFPD and the DA's Office in OIS investigations are set forth in a document entitled "Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings and In-Custody Deaths" ("MOU").

This document became effective on July 15, 2005, when it was signed by then District Attorney Kamala D. Harris and then Chief of Police Heather J. Fong.

The current MOU states:

It is the intent of the District Attorney's Office and San Francisco Police Department to complete their review of these incidents as quickly as possible, consistent with the primary goal of conducting a thorough and objective review of the facts.⁵¹

While aspirational, this statement of intent is too vague to carry much weight.

The current MOU also states:

In any event, the San Francisco Police Department shall submit a complete copy of its criminal investigation file regarding the incident to the District Attorney Investigator assigned to the incident as soon as it is complete and not more than 60 to 90 days from the date of the incident, depending on the complexity of the investigation.⁵²

While this clause provides a measurable goal by which the SFPD shall provide the DA with its completed criminal investigation file, it lacks teeth because there is no penalty for failing to meet this deadline.

Moreover, the current MOU lacks a corresponding deadline by which the DA's Office shall complete its criminal investigation.⁵³

⁵¹ MOU, *Investigative Reports*, p. 7.

⁵² *Id.* at p. 8.

⁵³ Id., Final Action, at pp. 8-9.

The lack of specific deadlines or targeted timeframes in the current MOU by which the DA's Office is to complete its portion of OIS criminal investigation, along with the lack of any enforcement mechanism to ensure timely compliance by either the SFPD or the DA's Office, allows investigations to drag on for years.

We understand that there are many variables that must be taken into account when determining a workable timetable by which to complete OIS investigations and that each investigation is unique. Because there are many factors to consider, timeframes for completion of OIS investigations will vary, perhaps significantly. Thus, the MOU cannot establish a specific timeframe. A statement of intent committing to a review of OIS incidents "as quickly as possible," however, is an inadequate commitment. Rather, the MOU should establish a process, accounting for the variables, to arrive at an acceptable timeframe for each OIS investigation.

FINDING

F.4. While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.

RECOMMENDATION

- R.4. The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:
 - Prioritize and expedite their investigations of OIS incidents within an established timeframe;
 - Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation.

DA's Office Needs to Complete Its OIS Investigations and Issue Charging Decision Letters More Quickly

Our investigation revealed that the DA's Office is the main bottleneck in the criminal investigations of OIS incidents, both fatal and nonfatal. Moreover, the SFPD's administrative investigation is subject to the outcome of the DA's Office's criminal investigation and cannot be completed until after the DA's Office completes its investigation and analysis and issues its charging decision letter. Therefore, as long as the investigation of an OIS incident remains open in the DA's Office, the SFPD's administrative investigation cannot conclude, a review of the incident by the SFPD's FDRB cannot happen, and any disciplinary proceedings that may be warranted cannot occur.

The DA's Office acknowledges that it takes too long to complete its criminal investigations. In interview after interview of DA's Office personnel, we were told that the DA's Office lacks the resources to give OIS investigations greater priority. OIS cases are spread out among a number of investigators and attorneys in the White Collar Crime Unit⁵⁴ of the DA's Office and are merely a part of their larger workload.

Moreover, we were told that the work done by the DA's Office is deadline-driven. This means that work is prioritized by that which carries the earliest deadline. If a case carries a looming deadline, such as a deadline by which to decide to charge a suspect, an arraignment date, a trial date or some other court-ordered deadline, then that case receives priority to meet that deadline. OIS investigations carry no such deadlines. The result of these factors is that the investigation and review of OIS cases are often relegated to the "bottom of the stack" in the DA's Office.

Nowhere is this low priority put in starker relief than by looking at the sheer length of time it takes for the DA's Office to complete its investigation and issue its charging decision letter in each OIS case.

Table 2, on page 36, shows a list of *all* OIS incidents — both fatal and non-fatal — by date, from the beginning of 2011 through June 12, 2016, involving SFPD officers, along with the date the DA's Office issued its charging decision letter in each case, as well as the number of days that transpired between the date the OIS occurred and the date the DA issued its charging decision letter. Fatal OIS incidents are marked in red.



Of the 18 fatal OIS incidents which are the focus of this report, ten cases are still open. Of the eight in which the DA's Office has issued charging decision letters, the shortest length of time between the date the OIS occurred and the date the DA issued its letter was 328 days in the case of Alejandro Nieto; the longest length of time was 887 days in the case of Steven Michael Young. In those eight cases, it took the DA's Office, on average, 611 days to complete its investigation and issue its charging decision letter. That is 20 months.

If one considers all OIS cases, not just those involving fatalities, the average length of time it has taken the DA to complete its investigation and issue its charging decision letter is **654 days**. ⁵⁵ That is almost 22 months.

The DA must recognize that OIS incidents receive a great deal of attention, for good reason, and that they are often controversial. Thus, the DA must take action commensurate with the importance attached and attention given to the investigation of these incidents.



⁵⁴ Because OIS investigations are handled by the White Collar Crime Unit of the DA's Office, these investigations do not compete for bandwidth with other homicides, rapes or other violent crimes.

⁵⁵ We were told that the inordinate amount of time the DA's Office takes to complete its criminal investigations in OIS cases is not unique to the current DA and that OIS investigations under prior DAs took similar amounts of time.

Name of Suspect/Victim	Date of Incident	Date of Letter	No. of Days Transpired
Suspect/Victim Name Not Disclosed	4-Jan-2011		Decision Letter Not Yet Issued
Joshua Smith	7-Jun-2011	5-Oct-2012	486
Roselyndo Nagayo Sicet	29-Jun-2011	13-Oct-2013	837
Kenneth Harding, Jr.	16-Jul-2011	26-Nov-2012	499
Jesus Octavio Paredes Rodriguez	17-Sep-2011	5-Aug-2013	688
Peter Yin Woo	3-Oct-2011	20-Aug-2013	687
Steven Michael Young	14-Dec-2011	19-May-2014	887
Larry Simonton	16-Dec-2011	11-Dec-2013	726
Dennis Hughes	9-May-2012	1-May-2014	722
Derryck King	13-May-2012	21-May-2014	738
Prailth Praiourng	18-Jul-2012	13-May-2014	664
Brian Cooper	4-Aug-2012	22-May-2014	656
Larry Massey	27-Aug-2012	22-May-2014	633
Oliver Jose Barcenas	20-Sep-2012	21-May-2014	608
Alexander Gibbons	14-Feb-2013	11-Mar-2014	390
Eddie Tilman	5-Mar-2013	24-Jun-2014	476
Peter Russell	15-Mar-2013	5-Feb-2016	1057
SFPD Officer	16-Mar-2013		
Ryan Daugherty	7-Apr-2013	29-Jun-2015	813
Dale Stuart Wilkerson	17-Apr-2013	26-Dec-2014	618
Carlos Miranda	20-Jul-2013	29-Jun-2015	709
Suspect/Victim Name Not Disclosed	27-Oct-2013	- Committee of the comm	Decision Letter Not Yet Issued
Jaques Samuel	30-Dec-2013	26-Mar-2015	451
Suspect/Victim Name Not Disclosed	12-Jan-2014	and the state of t	Decision Letter Not Yet Issued
Ramon Wellington	4-Feb-2014	29-Jan-2016	724
Suspect/Victim Name Not Disclosed	8-Mar-2014		Decision Letter Not Yet Issued
Alejandro Nieto	21-Mar-2014	12-Feb-2015	328
Glovany Contreras-Sandoval	25-Sep-2014		Decision Letter Not Yet Issued
O'Shane Evans	7-Oct-2014	and the help and a destroy a street of a later to the section of the	Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	6-Nov-2014		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	3-Dec-2014	remineration and armedian is thought of the second and	Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	4-Jan-2015	For should all for the first distinct forms of the should be then the should	Decision Letter Not Yet Issued
Matthew Hoffman	4-Jan-2015		Decision Letter Not Yet Issued
Amilcar Perez-Lopez	26-Feb-2015		Decision Letter Not Yet Issued
Alice Brown	17-Mar-2015	erun kunsku vermeske maenemmen.	Decision Letter Not Yet Issued
SFPD Officer	18-Sep-2015	To design the second residence of the second second	
Herbert Benitez	15-Oct-2015		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	24-Oct-2015		Decision Letter Not Yet Issued
Javier Ivan Lopez Garcia	11-Nov-2015		Decision Letter Not Yet Issued
Mario Woods	2-Dec-2015	meneral interaction of the last activities	Decision Letter Not Yet Issued
Luis Gongora	7-Apr-2016		Decision Letter Not Yet Issued
Jessica Williams	19-May-2016		Decision Letter Not Yet Issued

Time Between OIS Date & Date of DA's Charging Decision Letter (Jan. 1, 2011–June 12, 2016). (Source: Compiled from data from *Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000*, released by the SFPD pursuant to White House Police Data Initiative⁵⁶ and DA's Office's charging decision letters.⁵⁷)

⁵⁶ http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx; see also https://www.whitehouse.gov/blog/2015/05/18/launching-police-data-initiative.

⁵⁷ http://sfdistrictattorney.org/officer-involved-shooting-letters

F.5. The DA's Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal.

RECOMMENDATION

- R.5.A. The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA's Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases.
- R.5.B. The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter.
- R.5.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.
- R.5.D. The Board of Supervisors should approve these additional resources requested by the DA's Office and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, to expedite OIS Investigations. Approval of these additional resources again should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.

OCME Is To Be Commended for Its Improved Turnaround Times and More-Detailed Reports in OIS Cases

A thorough investigation of an OIS incident cannot occur without the services of the OCME. When a fatality occurs, the OCME dispatches a medical examiner and investigators to the scene to provide expert assistance and to transport the deceased to the OCME for an autopsy. The OCME conducts the autopsy, collects biological specimens for toxicological and histological examinations and physical evidence such as spent bullets found in the body, and documents its work with extensive notes and photographs. In the days that follow, the OCME issues a final autopsy report, documenting the results of its examination, analysis and testing, and giving its conclusion as to the cause, mode and manner of death.

The final autopsy report is provided to the Homicide Detail, the DA and to the OCC. The report is also available to those with a legitimate reason to have access to it. It is also available to the public for a fee.

Our investigation revealed that, prior to March 2015, the OCME faced a huge backlog of cases and was a bottleneck in both OIS and other investigations. Other agencies which utilized the services of the OCME often pointed to the OCME as the reason why their investigations were delayed or stalled.

Since the new Chief Medical Examiner ("CME") came aboard in March 2015, however, the OCME bottleneck has been all but eliminated and turnaround times have improved.

We learned during our investigation that the new CME recognizes that OIS cases are highly visible and often controversial and, as such, assigns them high priority at the OCME. This is borne out in improved turnaround times in the issuance of OIS autopsy reports. (See Figure 3.)

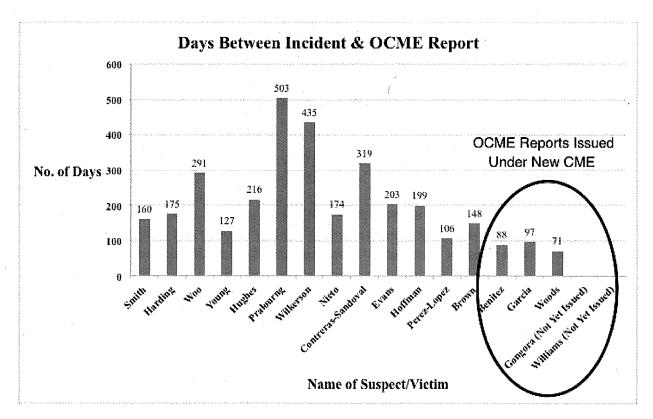


Figure 3. Length of Time Between Each OIS Incident and Date Respective OCME Issued Report. (Source: Compiled by Civil Grand Jury from OCME Reports.)

We learned from interviews with key personnel, along with our review of the OCME autopsy reports in recent OIS cases, that the new CME has also displayed a high degree of initiative, requesting incident scene evidence — such as video surveillance evidence — which may play a key role in interpreting autopsy results or analyzing what occurred.

Moreover, our comparison of autopsy reports issued by the OCME during the past 12 months with those that were issued earlier shows that the reports now include more photographs, increased documentation and greater detail.

FINDING

F.6. Under the leadership of and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.

COMMENDATION

C.6. The CME is to be commended for his leadership and commitment in eliminating the backlog and addressing other issues facing the OCME, and the OCME is to be praised for its improved turnaround times and more-detailed final reports.

RECOMMENDATIONS

- R.6.A. After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.
- R.6.B. When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.

OCC Should Receive Increased Funding to Pay for Interview Transcription Services

In OIS incidents, the OCC is immediately called to the scene to "walk-through" it and make observations, so that it will have a basic understanding of the circumstances and environment of the incident.

The OCC performs an independent administrative investigation to determine whether any of the SFPD officers involved in the incident displayed any misconduct. The OCC not only obtains and reviews the investigative files compiled by the SFPD Homicide Detail, but it also examines the evidence, interviews involved parties and officers, and arrives at its own conclusion

regarding the propriety of the police officers' actions.⁵⁸ The OCC staff includes both investigators and attorneys to perform its work.⁵⁹

In OIS cases, as in other cases it handles, the OCC interviews numerous individuals as part of its investigation process: each of the involved SFPD officers, any other SFPD officers who witnessed the incident, civilian witnesses, and, sometimes, experts. We learned that after each of these interviews, OCC staff must spend a substantial amount of time transcribing their own extensive interview notes for use throughout the investigation — time which could be spent on other aspects of the investigation process.

FINDING

F.7. OCC investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.

RECOMMENDATIONS

- R.7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.
- R.7.B. The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.
- R.7.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.
- R.7.D. The Board of Supervisors should approve the resources requested by the OCC and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.

Impediments to and Opportunities for Transparency in OIS Investigations

Attempts to make the investigation of OIS incidents more timely and more efficient solve only part of the problem. A timely investigation process may alleviate suspicions of foot-dragging and reduce the public's perception that the agencies performing the investigations do not consider them to be important. But without transparency during each step of the process, victims' families and friends, the police officers involved and the citizens of San Francisco are still denied the ability to determine for themselves that justice is being served.

⁵⁸ See generally http://sfgov.org/occ/complaint-process.

⁵⁹ See http://sfgov.org/occ/frequently-asked-questions, specifically, "What is the size and composition of the OCC staff?".

The SFPD recognizes the importance of communication and cooperation between the department and the citizens it serves.

In its Mission Statement, the SFPD states:

We Maintain Open Communication with all the Communities We Serve. Their Input Helps to Determine Police Policies, Priorities and Strategies. The Department recognizes the need to collaborate with the public to reduce crime, disorder, fear and all those negative factors lessening the quality of life. We cannot effectively deal with these by ourselves. Through open communication, we strive to increase public understanding of law enforcement complexities, to ensure the certainty that Department priorities match community expectations, and to inform the public of the reasons for police actions. 60

In its Vision Statement, the SFPD states:

The Police Department strives to maintain the trust of San Francisco community members by actively engaging with the neighborhoods it serves. The Police Department seeks to make its policies and operations as open as possible. When there are complaints involving the police department, both the public and the police are best served by a system of accountability that is expeditious and fair to all involved.⁶¹

A review of the General Orders and internal departmental documents related to the investigation of OIS incidents, however, provide very few opportunities for transparency which would allow the public insight into the investigation.

For example, in SFPD General Order 8.11, the primary General Order that deals with the investigation of OIS incidents, no opportunities for transparency are explicitly mentioned. In fact, just the opposite. There are a number of points in the investigation in which transparency is prohibited:

This report [containing the Chief of Police's decision whether the involved officers should be returned to their regular field assignment following an OIS incident] will be part of the officer's *confidential* personnel file and *shall not be disclosed to any member of the public* except by court order. The Police Commission shall, at the first Commission meeting following receipt of the report, meet in *closed session* with the Chief of Police to review the Chief's findings and decision. ⁶²

⁶⁰ SFPD Mission Statement, "Our Statement of Values" (emphasis in original), *available at* http://sanfranciscopolice.org/mission-statement).

⁶¹ SFPD Vision Statement, available at http://sanfranciscopolice.org/visionstatement.

⁶² SFPD General Order 8.11, *Investigation of Officer Involved Shootings and Discharges* (09/21/05), at II.G.4., p. 6 (emphasis added), *available at* http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO8.11.pdf.

General Order 3.10, which directs the actions of the Firearm Discharge Review Board, espouses more transparency and, in fact, acknowledges the importance of transparency in the review of firearm discharges by its officers:

The San Francisco Police Department recognizes the public's right to know about this department's use of deadly force. It is the policy of the San Francisco Police Department to provide as much information as possible through this public reporting process while complying with applicable civil and criminal laws and preserving the integrity of ongoing investigations. ⁶³

Other than these few points where transparency is explicitly prohibited or allowed, the policies and procedures regarding OIS investigations are silent on the topic of transparency. This silence allows SFPD command staff great leeway whether to share information regarding the status of OIS investigations with the public.

The SFPD should be commended for the information that it currently shares with the public regarding OIS investigations, especially in the hours and days immediately following each OIS incident. However, the SFPD provides very little information about its OIS investigations after the initial frenzy of interest dies down. We believe that transparency throughout the OIS investigation is warranted, not just at the beginning. It is only through an open and transparent accounting in *all* phases of an OIS investigation that the SFPD will maintain the public's trust that justice is served.

As Long As SFPD Is the Lead Agency on Its Own OIS Investigations, the Public Will Have the Perception the Investigations Are Biased

The SFPD has been criticized for investigating its own OIS incidents. Under the current procedure for investigating OIS incidents, the SFPD's Homicide Detail takes charge at the scene of each incident and acts as the lead agency throughout the investigation. We believe that this procedure was designed with the best of intentions. But the SFPD, the Police Commission and the Mayor must recognize and acknowledge that this creates a perception that these investigations are biased in favor of the officers involved.

That San Francisco has a built-in set of checks and balances. in the form of the DA and the OCC, should serve to mitigate not only the perception of bias, but the actual opportunity for bias in SFPD OIS investigations. Each has its own investigators at the scene from the start, and the DA and the OCC perform parallel, independent investigations, from both a criminal perspective (DA's Office) and an administrative angle (OCC).

⁶³ SFPD General Order 3.10, *Firearm Discharge Review Board* (09/21/05), at I.A., p. 1 (italics in original), *available at* http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf.

But, this system of checks and balances does not completely eliminate the perception of bias. The fact remains that the SFPD Homicide Detail is the *lead* agency on the investigation, and, so, both the OCC and the DA's Office must, to a certain extent, rely on the SFPD Homicide Detail to actually handle investigation properly, accurately, completely, thoroughly and without bias.⁶⁴

The President's Task Force on 21st Century Policing ("President's Task Force"), in its final report, recommends having an external, independent body handle all fatal OIS investigations:

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

. . . .

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.⁶⁵

Applying this recommendation in the context of investigations of fatal SFPD OIS incidents, however, poses a dilemma, because it appears that the SFPD currently seems to be the only agency with the resources, experience, and/or ability to investigate OIS incidents thoroughly and in a timely manner. And, as with the SFPD, each of the other agencies proposed to take the lead in the investigation of fatal SFPD OIS cases faces its own potential criticisms:

- The City and County of San Francisco Sheriff's Department is untrained, inexperienced and ill-equipped to handle such an investigation;
- The California Highway Patrol delegates its own OIS incidents in this area to the SFPD and, so, lacks the training, experience and resources;
- The OCC is considered by critics to be "toothless" and merely an extension of the Police Commission:
- Other police departments are either under federal judicial oversight regarding their handling of police misconduct cases (Oakland) or are arguably too far away geographically (San Jose); and
- The DA's office suffers from the perception that any investigation it leads could be politically motivated. Moreover, evidence shows that the DA's Office currently gives OIS investigations low priority.

While it appears that the SFPD is currently the only body currently equipped to take the lead in fatal OIS investigation, there are additional checks and balances that can be implemented and others that should be explored to mitigate the public perception that the investigations lack integrity.

⁶⁴ With regard to the OCC, an additional argument can be made that it does nothing to mitigate the perception of bias in the investigation of fatal OIS incidents because its director serves at the discretion of the Police Commission.

⁶⁵ President's Task Force on 21st Century Policing 2015. *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services, at pp. 20-21, *available at* http://www.cops.usdoj.gov/pdf/taskforce/taskforce finalreport.pdf.

The President's Task Force states:

One way [an external and independent criminal investigation in fatal OIS and other use of force cases] can be accomplished is by the creation of multi-agency force investigation task forces comprising state and local investigators.⁶⁶

This idea of a multi-force agency was also floated by at least one of our interviewees who suggested that perhaps a multi-agency task force be created by members of law enforcement from each of the nine Bay Area counties.⁶⁷

We believe that a multi-agency task force would be logistically, financially and politically difficult to set-up. Given the political structure of the surrounding Bay Area counties and the myriad agencies that would necessarily be involved, it appears prohibitively complicated, at least in the near term. Instead, we believe that the City should use resources already within its power to create a more meaningful system of checks and balances to the current process whereby SFPD Homicide serves as the lead in the investigation of SFPD OIS incidents.

The City Should Create an Oversight Task Force to Mitigate the Perception of Bias in Fatal OIS Investigations and Ensure They Are Completed Expeditiously

Currently there is no oversight body that monitors an SFPD OIS investigation from start to finish. Yet, we believe there is a dire need for one . . . and one that will extend across traditional departmental lines to possibly avoid some of the self-interested departmental power plays that the citizens of San Francisco are seeing now. By having such an oversight body, we believe that perceptions of bias will diminish, investigations will occur more quickly and public trust in the process and all agencies involved will improve.

FINDING

F.8. The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the status of the investigation, and interpret and share the results of the investigation with the public.

RECOMMENDATIONS

R.8.A. The Mayor's Office should form a new standing task force to oversee the investigation of OIS cases. The task force should include high ranking persons from the Sheriff's Office, the DA's Office, the OCME, the SFPD (including the Chief Homicide Inspector), and the OCC. The task force may also include a state or federal department

⁶⁶ Ihid

⁶⁷ The Bay Area's nine counties are Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

of justice consultant or observer, and a knowledgeable, respected citizen of San Francisco.

R.8.B. The Mayor should charge the new task force to:

- Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation;
- Provide periodic press releases and/or press conferences to update the public on the status of each OIS case;
- Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions;
- Facilitate a joint discussion among its members to formulate conclusions and "lessons learned":
- Identify necessary policy or procedural changes; and
- Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the process and may respond and ask questions.

SFPD Should Do a Better Job on Its Website of Informing the Public About Each OIS Investigation and Provide Statistics About OIS Incidents

The SFPD, until very recently, provided no easily-accessible statistics on SFPD OIS shootings. Within the past few months, however, the SFPD has begun providing some, albeit limited, data at the direction of the Mayor.

In a January 6, 2016 letter to the San Francisco Board of Supervisors, the Mayor listed "Accountability & Transparency: White House Police Data Initiative" as one of the comprehensive set of reforms he directed be undertaken immediately, after the shooting death of Mario Woods in December 2015. In the letter, the Mayor stated:

5. Accountability & Transparency: White House Police Data Initiative
At the Mayor's direction, the San Francisco Police Department will enroll in the [sic] President Obama's Police Data Initiative. This includes using open data to increase transparency, build community trust, and support innovation, as well as better using [sic] technology, such as early warning systems, to identify problems, increase internal accountability, and decrease unneeded uses of force. This information can serve as the foundation for community visibility into [sic] and increased trust.⁶⁸

At the beginning of April 2016, the SFPD announced that it had joined the President's White House Police Data Initiative, an initiative providing recommendations for improved police

⁶⁸ January 6, 2016 letter from Edwin M. Lee, Mayor, City & County of San Francisco, to President London Breed, Members of the Board of Supervisors, at p. 3, *available at* https://www.scribd.com/doc/294851874/S-F-Mayor-Ed-Lee-s-Letter-on-Police-Use-of-Force-Jan-6-2016.

practices, including data transparency.⁶⁹ As part of its announcement, the SFPD stated on its website:

SFPD is determined to build trust, engage with our San Francisco community, and drive positive outcomes in public safety. We hope to be as *transparent* as possible — not only with our crime data, but with information about our department and its operations.⁷⁰

The initial data sets released at the time of the announcement included *Officer Involved Shootings, Suspect-Involved, 2009-2015*⁷¹ (see Figure 4) and *Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000* (see Figure 5).⁷²

Officer Involved Shootings, Suspect-Involved, 2009 - 2015*

	Year	Total
2015		9
2014		8
2013		8
2012		6
2011		8
2010		11
2009		5

^{*}As of February 2, 2016.

Figure 4. Officer Involved Shootings, Suspect-Involved, 2009 - 2015. (Source: SFPD website at http://sanfranciscopolice.org/data#OIS.)

The Mayor is to be commended for ordering the SFPD to become more transparent by providing data regarding OIS incidents on its website. Likewise, the SFPD is to be commended for following through. To reach its goal of building public trust, engaging with the community and driving positive outcomes in public safety, however, the SFPD must provide much more robust data on OIS incidents such as that provided by the Dallas Police Department and the Los Angeles County Sheriff's Department ("LASD").

⁶⁹ Sharing Our Data: SFPD Joins the White House Police Data Initiative, *available at* http://sanfranciscopolice.org /data).

⁷⁰ *Ibid.* (emphasis added).

⁷¹ http://sanfranciscopolice.org/data#OIS.

⁷² http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx.

Reference#	Date	Time	Description	Compliance
14-003	Saturday, March 8, 14	14:44 hours	On Saturday, March 8, 2014, at approximately 14:44 hours, two uniformed officers assigned to the Mission Station housing unit responded to the 1300 block of Florida Street regarding a report of vandalism to a vehicle. When officers approached the vehicle, the driver backed up, then steered his vehicle toward one of the officers. The partner officer fired at the suspect, who was not struck. An officer at the scene was hit by gunfire. The suspect fled the scene and was later apprehended in another county.	Open
14-004	Faidau Marak 31 14	19:11 hours	On Monday, March 21, 2014, at approximately 19:11 hours, four uniformed officers were among units responding to Bernal Heights park to investigate a report of a suspicious person with a gun in a holster. The officers located a man matching the description. The suspect drew a weapon from his hip holster and pointed it at the responding officers. The officers fired at the suspect, fatally striking him.	
14-004	Friday, March 21, 14 Thursday, September 25, 14	19:11 nours	On Thursday, September 25, 2014, at approximately 0600 hours, officers responded to a report of a roll-over car collision at Battery and California Streets. The description of one involved car matched an armed carjacking vehicle that had been pursued by CHP officers from Richmond to San Francisco. As unknowing citizens approached this vehicle to render assistance, the occupant fired at them, narrowly missing a Good Samaritan. Officers attempted to coax the armed suspect's surrender. When the suspect emerged from his car and pointed a firearm at officers on scene, six uniformed officers fired at the suspect, fatally striking him.	4.
14-006	Tuesday, October 7, 14	20:58 hours	On Tuesday, October 7, 2014, at approximately 2058 hours, officers assigned to Southern Station observed an auto burglary in progress. The suspects returned to their vehicle as officers began to close in. As one of the officers, wearing a plainclothes cover, moved toward the suspects' vehicle, the driver pointed a firearm at him. The officer fired at the driver, who expired from the resulting wounds.	! ! ! ! ! ! ! ! !
14-007	Thursday, November 6, 14	19:51 hours	On Thursday, November 6, 2014, at approximately 1951 hours, four plainclothes officers assigned to Bayview Station observed an apparent narcotics transaction in the area of public housing 900 Connecticut Street. As two of the officers began to approach the four involved subjects, two men attempted to leave the scene. An officer pursued one of the fleeing suspects. The suspect produced a firearm from his hip area and pointed it at the officer. The officer fired at the suspect, wounding thim. The suspect was taken into custody.	

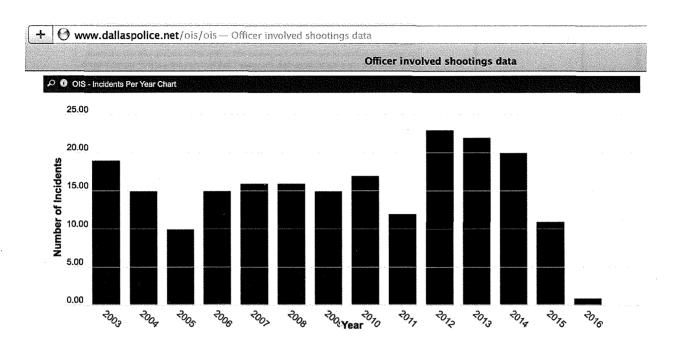
Figure 5. Extract from Excel Spreadsheet entitled, "Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000. (Source: SFPD website at http://sanfranciscopolice.org/sites/default/files/SFPDOfficer InvolvedSuspectInvolvedShootings2000-Present.xlsx.)

The Dallas Police Department's public information about OIS could serve as a model for the SFPD. On that agency's homepage⁷³ is an "Officer Involved Shootings (OIS) Data" button, which clicks through to a webpage⁷⁴ that includes a message from the Chief of Police, sections on "Why the Dallas Police Department Provides Officer Involved Shooting Information," "Investigating Officer-Involved Shooting (OIS) Incidents," the Department's General Order on use of deadly force, "Reducing Deadly Force Incidents," and graphs and charts providing visual depictions of incidents per year, types of OIS, most common subject weapon types, maps of where OIS incidents occurred within the City of Dallas, and individual shooting summaries. (See Figure 6, *Screenshot of Data Charts and Graphs Regarding OIS Incidents Pulled from Dallas Police Department Website*, on page 48.)

The LASD public data sharing relating to deputy involved shootings may also provide a model for the SFPD to follow as it works toward better dissemination of OIS incident data and statistics. The LASD has a webpage devoted to "Deputy Involved Shooting Incident Data & Charts," along with definitions and other information related to "deputy involved shootings," "use of force," "public complaints," and employee discipline." (See Figure 7, Screenshot of Los Angeles County Sheriff's Department Public Data Webpage Providing Deputy Involved Shooting Incident Data & Charts, on page 49.)

⁷³ http://www.dallaspolice.net/.

⁷⁴ http://www.dallaspolice.net/ois/ois.html.



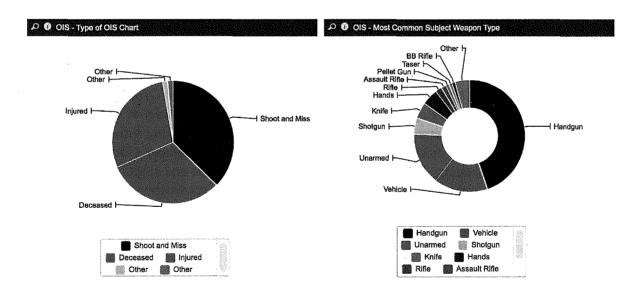


Figure 6. Screenshot of Data Charts and Graphs Regarding OIS Incidents Pulled from Dallas Police Department Website. (Source: http://dallaspolice.net/ois/ois.)

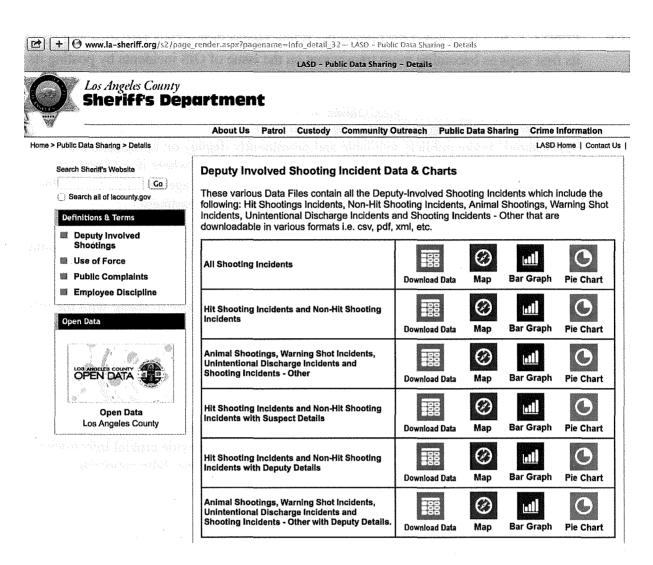


Figure 7. Screenshot of Los Angeles County Sheriff's Department Public Data Webpage Providing Deputy Involved Shooting Incident Data & Charts. (Source: http://www.la-sheriff.org/s2/page_render.aspx?pagename=info_detail_32.)

F.9. While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.

COMMENDATIONS

C.9.A. The Mayor is to be commended for ordering the SFPD to become more transparent by joining the White House Police Data Initiative.

C.9.B. SFPD is to be commended for joining the White House Police Data Initiative and taking its first steps as becoming more transparent on the issue of OIS incidents by posting its first data sets on its website.

RECOMMENDATION

R.9. SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff's Department.

SFPD Should Formalize Its Practice of Providing as Much *Factual* Information As Possible As Early As Possible After Each OIS Incident

SFPD, primarily through its former Chief of Police, has made it a practice to speak with the press at the scene of OIS incidents, within a short time of the incident to provide preliminary facts about the incident.

FINDING

F.10. SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

C.10. SFPD is to be commended for its practice of holding press conferences as soon as possible after each OIS incident to relay crucial background information about events leading up to and surrounding the incident.

RECOMMENDATIONS

- R.10.A. SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after *each* OIS incident.
- R.10.B. SFPD should limit comments made during these press conferences to the *facts* as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

The SFPD also has made it a practice to post "updates" on its website within hours of an OIS incident providing preliminary facts about OIS incidents and providing crucial background information about the events leading up to the incident.

F.11. As with its press conferences at the scene of the incident, the SFPD's practice of posting "updates" on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

C.11. SFPD is to be commended for its practice of posting "updates" on its website as soon as possible after each OIS incident to relay crucial background information about events leading up to and surrounding the incident.

RECOMMENDATIONS

- R.11.A. SFPD and the Police Commission should make it official policy for the SFPD to post "updates" on its website as soon as possible after *each* OIS incident.
- R.11.B. SFPD should limit comments made in these updates to the *facts* as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

The SFPD also has made it a practice to hold a town hall meeting within a week or so of an OIS incident to provide updated facts about the incident and allow the community to ask questions.

FINDING

F.12. SFPD's town hall meetings are crucial to a transparent OIS investigation, provide updated information about the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

C.12. SFPD is to be commended for its practice of holding town hall meetings after OIS incidents to provide updated facts about the incident and allow the community to ask questions.

RECOMMENDATIONS

- R.12.A. SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after *each* OIS incident.
- R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should

attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

SFPD Should Make It Official Policy to Release the Names of All Officers Involved in Each OIS Incident Within Ten Days, Unless a Credible Threat Exists to the Officers' Safety

In a 2014 ruling,⁷⁵ the California Supreme Court held that local departments can only withhold the names of officers involved in on-duty shootings if there is specific evidence to show that disclosing the name of an officer would pose a safety threat.

We were told that in the past the SFPD only released the names of officers involved in fatal OIS incidents when that information was requested by the press. We were also told that the SFPD now makes it a practice to release this information as a matter of course, usually within 10 days of the OIS incident. Table 3 shows, however, that the SFPD's practice in releasing the officers' names has been inconsistent. While the SFPD released the officers' names in six incidents — and did so within 10 days of the incident — the SFPD failed to release officers' names in two incidents in late 2015. There is no indication that the names of the officers involved in those two incidents were withheld due to any safety threat.

Individual Shot and Killed	Date of OIS	Date Names Released	No. of Days Elapsed
1 a a Face N A 2244 E a a a a	E/40/2046	F/27/2016	
Jessica Williams	5/19/2016	5/27/2016	,
Luis Gongora	4/7/2016	4/16/2016	
Mario Woods	12/2/2015	12/11/2015	9
Javier Lopez Garcia	11/11/2015	Not Released	
Herbert Benitez	10/15/2015	Not Released	
Alice Brown	3/17/2015	3/23/2015	6
Amilcar Perez-Lopez	2/26/2015	3/7/2015	9
Matthew Hoffman	1/4/2015	1/12/2015	8

Table 3. Length of Time Between Date of OIS Incident and Date Names of Officers Released, Fatal SFPD OIS from January 1, 2015 through June 12, 2016. (Source: Compiled by Civil Grand Jury from various media sources.)

Notably, when the SFPD releases the names of its officers involved in OIS incidents, it provides that information to the press, but does not make that information available on its website.

⁷⁵ Long Beach Police Officer's Assoc. v. City of Long Beach, 59 Cal. 4th 59 (Cal. 2014), available at http://login.findlaw.com/scripts/callaw?dest=ca/cal4th/59/59.html.

F.13. Although the release the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.

RECOMMENDATIONS

- R.13.A. SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.
- R.13.B. Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.
- R.13.C. SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.

The DA's Office Should Make a Public Announcement When It Issues Its Charging Decision Letters in OIS Cases and Make Them More Easily Accessible Online

It is fully understandable that the DA's Office must adhere to strict confidentiality while conducting its criminal investigation of an OIS incident. The public must accept that there will be limitations on transparency to maintain the integrity of the investigation itself.

As discussed earlier, however, at the end of its criminal investigation in each OIS incident, the DA's Office sends a letter to the Chief of Police, in which the DA announces whether criminal charges against the officers involved are warranted, along with supporting facts and legal analysis. The DA's Office also posts copies of each charging decision letter on its website.⁷⁶

To our knowledge, however, the DA's Office does not consistently hold a press conference or make a public announcement following its issuance of each charging decision letter to alert the public to the fact.⁷⁷

⁷⁶ http://sfdistrictattorney.org/officer-involved-shooting-letters.

⁷⁷ The DA did hold a press conference on May 10, 2016, however, to announce felony criminal charges against Alameda County Sheriff's Department deputies in the beating of Stanislav Petrov in a Mission District alley on November 12, 2015.

Further, while the citizens of San Francisco have access to the DA's charging decision letters, links to the letters are not listed in a manner that allows the public to access them easily. Each letter is identified only by the general location of the incident, not by the name of the individual shot. Further, while some of the letters are also identified by the date of the OIS incident, others are identified by the date the letter was issued.

FINDING

F.14. The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website.

COMMENDATION

C.14. The DA's Office is to be commended for the quality and comprehensiveness of its charging decision letters, which provide a summary of the facts, evidence and legal analysis underpinning the DA's decision whether to file criminal charges against the SFPD officers involved in OIS incidents, and which provide the citizens of San Francisco an understanding of the basis for the DA's decision.

RECOMMENDATION

- R.14.A. The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation.
- R.14.B. The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident.

At the End of Each Fatal OIS Investigation, a Comprehensive "Debriefing" Report Should Be Issued to the Public

Only a resourceful, determined citizen using investigative skills can find the limited information that is produced about an OIS incident, such as the SFPD's initial press releases regarding the incident, the DA's charging decision letter, and perhaps even a sanitized, anonymized OCC report or Firearm Discharge Review Board summary. Even then, a full picture of the OIS incident and an understanding of the results of the subsequent investigation would likely be incomplete, because none of the City entities involved in OIS investigations create or publish a comprehensive report of the findings of the investigation.

F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.

RECOMMENDATION

- R.15. The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A. and R.8.B.), in addition to to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should should examine each fatal OIS incident with a view to developing "lessons learned" and answering the following questions:
 - What circumstances contributed to the OIS incident?
 - What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?
 - What alternatives to deadly force may have been tried? What lessons can be learned?
 - Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

CONCLUSION

Each City agency involved in the investigation of fatal OIS incidents owes it to the citizens of San Francisco, to the friends and family of those individuals shot and killed at the hands of SFPD officers, to those officers and their families, and to its own departmental integrity to complete its investigations as timely and as transparently as possible.

The fact that the lives of everyone involved in OIS incidents are irreparably, detrimentally changed is bad enough. Such tragedy should not be exacerbated by a subsequent investigation that is too slow or opaque.

We believe that the recommendations we make in this report are minimal first steps that must be taken immediately to start down the path toward fair and just OIS investigations that are worthy of the trust of the citizens of San Francisco. We also believe that these recommendations can be implemented with little upheaval to the agencies involved and with little cost to the City.

One key component of the OIS investigation which we do not discuss in our report is the public dissemination of information about disciplinary actions taken against officers involved in OIS incidents. Our exclusion of this topic is because such dissemination is governed by state law, which is outside the Civil Grand Jury's jurisdiction.

We recognize, however, that citizens may feel that complete transparency in an OIS investigation must include the ability to learn what disciplinary actions, if any, were taken against the officers involved.

Time and again during our investigatory interviews, California state laws restricting disclosure of police officers' personnel records were blamed for the lack of transparency regarding disciplinary actions taken against officers involved in OIS incidents.

"Our state's 'Pitchess statutes' (including Sections 832.7 and 832.8 of the Penal Code) and related case law essentially make all records relating to peace officer misconduct confidential and exempt from disclosure under the Public Records Act." ⁷⁸

In February 2016, State Senator Mark Leno introduced SB 1286⁷⁹ in the California Senate, with the aim of allowing greater public access to peace officer records related to serious uses of force and sustained charges of misconduct.

SB 1286 was supported by social justice activists and police reform advocates as a way to improve police-community relations, but was opposed by law enforcement organizations, which

⁷⁸ ACLU, "Increasing Law Enforcement Transparency - SB 1286 (Leno)" fact sheet, available at https://ssl.capwiz_com/aclu/ca/issues/alert/?alertid=71310801; see also ACLU, "SB 1286 (Leno): Enhance Community Oversight on Police Misconduct and Serious Uses of Force" fact sheet, available at https://www.aclunc.org/docs/sb1286_factsheet.pdf. Under Section 832.7 of the California Penal Code, all law enforcement personnel records are confidential. A motion to obtain a police officer's confidential personnel records as evidence in a civil or criminal proceeding is known as a *Pitchess* motion (after *Pitchess v. Superior Court*, 11 Cal.3d 531 (1974)), the requirements for which are specified in Section 1043 of the California Evidence Code.

⁷⁹ For text of SB 1286, see http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1286.

contended the bill would invade officer privacy while existing civilian review boards and potential prosecution provided enough outside accountability of police.⁸⁰

The bill was effectively killed on May 27, 2016, when it was held in the Senate's Appropriations Committee without discussion.

Public disclosure of disciplinary action recommended by the Chief of Police or the OCC and/or taken by the Chief of Police or the Police Commission against officers involved in OIS incidents is effectively prohibited by California state law. Until those laws are changed, there can be no transparency into one of the key components of OIS investigations — officer discipline.

We encourage those citizens of San Francisco who believe that they deserve to know the findings, recommendations, and disciplinary action, if any, taken by the Chief of Police, the OCC and the Police Commission against the officers involved in OIS incidents, to work to change state law restricting disclosure of the contents of police officers' personnel files.

⁸⁰ For a list of organizations that supported and those that opposed SB 1286, see Senate Committee on Public Safety Bill Analysisof SB 1286, available at http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1251-1300/sb_1286_cfa_20160412_170041_sen_comm.html.

REQUEST FOR RESPONSES

Findings and Required Response Matrix

FINDING	RESPONDER
F.1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.	SFPD DA's Office OCC
F.2. Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.	SFPD Police Commission
F.3. The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.	SFPD
F.4. While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.	SFPD DA's Office
F.5. The DA's Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal.	DA's Office
F.6. Under the leadership of and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.	OCME
F.7. OCC investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.	OCC
F.8. The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the	Mayor

status of the investigation, and interpret and share the results of the investigation with the public.	
F.9. While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.	SFPD
F.10. SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.11. As with its press conferences at the scene of the incident, the SFPD's practice of posting "updates" on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.12. SFPD's town hall meetings are crucial to a transparent OIS investigation and provide updated information about the incident and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.13. Although the release the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.	SFPD
F.14. The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website.	DA's Office
F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.	Mayor

Recommendations and Required Response Matrix

RECOMMENDATION	RESPONDER
R.1. Each of the three City agencies fundamental to OIS investigations — SFPD, DA's Office and OCC — should create a "OIS Investigations" web page specifically devoted to educating the public about that agency's role in the investigation of OIS incidents. Each agency's web page should be comprehensive and answer the following questions:	SFPD DA's Office OCC
 Who is involved in the investigation and what are their roles and responsibilities; Why is the agency involved in OIS investigations; What is the investigation's purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why; When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame; How does the OIS investigation process work; and Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations. 	
Each agency should make its "OIS Investigations" web page available in English, Spanish, Chinese and Filipino (Tagalog).	
Each agency should provide a link from its home page to its "OIS Investigations" web page, so that it can be accessed easily.	
Each agency should add its "OIS Investigations" web page to its website as soon as possible, but no later than six months after the date this report is published.	
R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.	Police Commission SFPD DA's Office OCC
R.2.B. After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.	Police Commission SFPD

R.3.A. The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.	SFPD
R.3.B. The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.	SFPD
R.4. The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:	SFPD DA's Office
 Prioritize and expedite their investigations of OIS incidents within an established timeframe; Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation. 	
R.5.A. The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA's Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases.	DA's Office
R.5.B. The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter.	DA's Office
R.5.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.	Mayor Mayor's Office of Public Policy and Finance
R.5.D. The Board of Supervisors should approve these additional resources requested by the DA's Office and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, to expedite OIS Investigations. Approval of these additional	Board of Supervisors

parameter	
resources again should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.	·
R.6.A. After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.	OCME
R.6.B. When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.	OCME
R.7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.	OCC
R.7.B. The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.	Police Commission
R.7.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.	Mayor Mayor's Office of Public Policy and Finance
R.7.D. The Board of Supervisors should approve the resources requested by the OCC and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.	Board of Supervisors
R.8.A. The Mayor's Office should form a new standing task force to oversee the investigation of OIS cases. The task force should include high ranking persons from the Sheriff's Office, the DA's Office, the OCME, the SFPD (including the Chief Homicide Inspector), and the OCC. The task force may also include a state or	Mayor

federal department of justice consultant or observer, and a knowledgeable, respected citizen.	
R.8.B. The Mayor should charge the new task force to:	Mayor
 Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation; Provide periodic press releases and/or press conferences to update the public on the status of each OIS case; Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions; Facilitate a joint discussion among its members to formulate conclusions and "lessons learned"; Identify necessary policy or procedural changes; and Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the process and may respond and ask questions. 	
R.9. SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff's Department.	SFPD
R.10.A. SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after <i>each</i> OIS incident.	SFPD Police Commission
R.10.B. SFPD should limit comments made during these press conferences to the <i>facts</i> as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.	SFPD
R.11.A. SFPD and the Police Commission should make it official policy for the SFPD to post "updates" on its website as soon as possible after <i>each</i> OIS incident.	SFPD Police Commission
R.11.B. SFPD should limit comments made in these updates to the <i>facts</i> as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.	SFPD

R.12.A. SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after <i>each</i> OIS incident.	SFPD Police Commission
R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.	SFPD Board of Supervisors DA's Office OCC Police Commission Mayor
R.13.A. SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.	SFPD Police Commission
R.13.B. Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.	SFPD
R.13.C. SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.	SFPD Police Commission
R.14.A. The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation.	DA's Office
R.14.B. The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident.	DA's Office
R.15. The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A.	Police Commission

and R.8.B.), in addition to to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should should examine each fatal OIS incident with a view to developing "lessons learned" and answering the following questions:

Mayor

- What circumstances contributed to the OIS incident?
- What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?
- What alternatives to deadly force may have been tried? What lessons can be learned?
- Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

ACRONYM KEY (As Used in This Report)

Abbreviation	Term
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BSU	SFPD Behavioral Science Unit
CIRT	SFPD Crisis Incident Response Team
CME	Chief Medical Examiner
CSI	SFPD Crime Scene Investigation
DA or DA's Office	Office of the District Attorney
DOJ COPS	United States Department of Justice Office of Community
	Oriented Policing Services
ECD	Emergency Communications Division
FDRB	Firearm Discharge Review Board
IA or IAD	SFPD Internal Affairs Division
MOU	Memorandum of Understanding Between the San Francisco
	District Attorney's Office and the San Francisco Police
	Department Regarding the Investigation of Officer-Involved
	Shootings and In-Custody Deaths
OCC	Office of Citizen Complaints
OCME or OME	Office of the Chief Medical Examiner
OIS	Officer-Involved Shooting
RMO	SFPD's Risk Management Office
SFPD	San Francisco Police Department

APPENDICES

Appendix A

Summary Accounts of Fatal SFPD OIS Incidents from 2011 - June 12, 2016

(Source: Compiled by the Civil Grand Jury from SFPD press releases, the DA's charging decision letters and media coverage of the incidents.)

1. Jessica Williams (May 19, 2016)

Name of victim:	Jessica Williams
Gender of victim:	Female
Race/ethnicity of victim:	African-American/Black
Age of victim:	29
Date and time of shooting:	May 19, 2016 @ approx. 9:45 a.m.
Location:	Elmira Street & Helena Street; Bayview District
Officer(s) involved:	Justin Erb
SFPD Press Releases re Incident:	Bayview District Officer Involved Shooting (Thursday, May 19, 2016) http://sanfranciscopolice.org/article/bayview-district-officer-involved-shooting
DA's Charging Decision Letter:	Not Yet Issued

A police sergeant and another officer from the City's Bayview station, conducting a stolen vehicle recovery operation, came across Williams sitting in a purportedly stolen car. Williams allegedly attempted to flee, but struck a utility truck parked nearby. According to a witness, as the officers approached the car on foot, Williams tried to dislodge the car, which had become wedged under the truck, by shifting it forward and in reverse. When Williams did not comply with police orders, the sergeant fired one shot, hitting Williams.

Police removed Williams from the car and began to provide medical aid until paramedics arrived and took her to San Francisco General Hospital where she died.

In a statement shortly after the incident, a SFPD spokesperson said there was no immediate indication that the woman was armed or was driving the car toward officers when she was shot.

2. Luis Gongora (April 7, 2016)

Name of victim:	Luis Gongora
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	45
Date and time of shooting:	April 7, 2016 @ 10:04 a.m.
Location:	400 block of Shotwell Street, between 18th Street and 19th Street; Mission District
Officer(s) involved:	Michael Mellone Nate Segar
SFPD Press Releases re Incident:	 SFPD Investigating an Officer Involved Shooting on Shotwell & 19th St (Thursday, April 07, 2016) http://sanfranciscopolice.org/article/sfpd-investigatin g-officer-involved-shooting-shotwell-19th-st Officer Involved Shooting Update (Friday, April 08, 2016) http://sanfranciscopolice.org/article/officer-involved-shooting-update SFPD Town Hall Meeting to Discuss Officer Involved Shooting, April 13, 2016 (Wednesday, April 13, 2016) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-discuss-officer-involved-shooting-april-13-2016
DA's Charging Decision Letter:	Not Yet Issued

City homeless outreach workers, who had responded to a report of a disturbance in a homeless encampment, called 911 to report a man waving a large kitchen knife. SFPD officers arrived minutes later. Video of the incident shows that within 30 seconds of getting out of their police cruisers, two police officers fired four beanbags and then seven gunshot rounds at Gongora, a homeless man who reportedly had been living in the encampment.

Paramedics rushed the man to San Francisco General Hospital, where he died during surgery.

In a press conference at the scene shortly after the incident, Police Chief Suhr said that his officers shot Gongora after he challenged them with the knife. Some witnesses purportedly

affirmed SFPD officers' account of events, but at least one said Gongora never challenged the officers and probably didn't understand what police were saying before he was shot.

3. Mario Woods (December 2, 2015)

Name of victim:	Mario Woods
Gender of victim:	Male
Race/ethnicity of victim:	African-American/Black
Age of victim:	26
Date and time of shooting:	December 2, 2015 @ 4:34 p.m.
Location:	Near Keith Street and Fitzgerald Street; Bayview District
Officer(s) Involved:	Charles August Nicholas Cuevas Scott Phillips Antonin Santos Winston Seto
SFPD Press Releases re Incident:	 Officers Fatally Shoot Stabbing Suspect in the Bayview (Thursday, December 03, 2015) http://sanfranciscopolice.org/article/officers-fatally-s hoot-stabbing-suspect-bayview SFPD Town Hall Meeting Regarding Officer Involved Shooting on Keith St & Fitzgerald St (Friday, December 04, 2015) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-regarding-officer-involved-shooting-keith-st-fitzgerald-st SFPD Chief Suhr Meets with African-American Advisory Forum (Monday, January 04, 2016) http://sanfranciscopolice.org/article/sfpd-chief-suhr-meets-african-american-advisory-forum SFPD's Statement on the Medical Examiner's Autopsy Report (Thursday, February 11, 2016) http://sanfranciscopolice.org/article/sfpds-statement-medical-examiners-autopsy-report
DA's Charging Decision Letter:	Not Yet Issued

SFPD officers were dispatched to the area of Keith and Fitzgerald Streets after a man at San Francisco General Hospital reported that he had been slashed in the upper arm by a man at that location. On arriving at the scene, officers spotted and approached Woods, who matched the suspect's description. Upon seeing the officers, Woods purportedly grabbed a kitchen knife from his jeans pocket. When Woods refused to drop the knife, officers shot him four times with bean bags filled with lead shot. Although the bean bags stunned Woods, police say he still refused to drop the knife. The officers then attempted to subdue Woods by using pepper spray, which appeared to have no effect. One of the officers moved to a position on the sidewalk in an effort to prevent the suspect from fleeing. At this point, according to officers' statements, the suspect began to move toward the officer while raising his knife causing them to fire at the suspect in self defense, killing him.

Cell phone video taken by witnesses at the scene, however, appears to show Woods backed against a wall, leaning over at times and waving his hands. The footage also shows Woods shuffling along the sidewalk toward an officer in the seconds before he was shot, but does not appear to directly threaten the safety of the officers or others.

The autopsy report issued by the OCME states Woods was shot 21 times with 20 of those shots coming from behind him.

4. Javier Ivan Lopez Garcia (November 11, 2015)

Name of victim:	Javier Ivan Lopez Garcia
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	25
Date and time of shooting:	November 11, 2015 @ 4:15 p.m.
Location:	Construction Site next to St. Luke's Hospital at 3555 Cesar Chavez Street (@ Valencia Street); Mission District
Officer(s) Involved:	
SFPD Press Releases re Incident:	Active Shooter/ Robbery Suspect at St. Luke's Hospital in Mission District Shot & Killed by Responding Officers (Thursday, November 12, 2015) http://sanfranciscopolice.org/article/active-shooter-robbery-suspect-st-lukes-hospital-mission-district-shot-killed-responding

	 Veterans Day Active Shooter / Robbery Suspect Officer Involved Shooting Town Hall (Friday, November 13, 2015) http://sanfranciscopolice.org/article/veterans-day-act-ive-shooter-robbery-suspect-officer-involved-shooting-town-hall
DA's Charging Decision Letter:	Not Yet Issued

SFPD officers responded to a construction site in the area of Valencia and Cesar Chavez after receiving reports of a person armed with multiple firearms. As officers arrived on scene they heard what they believed to be shots being fired.

The officers saw Garcia standing atop a construction elevator on the sixth floor of the building under construction pointing a rifle at St Luke's Hospital, next to the construction site.

When the officers ordered him to put down his gun, Garcia pointed it down towards the officers on the ground. Three officers fired at the suspect – two officers with rifles each fired one shot and a third officer fired three shots from a pistol – killing him.

Construction workers reported that the man had said "I just want to die" prior to taking the construction elevator up the building.

Later, SFPD officers learned that Garcia had robbed a Big 5 sporting goods store in San Bruno, taking a shot gun and ammunition from the store, before driving to the construction site

Police did not recover any shells from the scene, but a box of ammunition was recovered with rounds missing.

5. Herbert Benitez (October 15, 2015)

Name of victim:	Herbert Benitez
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	27
Date and time of shooting:	October 15, 2015 @ 12:06 p.m.
Location:	Eighth Street, between Market Street and Mission Street; South of Market District
Officer(s) Involved:	

SFPD Press Releases re Incident:	Update on Officer Involved Shooting on Market St and 8th St. (Thursday, October 15, 2015) http://sanfranciscopolice.org/article/update-officer-involved-shooting-market-st-and-8th-st
DA's Charging Decision Letter:	Not Yet Issued

A construction worker flagged down two SFPD officers, who were driving their police cruiser southbound on Eighth Street near Market Street, to complain that Benitez had been throwing glass bottles into the street near the construction site and refused to stop when asked.

When one of the officers attempted to handcuff Benitez to take him into custody, Benitez struggled with the officer and took the officer to the ground. While on top of the officer, Benitez took the officer's gun. The pinned officer called out to his partner, "He's getting my gun," and then, "He's got my gun – shoot him!" Upon hearing this, the second sergeant shot Benitez, hitting him twice.

Benitez died at the scene.

A witness at the scene purportedly corroborated the officers' accounts of what occurred.

6. Alice Brown (March 17, 2015)

Name of victim:	Alice Brown
Gender of victim:	Female
Race/ethnicity of victim:	White
Age of victim:	24
Date and time of shooting:	March 17, 2015 @ 7:00 p.m.
Location:	1603 Pine Street (@ Van Ness Avenue); Lower Pacific Heights District
Officer(s) Involved:	Thomas Maguire Michael Tursi
SFPD Press Releases re Incident:	SFPD Officer Involved Shooting Van Ness Ave & Pine St (Wednesday, March 18, 2015) http://sanfranciscopolice.org/article/sfpd-officer-involved-shooting-van-ness-ave-pine-st

	Officer Involved Shooting Town Hall Meeting (Wednesday, March 18, 2015) http://sanfranciscopolice.org/article/officer-involved -shooting-town-hall-meeting
DA's Charging Decision Letter:	Not Yet Issued

Two plainclothes SFPD officers investigating a possible stolen vehicle approached Brown, who was sitting in a car at the Chevron gas station at Pine Street and Van Ness Avenue. The officers reportedly displayed their police badges and identified themselves as police officers as they approached the vehicle. Brown drove toward the officers before hitting the gas station building with her car and then turning onto Pine Street.

At least one of the officers ran after the vehicle. Before reaching the end of the block, Brown made a U-turn and began driving the wrong way down the one-way street. Brown drove her car onto the sidewalk in an apparent attempt to hit one of the officers, striking a building and parked cars in the process. Brown then drove back onto the street, striking additional cars and forcing a motorcyclist to jump off his motorcycle in the middle of the street to prevent being hit. Brown then drove her car back onto the sidewalk a second time.

The two officers fired at Brown, hitting her five times. Brown's car came to rest on the sidewalk near Van Ness Street.

The officers rendered aid but Brown died at the scene.

7. Amilcar Perez-Lopez (February 26, 2015)

Name of victim:	Amilcar Perez-Lopez
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	21
Date and time of shooting:	February 26, 2015 @ 9:45 p.m.
Location:	Folsom Street and 24th Street; Mission District
Officer(s) Involved:	Eric Reboli Craig Tiffe
SFPD Press Releases re Incident:	None
DA's Charging Decision Letter:	Not Yet Issued

Two plainclothes SFPD officers responded to a call about a man with a knife chasing another man. According to police officials, Perez-Lopez was attempting to steal a bike from the second man. When the two officers ordered Perez-Lopez to drop the knife, he charged at them with the knife raised over his head, forcing the officers to fire at him, killing him.

The police explanation, however, runs counter to other witnesses' accounts of the incident.

While it was unclear why Perez-Lopez was threatening the other man with the knife – some say he was trying to steal the bike, others say he was in a heated negotiation to purchase the bike, and yet others say he was trying to get his cellphone back after the man borrowed it and then refused to return it – witnesses say that Perez-Lopez was no longer fighting with the man when officers arrived.

Perez-Lopez may not have known the officers were police as they were wearing plainclothes, although police officials say the officers were identifiable by their badges on the outside of their clothing. Perez-Lopez also may not have understood what the officers were saying because he did not speak English.

According to a private autopsy conducted at the request of Perez-Lopez's family, he was struck by six bullets: four shots hit him in the back, one hit him in the back of the right arm and one hit him in the head. The San Francisco medical examiner's office autopsy report released later corroborates the private autopsy.

8. Matthew Hoffman (January 4, 2015)

Name of victim:	Matthew Hoffman
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	32
Date and time of shooting:	January 4, 2015 @ 5:20 p.m.
Location:	630 Valencia Street (@ 17th Street) (Mission Police Station); Mission District
Officer(s) Involved:	Nicolas Pena Michael Serujo
SFPD Press Releases re Incident:	SFPD Officer Involved Shooting at Mission Police Station (Monday, January 05, 2015) http://sanfranciscopolice.org/article/sfpd-officer-involved-shooting-mission-police-station

	SFPD Releases Suicide Letter Written by the Man Shot by Officers at Mission District Station. (Monday, January 05, 2015) http://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station https://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station https://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station https://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station https://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station https://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station
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Three SFPD officers leaving Mission Station spotted Hoffman loitering in the station's restricted parking lot. They told him to leave and Hoffman began to comply but then stopped in the middle of the driveway blocking the officers' exit. The sergeants got out of their car and again directed Hoffman to leave. Hoffman began to walk backwards out of the parking lot while continuing to face the officers with his hands in his front shirt pockets. The officers told Hoffman to show them his hands. Hoffman then lifted his sweater, showing officers what appeared to be the butt of handgun. The officers drew their weapons as the suspect pulled the weapon from his waistband. Two of the officers shot five rounds each at Hoffman, hitting him four times. Police later discovered the weapon was an air pistol.

Hoffman was taken to San Francisco General Hospital where he died of his injuries.

During the post-shooting investigation, officers found several suicide letters on Hoffman's phone, including one addressed to the officers. It read:

"Dear Officer(s),

You did nothing wrong. You ended the life of a man who was too much of a coward to do it himself. I provoked you. I threatened your life as well as the lives of those around me. You were completely within your legal rights to do what you did. You followed protocols. You did everything right. I just wanted to find peace within myself. I am so sad and I am so lonely. There is no place for me here. Please, don't blame yourself. I used you. I took advantage of you. I am so lost and I am so hopeless. God made a mistake with me. I shouldn't be here. Please, take solace in knowing that the situation was out of your control. You had no other choice."

9. O'Shaine Evans (October 7, 2014)

Name of victim:	O'Shaine Evans
Gender of victim:	Male
Race/ethnicity of victim:	African-American/Black
Age of victim:	26

Date and time of shooting:	October 7, 2014 @ 9:32 p.m.
Location:	1 Jack London Alley (@ Bryant Street); South of Market District
Officer(s) Involved:	David Goff
SFPD Press Releases re Incident:	 Officer Involved Shooting at Bryant & Jack London Alley (Wednesday, October 08, 2014) http://sanfranciscopolice.org/article/officer-involved -shooting-bryant-jack-london-alley SFPD Town Hall Meeting Regarding Officer Involved Shooting (Thursday, October 09, 2014) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	Not Yet Issued

Six SFPD officers observed two men get out of a car parked just a few blocks from AT&T Park where a San Francisco Giants game was just ending, break into a Mercedes-Benz SUV parked nearby, steal a laptop, and then return to the first car.

One of the officers who was wearing a shirt over his uniform so he wouldn't stand out while working the post-baseball-game crowd, purportedly identified himself as a police officer as he walked up to the driver's side door.

Evans, who had remained in the car while the two others had committed the burglary, was sitting in the driver's seat. As the officer approached Evans, he saw a pistol on Evans's lap.

When the officer asked Evans to show him his hands, Evans reportedly pointed the gun at him, causing the officer to fire seven times into the car, striking Evans twice and hitting a passenger in the rear seat of the car once.

Evans and the other injured passenger were taken to San Francisco General Hospital where Evans died of his injuries.

Witnesses said Evans had his hands on the steering wheel at the time of the shooting, and Evans family and friends called the circumstances surrounding the shooting suspicious, including questioning why Evans would carry an unloaded gun and why the officer didn't remove the shirt covering his uniform before approaching Evans.

10. Giovany Contreras-Sandoval (September 25, 2014)

Name of victim:	Giovany Contreras-Sandoval
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	34
Date and time of shooting:	September 25, 2014 @ 6:00 a.m.
Location:	199 Battery Street (@ California Street); Financial District
Officer(s) Involved:	
SFPD Press Releases re Incident:	 Officer Involved Shooting California St and Battery St (Thursday, September 25, 2014) http://sanfranciscopolice.org/article/officer-involved -shooting-california-st-and-battery-st Town Hall Meeting regarding the officer involved shooting on California and Battery St (Friday, September 26, 2014) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-officer-involved-shooting-california-and-battery-st
DA's Charging Decision Letter:	Not Yet Issued

After carjacking a woman in Richmond and then leading law enforcement on a high-speed chase through Contra Costa County, Marin County and then into San Francisco, Contreras-Sandoval drove the wrong way up Battery Street and caused a three-car collision.

When bystanders ran to help him, Contreras-Sandoval started firing at them. One of those attempting to provide aid was struck with what may have been a bullet fragment.

Soon SFPD officers surrounded the vehicle and repeatedly ordered Contreras-Sandoval to drop his gun, but he refused. While waiting for a less-lethal beanbag shotgun to arrive to help subdue him, Contreras Sandoval pointed his gun at officers, prompting six to open fire, collectively shooting 32 rounds and hitting Contreras-Sandoval with ten.

Contreras-Sandoval was pronounced dead at the scene.

11. Alejandro "Alex" Nieto (March 21, 2014)

Name of victim:	Alejandro Nieto
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino .
Age of victim:	28
Date and time of shooting:	March 21, 2014 @ approximately 7:11 p.m.
Location:	10 Bernal Heights Boulevard (Bernal Heights Park); Bernal Heights District
Officer(s) Involved:	Nathan Chew Roger Morse Jason Sawyer Richard Schiff
SFPD Press Releases re Incident:	 Officer Involved Shooting - Bernal Heights Park (Friday, March 21, 2014) http://sanfranciscopolice.org/article/officer-involved -shooting-bernal-heights-park Town Hall Meeting Regarding Bernal Heights Officer Involved Shooting (Monday, March 24, 2014) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-bernal-heights-officer-involved-shooting
DA's Charging Decision Letter:	February 12, 2015 (328 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/305-Bernal%20Hill%20Park.pdf

A man called 911 to report a man with a gun in Bernal Heights Park.

Four SFPD officers responded and found Nieto who matched the description of the suspect. Nieto reportedly drew a laser-equipped weapon from his hip holster and pointed the weapon at the officers, sweeping them with the weapon's sighting laser. The officers fired 59 shots at Nieto, striking him 15 times, killing him.

Nieto's weapon was later identified as an electronic control weapon (i.e., a Taser), which Nieto carried for his job as a security guard at a nightclub.

12. Dale S. Wilkerson (April 17, 2013)

Name of victim:	Dale S. Wilkerson
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	60
Date and time of shooting:	April 17, 2013 @ approximately 9:45 p.m.
Location:	956 De Haro Street, between Southern Heights Avenue and 22nd Street; Potrero Hill District
Officer(s) Involved:	
SFPD Press Releases re Incident:	 Officer Involved Shooting on the 900 Block of De Haro Street (Thursday, April 18, 2013) http://sanfranciscopolice.org/article/officer-involved -shooting-900-block-de-haro-street Chief Suhr Town Hall Meeting on Officer Involved Shooting. April 19th at 4:30 PM, "Potrero Hill Neighborhood House" 953 De Haro St. (Friday, April 19, 2013) http://sanfranciscopolice.org/article/chief-suhr-town-hall-meeting-officer-involved-shooting-april-19th-4 30-pm-potrero-hill
DA's Charging Decision Letter:	December 26, 2014 (618 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/309-956%20Deharo.pdf

Wilkerson called 911 to report that he had attacked his brother-in-law with a machete at his residence. When SFPD officers arrived, they were met by the victim, whom they saw suffered from multiple stab wounds to the head, arms, and chest. When they tried to help him, Wilkerson emerged from the residence with a claw hammer and purportedly charged the nearest officer with it above his head. The officer retreated and fired his gun twice, hitting Wilkerson once.

Both victims were taken to SFGH where Wilkerson died.

Neighbors said he appeared reclusive in the last 6 months, and a tenant said the two had had a physical altercation.

13. Pralith Pralourng (July 18, 2012)

Name of victim:	Pralith Pralourng
Gender of victim:	Male
Race/ethnicity of victim:	Asian
Age of victim:	32
Date and time of shooting:	July 18, 2012 @ 10:15 a.m.
Location:	Near Washington Street and Davis Street; Embarcadero District
Officer(s) Involved:	
SFPD Press Releases re Incident:	 Officer-Involved Shooting at Washington & Davis Street (Wednesday, July 18, 2012) http://sanfranciscopolice.org/article/officer-involved -shooting-washington-davis-street Town Hall Meeting Regarding the Officer Involved Shooting (Thursday, July 19, 2012) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	May 13, 2014 (664 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/ Documents/299-Washington%20%26%20Davis%20St. Redacted.pdf

Pralourng, who had a history of schizophrenia, reportedly used a box cutter to slash a co-worker in an unprovoked attack at TCHO chocolate factory on Pier 17. He then chased the victim out onto The Embarcadero. Coworkers tried to reason with Pralourng to no avail and so called 911. Pralourng began walking south along The Embarcadero.

According to the SFPD, an officer caught up with Pralourng at Washington and Drumm Streets. He did not run, but was unresponsive and continued walking with a blank stare. When Pralourng reached Davis Street, the officer told him repeatedly to drop the box cutter. Instead, Pralourng reportedly lunged at the officer, so she shot him twice in the chest. The officer then handcuffed him, but then removed them and administered CPR when she realized the extent of his injuries.

Eyewitness accounts videotaped by Occupy San Francisco activist Robert Benson and posted to YouTube within a half hour after the incident, however, contradict the SFPD version of events.

In the videos, witnesses say they saw a female officer with short blond hair shoot Pralourng while he was handcuffed.

Pralourng later died at San Francisco General Hospital.

14. Dennis Hughes (May 9, 2012)

Name of victim:	Dennis Hughes
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	41
Date and time of shooting:	May 9, 2012 @ 10:38 p.m.
Location:	861 Post Street (near Hyde Street); Lower Nob Hill District
Officer(s) Involved:	Joshua Hinds or Victor Hui
SFPD Press Releases re Incident:	San Francisco Police Officer-Involved Shooting (Thursday, May 10, 2012) http://sanfranciscopolice.org/article/san-francisco-police-officer-involved-shooting
DA's Charging Decision Letter:	May 1, 2014 (722 days after OIS) http://sfdistrictattorney.org/sites/default/files/Document/5.09.10-%20Post%20Stpdf

Rohnert Park police detectives, joined by SFPD officers as backup, went to Hughes' girlfriend's apartment looking for Hughes after finding the body of Hughes' mother in the Rohnert Park home the two shared.

After Hughes' girlfriend answered the door, Hughes spoke with officers through the door and then began shooting. As police retreated with the girlfriend, Hughes continued to shoot through the ceiling, floor, walls and into adjacent areas of the apartment building.

Hughes then barricaded himself in the apartment and sprayed a chemical agent such as Mace around the unit and lit several small fires.

After a standoff of about an hour, a SFPD sharpshooter fired a single shot at Hughes from an adjacent apartment building when Hughes stuck his head out of a window, killing him.

15. Steven Young (December 14, 2011)

Name of victim:	Steven Young
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	33
Date and time of shooting:	December 14, 2011 @ 1:25 p.m.
Location:	Larkin Street, between Bush Street and Sutter Street; Lower Nob Hill District
Officer(s) Involved:	
SFPD Press Releases re Incident:	 San Francisco Police Officers Involved in Officer Involved Shooting (Wednesday, December 14, 2011) http://sanfranciscopolice.org/article/san-francisco-police-officers-involved-officer-involved-shooting SFPD Chief Suhr Holds Community Meeting Regarding the Officer Involved Shooting (Friday, December 16, 2011) http://sanfranciscopolice.org/article/sfpd-chief-suhr-holds-community-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	May 19, 2014 (887 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/302-Larkin%20%26%20Fern_Redacted.pdf

After SFPD officers pulled over the car driven by Young as part of a vehicle registration traffic stop, Young got out of the car and began running south on Larkin Street. Halfway down the block, Young allegedly turned around and began shooting at the officers. One of officers fired back, striking Young once in the head.

Young died the next day at San Francisco General Hospital.

According to officials, Young had two prior strikes against him under California's three-strikes law, as well as a warrant out for his arrest in San Mateo County. Young's family believed that Young would have rather died than go back to prison.

16. Peter Woo (October 3, 2011)

Name of victim:	Peter Woo
Gender of victim:	Male
Race/ethnicity of victim:	Asian
Age of victim:	44
Date and time of shooting:	October 3, 2011 @ 7:30 a.m.
Location:	636 Funston Street, between Balboa Street and Cabrillo Street; Inner Richmond District
Officer(s) Involved:	
SFPD Press Releases re Incident:	Officer Involved Shooting at the 600 block of Funston Ave. (Monday, October 03, 2011) http://sanfranciscopolice.org/article/officer-involved-shooting-600-blk-funston-ave
DA's Charging Decision Letter:	August 20, 2103 (687 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/310-636%20Funston_Redacted.pdf

SFPD officers, responding to reports of a stabbing, found a 78-year-old man in the doorway of the residence bleeding profusely from stab wounds to his forearm and hands.

Inside the home, officers found a 73-year-old woman who had been stabbed in the upper body. As officers tried to pull her to safety, they were confronted by Woo, the son of the victims. Woo confronted the officers with a knife in each hand above his head.

Woo reportedly ignored repeated commands from the officers to drop the knives and charged the officers. One of the officers fired an Extended Range Impact Weapon (i.e., a beanbag weapon), but it was ineffective in stopping Woo. Another officer then fired two rounds, striking him.

In searching the house, officers found Woo's 50-year-old sister hiding in a locked bedroom.

Woo and his parents were taken to San Francisco General Hospital, where Woo and his mother both died of from their injuries.

Officers subsequently learned that Woo was schizophrenic and suffered bouts of depression.

17. Kenneth Wade Harding (July 16, 2011)

Name of victim:	Kenneth Wade Harding, Jr.
Gender of victim:	Male
Race/ethnicity of victim:	19
Age of victim:	African-American/Black
Date and time of shooting:	July 16, 2011 @ 4:43 p.m.
Location:	Third Street and Oakdale Avenue; Bayview District
Officer(s) Involved:	
SFPD Press Releases re Incident:	 Information on the Officer Involved Shooting (Sunday, July 17, 2011) http://sanfranciscopolice.org/article/information-officer-involved-shooting San Francisco Police Department Community Meeting July 20th (Monday, July 18, 2011) http://sanfranciscopolice.org/article/san-francisco-police-department-community-meeting-july-20th Update on Officer Involved Shooting: GSR found on suspect's hand (Tuesday, July 19, 2011) http://sanfranciscopolice.org/article/update-officer-involved-shooting-gsr-found-suspects-hand Demonstration Arrests (Wednesday, July 20, 2011) http://sanfranciscopolice.org/article/demonstration-arrests Update on Officer Involved Shooting: Bullet Recovered from Harding Not From Police Firearm (Thursday, July 21, 2011) http://sanfranciscopolice.org/article/update-officer-involved-shooting-bullet-recovered-harding-not-police-firearm San Francisco Police Recover the Gun Used by Kenneth Harding (Friday, July 29, 2011) http://sanfranciscopolice.org/article/san-francisco-police-recover-gun-used-kenneth-harding

DA's Charging Decision Letter:	November 26, 2012 (499 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/ Documents/323-3rd%20%26%20Newcomb ndf
	Documents/323-3rd%20%26%20Newcomb.pdf

According to police reports, two SFPD officers approached Harding on a Third Street light rail and escorted him off the car when he did not have proof of fare payment. Once on the platform, while one of the officers was using his radio to conduct a criminal check, Harding ran. Officers gave chase. While fleeing, Harding pulled out a gun and began firing at officers over his shoulder as he continued to run toward Mendell Plaza. The two officers returned fire. Harding collapsed on the ground, and officers requested emergency services.

Harding was taken to San Francisco General Hospital where he died.

An autopsy revealed that Harding died from a close-range penetrating gunshot wound to the right neck. The wound appeared to be self-inflicted based on the proximity of the weapon, the trajectory and the type of bullet recovered from the wound, which matched unused ammunition recovered from Harding's pocket, but which did not match weapons used by the SFPD officers at the scene. The autopsy also revealed that Harding had two other gunshot wounds, neither of which would likely have been fatal: one in his lower left leg and a graze gunshot wound to his left thigh.

Video taken of the incident shows Harding lying on the ground in a pool of blood surrounded by officers pointing guns at him, as well as a quickly-formed crowd of witnesses and onlookers shouting and taunting police.

Although some witnesses said Harding did not have a gun and no gun was recovered at the scene, video taken at the scene shortly after the shooting shows someone picking up a gun, shell casings and a cell phone lying near Harding and leaving the scene. Police later recovered the .380-caliber semi-automatic pistol after a Bayview resident led police to the gun after a weeklong effort to find it.

Harding's death sparked outrage in the community. Three days after the shooting, 43 people were arrested during a protest that led to vandalism of a Muni station and two assaults. The next day Police Chief Suhr was booed offstage during a town hall meeting about the shooting.

18. Joshua Smith (June 7, 2011)

Name of victim:	Joshua Smith
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	25

Date and time of shooting:	June 7, 2011 @ 5.40 p.m.	
Location:	65 Buena Vista East, between Haight Street and Duboce Street; Buena Vista District	
Officer(s) Involved:		
SFPD Press Releases re Incident:	San Francisco Police Involved In Officer Involved Shooting (11-059) (Wednesday, June 08, 2011) http://sanfranciscopolice.org/article/san-francisco-police-involved-officer-involved-shooting-11-059	
DA's Charging Decision Letter:	October 5, 2012 (486 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/318-65%20Buena%20Vista.pdf	

FBI agents notified SFPD that Smith, a suspect wanted in connection with two bank robberies in Irvine, California, was driving a stolen BMW that had been tracked to San Francisco. Police were able to track the BMW via a GPS installed in it and were conducting surveillance on the car when they saw Smith get into it. When police approached the car on foot to make an arrest, Smith attempted to run down one of them. Officers shot at the car, hitting Smith six times.

Smith later died at San Francisco General Hospital.

Smith had been dubbed the "Gen X Bandit" after wearing a stocking cap and a flannel shirt while allegedly robbing the two banks in Irvine on May 17, 2011.

Appendix B

Composition of SFPD Return to Duty Panel

(Source: Lt. Alexa O'Brien et al., OIS Investigations: Criminal & Administrative Processes 21 (Dec. 8, 2015).)

- Deputy Chief of Administration (Chair)
- Deputy Chief of the Member's Bureau
- Commander of the Member
- Commanding Officer of the Involved Member
- Captain of Risk Management
- Lieutenant of Internal Affairs Division
- Lieutenant of Homicide Detail
- Homicide Detail Investigator(s)
- Internal Affairs Division Investigator(s)
- Behavioral Science Unit representative

Composition of SFPD Firearm Discharge Review Board

(Source: Lt. Alexa O'Brien et al., OIS Investigations: Criminal & Administrative Processes 31 (Dec. 8, 2015).)

Voting Members

- Deputy Chief of Administration (Chair)
- Deputy Chief Airport
- Deputy Chief Operations
- Deputy Chief Special Operations

Advisory Members

- Police Commissioner
- Director of Office of Citizen Complaints
- Captain of Risk Management Office
- Captain of Training Division
- Range Master

Appendix C

Applicable SFPD General Orders and Department Bulletins

(Source: Compiled by Civil Grand Jury from SFPD General Orders and Department Bulletins, available at http://sanfranciscopolice.org/dgo and by searching the SFPD site (http://sanfranciscopolice.org).)

Appendix C1

OIS/Use of Force or Related/Applicable Thereto

The following SFPD General Orders and Department Bulletins deal with the investigation of officer-involved shootings and use of force specifically or deal with topics which may encompass such incidents.

Policy	Title	Date
General Order 2.04	Citizen Complaints Against Officers	07/20/94
General Order 2.07	Discipline Process for Sworn Officers	07/20/94
General Order 2.08	Peace Officers' Rights	08/10/05
General Order 3.10	Firearm Discharge Review Board	09/21/05
General Order 5.01	Use of Force	Rev. 10/04/95
General Order 6.01	Crime Scene Log	07/27/94
General Order 6.02	Physical Evidence and Crime Scenes	Rev. 10/01/97
		Eff. 10/17/07
General Order 6.05	Death Cases	07/27/94
General Order 8.01	Critical Incident Evaluation and Notification	08/03/94
General Order 8.04	Critical Incident Response Team	08/03/94
General Order 8.09	Media Relations	08/24/94
General Order 8.11	Investigation of Officer Involved Shootings and	09/21/05
	Discharges	
General Order 8.12	In-Custody Deaths	04/15/09
Dept. Bulletin 15-051	Use of Force Options: Reporting and Medical	03/05/15
	Assessment Requirements (Amends portions of	
	DGO 5.01)	
Dept. Bulletin 15-106	Avoiding the "Lawful but Awful" Use of Force	04/27/15
Dept. Bulletin 15-128	Officer-involved Shooting and Discharge	05/26/15
	Investigations (Revision to Definitions in DGO	
	8.11)	

Appendix C2

Use of Firearms and Force Generally

The following SFPD General Orders and Department Bulletins concern the use of firearms and force generally, and while they do not specifically relate to the *investigation* of OIS incidents, we delineate them here to provide a comprehensive list of policies related to all aspects officer-involved shootings and use of force.

Policy	Title	Date
General Order 5.02	Use of Firearms	Rev. 11/01/95
General Order 8.02	Hostages and Barricaded Suspect Incidents	08/03/94
Dept. Bulletin 14-014	Reminder regarding Department General Order	01/07/14
	5.02, Use of Firearms: Discharge of Firearm at	
	Operator or Occupant of Moving Vehicles	
Dept. Bulletin 14-015	Reminder Regarding General Order 5.02, Use of	01/07/14
	Firearms: Permissible Circumstances to Discharge	
	Firearm	
Dept. Bulletin 14-111	Documenting Use of Force	04/14/14
Dept. Bulletin 15-155	Response to Mental Health Calls with Armed	07/16/15
	Suspects	

Appendix C3

Interactions, Contact and Communications with the Community

The following SFPD Statements and General Orders guide SFPD officers' interactions, contact and communications with the community, and while they are not specific to officer-involved shootings and use of lethal force, they serve to build an expectation of transparency within the SFPD.

Policy	Title	Date
	SFPD Mission Statement	
	SFPD Vision Statement	
General Order 1.08	Community Policing	09/28/11
General Order 2.01	General Rules of Conduct	08/11/05
General Order 2.05	Citizen Complaints Against Non-Sworn Members	07/20/94
General Order 5.17	Policy Prohibiting Biased Policing	Rev. 05/04/11

Appendix D

SFPD General Order 8.11 Investigation of Officer Involved Shootings and Discharges

San Francisco Police Department

8.11

GENERAL ORDER

09/21/05

INVESTIGATION OF OFFICER INVOLVED SHOOTINGS AND DISCHARGES

This order outlines the rules and procedures to be followed in the conduct of all officer-involved shooting and discharge investigations.

I. POLICY

It is the policy of the San Francisco Police Department to respond immediately and conduct a timely and complete investigation of all officer-involved shootings.

II. PROCEDURES

A. DEFINITIONS:

- Officer-involved shooting. An officer's discharge of a firearm that
 results in the physical injury or death of a person, even if it is an
 accidental discharge.
- Officer-involved discharge. An officer's discharge of a firearm that does
 not cause injury or death to a person. Shooting at, injuring, or killing
 animals also falls into this category, including accidental discharge
 without injury.
- B. INVESTIGATION PROTOCOL: Officer-involved shootings that result in injury or death are investigated in two distinctly separate venues:
 - Criminal Investigations. Investigations to determine if there was criminal conduct on the part of the involved officer(s) are conducted separately by the Homicide Detail and the Office of the District Attorney.

Officer-involved shootings occurring on San Francisco International Airport property or in San Mateo County shall be investigated by the San Mateo County Sheriff's Office in conjunction with the San Mateo County District Attorney's Office.

DGO 8.11 09/21/05

Administrative Investigation. Investigations to determine if the officer-involved shooting was within Department policy are conducted separately by the Management Control Division and by the Office of Citizen Complaints if and when initiated by a citizen complaint.

If the officer-involved shooting occurs on San Francisco International Airport property or on its surrounding areas, the Management Control Division shall contact the San Mateo County Sheriff's investigators and the San Mateo County District Attorney's Office investigators responsible for the criminal investigation and request copies of any reports those agencies have made that are relevant to the officer-involved shooting.

- C. OFFICER-INVOLVED SHOOTINGS OCCURRING WITHIN THE CITY AND COUNTY OF SAN FRANCISCO. As soon as practical after an officer-involved shooting occurring within the City and County of San Francisco, the following notifications shall be made:
 - If practical, the member(s) involved shall notify Emergency Communications Division (ECD), and his/her immediate supervisor, or the platoon commander of the district in which the shooting took place.
 - ECD shall immediately notify the Field Operations Bureau Headquarters (Operations Center after normal business hours).
 - 3. The Field Operations Bureau or the Operations Center shall make the following notifications:
 - a. The on-call Homicide Inspectors
 - b. The Crisis Incident Response Team (See DGO 8.04, Crisis Incident Response Team)
 - c. Management Control Division
 - d. District Attorney's Office
 - e. The Commanding Officer of the member(s) involved
 - f. Chair of the Firearm Discharge Review Board
 - g. Office of Citizen Complaints
 - h. San Francisco Police Department Command Staff
 - i. Legal Division
 - j. Captain of Risk Management
 - k. Secretary of the Police Commission

- D. OFFICER INVOLVED DISCHARGES. In cases where injury or death has not occurred, the Commanding Officer of the member involved is responsible for conducting a thorough shooting investigation, including accidental discharges. The Commanding Officer may delegate this investigation to another Commissioned Officer. The Commanding Officer, however, shall be responsible for the proper conduct of the investigation, and the appropriate findings and recommendation as documented in an investigative summary. The Commanding Officer's Bureau Chief shall set an appropriate due date for this investigation. However, this investigation shall not exceed 45 days. Officer involved discharges require the following notifications:
 - If practical, the member(s) involved shall contact the platoon commander of the district in which the discharge occurred.
 - 2. The platoon commander shall contact the officer's Commanding Officer.
 - If outside San Francisco, as soon as practical, the officer shall contact that jurisdiction's Police or Sheriff's Department requesting that entity contact the San Francisco Police Department.
 - 4. An officer who discharges a firearm in an Officer-Involved Discharge shall be assigned to his or her respective Bureau Headquarters. The officer shall not return to regular assignment for a minimum of 5 days or unless, upon recommendation of the member's Commanding Officer with the approval of his or her respective Bureau Chief, the Chief of Police determines the member may return to his/her assignment.
- E. OFFICER-INVOLVED SHOOTINGS OR DISCHARGES OCCURRING OUTSIDE THE CITY AND COUNTY OF SAN FRANCISCO. If a member discharges a firearm outside the City and County of San Francisco (except at an approved range or during lawful recreational activities) either while on duty or off duty, he/she shall follow these procedures:
 - Absent exigent circumstances, remain at the scene of the discharge and notify the law enforcement agency.
 - 2. Immediately contact the on duty supervisor in your unit or detail.
 - 3. As soon as practical, the member shall contact the senior ranking member on duty in the Bureau to which he/she is assigned, or the Operations

DGO 8.11 09/21/05

Center after normal business hours, and report the incident. The senior-ranking member in the Bureau who is notified or the staff at the Operations Center shall notify the on-duty supervisor of the involved member. If the member's unit is closed, the notification shall be made to the Commanding Officer or Officer-in-Charge.

- F. SCENE. The member who has discharged his/her weapon in an officer involved shooting should limit his/her investigation and activity to the following:
 - When officer safety permits: de-cock, holster, and strap in his/her firearm.
 He/she should not reload the weapon, or remove the magazine to examine
 its contents. Thereafter, he/she should not remove the weapon from the
 holster until directed to do so by the Homicide Detail. In cases involving
 shotguns and/or long rifles the weapon shall be placed on "safe" and
 isolated in a secure location.
 - a. Nothing in this order shall preclude a member from taking reasonable actions to provide/ensure officer and/or public safety.
 - As soon as practical, seek medical assistance/ treatment for injured persons.
 - 3. As soon as practical, protect the crime scene and preserve all evidence. Prior to the arrival of the homicide detail investigators as provided under II.F.5., no person(s) should be permitted to enter the scene except to perform emergency medical assistance or assist in the preservation of the scene and evidence contained therein.
 - 4. As soon as practical, attempt to obtain the name and address of any witness who may not remain at the scene.
 - 5. When an officer-involved shooting occurs within the City and County of San Francisco, the crime scene(s) shall be under the control of the Homicide Detail upon the arrival of their investigators. No persons shall be permitted to enter the crime scene without the approval of the Homicide Inspector assigned the investigation or the Homicide OIC.
 - 6. Nothing in this order shall prohibit a member from taking reasonable actions to ensure his/her safety or the safety of another person.

- G. INVOLVED OFFICERS. The following actions will be taken in all cases of officer-involved shootings (resulting in injury or death):
 - All members shall be afforded all substantive and procedural rights and remedies as provided by applicable law, including without limitation thereto the Public Safety Officers' Bill of Rights.
 - 2. When a supervisor arrives on the scene, the supervisor shall have the involved member(s) escorted from the scene. If more than one member is involved in the discharging of a firearm, absent exigent circumstances, the members shall be separated and will be kept separate from one another, and shall not discuss the incident with each other prior to being interviewed by the Homicide Detail Inspectors. If possible, the supervisor shall contact the investigator from the Homicide Detail and ascertain if the involved member is to be taken to the Homicide Detail, the Investigations Bureau, or the involved member's Station or Detail. In all circumstances the member shall be taken to a department facility.
 - 3. Members of the department's C.I.R.T. program may assist the member(s) involved prior to their interview with investigators. However, they shall not discuss the facts or details of the shooting with the member.
 - 4. Officers who discharge a firearm in an officer-involved shooting will be reassigned to his or her respective Bureau Headquarters. Officers shall not return to regular assignment for a minimum of 10 calendar days. This reassignment is administrative only and in no way shall be considered punitive.

Within 5 business days of an officer-involved shooting, the Chief of Police shall convene a panel to discuss whether it is appropriate for the involved member to return to duty. The Panel shall include a representative of the Behavioral Science Unit, the officer-in-charge of the Homicide Detail, the Deputy Chief, Commander, and Captain overseeing the involved officer's unit, the officer-in-charge of the Management Control Division, the Deputy Chief of Investigations and officer-in-charge of Risk Management.

The Chief, after consulting with the panel shall determine if the member should be returned to their regular field assignment, but only after completion of any mandatory debriefing (per DGO 8.04, Section 1.A), and any recommended retraining. This decision, including the factors supporting the decision, shall be contained in a written report that shall be forwarded immediately to the Police Commission. A copy of the report

DGO 8.11 09/21/05

shall also be forwarded to the Director of the OCC. This report will be part of the officer's confidential personnel file and shall not be disclosed to any member of the public except by court order. The Police Commission shall, at the first Commission meeting following receipt of the report, meet in closed session with the Chief of Police to review the Chief's findings and decision. Officers shall not be returned to their regular duty until the Commission has met in closed session with the Chief of Police.

Any determination by the Chief not to return an officer to their regular assignment and to continue their reassignment is administrative only and in no way shall be considered punitive.

 The officer shall receive a debriefing by the Crisis Incident Response Team and support as outlined in Section C., of Department General Order 8.04.

H. INVESTIGATIONS

- Officer-involved shootings. The Homicide Detail and the Management Control Division shall respond immediately and conduct a timely investigation into every officer-involved shooting. These investigations shall utilize the same numbering system, and be consistent with each other, e.g., 03-01 (first O.I.S. of 2003), 03-02 (second O.I.S. of 2003) etc.
- 2. Officer-involved discharges. The Commanding Officer of the member involved shall contact the Management Control Division and obtain an O.I.D. number. The report prepared by the Commanding Officer of the member involved shall reflect the M.C.D. issued O.I.D. number. The final report submitted shall be routed through channels, to the Management Control Division for evaluation prior to review by the Chief of Police.

I. REVIEW OF INVESTIGATIONS

- 1. Officer-involved shootings.
 - a. Homicide Detail Investigation. The criminal investigation prepared by the Homicide Detail shall be completed and received by the Chair of the Firearm Discharge Review Board within forty-five-calendar days of the shooting event. If the criminal investigation report is not completed within forty-five calendar days of the shooting event, the Officer-in-charge of the Homicide Detail shall appear before the

Commission at the earliest possible meeting to explain why the report has not been completed.

- b. Management Control Division Investigation. The administrative investigation prepared by the Management Control Division shall be completed and submitted to the Chair of the Firearm Discharge Review Board within sixty-calendar days of the shooting event. If the administrative investigation report is not completed within sixty-calendar days of the shooting event, the Officer-in-charge of the Management Control Division shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.
- c. The Firearm Discharge Review Board shall convene within thirty calendar days of receipt of the Management Control Division investigation report. Within 120 calendar days following the first meeting of the Firearm Discharge Review Board, the panel shall complete its investigation and issue its findings in accordance with Department General Order 3.10. If the Firearm Discharge Review Board report is not completed within the required 120 calendar days, a representative of the Firearms Discharge Review Board shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.

Appendix E

SFPD Department Bulletin 15-128: Officer-involved Shooting and Discharge Investigations (Revisions to Definitions in DGO 8.11)



DEPARTMENT BULLETIN

A 15-128 05/26/15

Officer-involved Shooting and Discharge Investigations Revision to Definitions in DGO 8.11

As originally adopted, Department General Order 8.11, Section II.A defined an Officer-involved Shooting (OIS) and an Officer-involved Discharge (OID). The definitions are revised as follows:

DEFINITIONS:

- Officer-involved Shooting. An officer's intentional discharge of a firearm to stop a
 threat (as described in Department General Order 5.02.I.C.a, b, and c)—whether or not
 physical injury or death results—shall be investigated as an Officer-involved Shooting.
 A negligent discharge that results in the injury or the death of a person shall also be
 investigated as an Officer-involved Shooting.
- Officer-involved Discharge. The discharge of a firearm intended to kill a dangerous or
 wounded animal (as described in DGO 5.02.I.C.d) or to signal help for an urgent purpose,
 when no other reasonable means exists (as described in DGO 5.02.I.C.e) shall be
 investigated as an Officer-involved Discharge. An officer's unintended discharge of a
 firearm that does not cause injury or death to a person also falls into this classification.

These incidents shall be investigated in accordance with these definitions, using the Department's corresponding OIS or OID protocols.

GREGORY P. SUHR Chief of Police

Appendix F

Complete Officer-Involved Shooting ("OIS") Investigation Timeline

When an OIS occurs, per the General Orders of the SFPD and other internal and related documents, the subsequent investigation should proceed as follows:

I. Day 1

A. An officer-involved shooting occurs.

II. Immediately or As Soon As Practical

- A. San Francisco Police Department ("SFPD")
 - 1. **Involved officer(s)** shall immediately assess the scene and notify:
 - a. Emergency Communications Division ("ECD"). ECD, in turn, shall immediately notify:
 - (1) Field Operations Bureau Headquarters (or Operations Center after hours). Field Operations Bureau shall, in turn, notify:
 - (a) On-call Homicide Inspectors
 - (b) Crisis Incident Response Team ("CIRT")
 - (c) Internal Affairs Division ("IA" or "IAD")
 - (d) District Attorney's Office ("DA" or "DA's Office")
 - (e) Commanding Officer of the officer(s) involved
 - (f) Chair of the Firearm Discharge Review Board ("FDRB")
 - (g) Office of Citizen Complaints ("OCC")
 - (h) SPFD Command Staff
 - (i) Legal Division
 - (i) Captain of Risk Management
 - (k) Secretary of the Police Commission
 - b. Immediate Supervisor or Platoon Commanders of the district where shooting occurred.
 - 2. **Supervisor**, upon arriving at scene, shall:
 - a. Ensure all injured persons are attended to and emergency aid responds as necessary.
 - b. Obtain public safety statement from officers involved.
 - c. Order officers who discharged firearms not to discuss incident with anyone until they speak to their attorney, and are subsequently interviewed by investigators from Homicide Detail and DA or IAD.
 - d. Separate officers involved and transport them away from scene.

- e. Evaluate and adjust, as necessary, perimeter established around scene.
- f. Be responsible for scene until Homicide Detail arrives.
- g. Limit access to scene to emergency personnel.
- h. Designate officer to maintain crime scene log.
- i. Identify evidence and ensure it remains undisturbed until processed by Crime Scene Investigations ("CSI").
- j. Ensure that witnesses remain at scene or are transported to police facility. Properly identify those witnesses who insist on leaving scene prior to being interviewed.
- k. Locate video or fixed cameras at or near scene.
- 1. Provide SFPD Operations Center with updated information as warranted.

3. **Homicide Detail**, upon arriving at scene, shall:

- a. Assume command of scene and investigation (officer-in-charge).
- b. Meet with Supervisor in charge of scene and obtain pertinent information.
- c. Coordinate with and direct all police and investigative personnel at scene.
- d. Meet with the on-call DA attorney and DA investigators and IA investigators upon their arrival at scene.
- e. If death occurs at scene, confer with representatives of Office of Chief Medical Examiner ("OCME") upon their arrival at scene.
- f. Along with DA and IA investigators, meet with CSI and Photo Lab personnel to:
 - (1) Discuss scene.
 - (2) Identify all evidence.
 - (3) Determine which evidence will be processed at scene and which will be processed later in the lab.
 - (4) Identify physical environment and evidence to be photographed.
- g. Direct neighborhood canvassing and development of investigative leads.
- h. Interview non-officer witnesses at scene or, if not practical, transport them to police facility (Homicide Detail criminal investigators and DA personnel).
 - (1) All interviews are audio recorded by both Homicide Detail and DA.
 - (2) Involved officers are always interviewed last to ensure that investigators have as complete a picture as possible prior to interviewing involved officers.
- i. Conduct a walk-through of scene with on-call representative of OCC.

- j. Coordinate with personnel from employee unions and legal representatives at scene and throughout investigation.
- k. Along with DA representatives:
 - (1) Interview witness officers.
 - (2) Interview involved officers.
- 1. Brief Media Relations Unit and/or Chief of Police or his/her representative regarding status of the investigation.

4. **IAD** representatives shall:

- a. Upon arriving, participate in "walk through" of scene.
- b. Observe Homicide Detail interviews of involved officers and other departmental witnesses via closed circuit feed.
- c. Make an appointment for involved officers to respond to IAD for administrative interview if necessary.

5. **CSI**, upon arriving at scene, shall:

- a. Confer with Homicide Detail and DA.
- b. Locate, document and collect physical evidence, and perform associated forensic field work, such as latent print processing, bloodshed pattern interpretation, and trajectory analysis.
- c. Prepare crime scene sketch with location of evidence and accurate distance measurements.
- d. Take possession of discharged firearms from involved officers.

6. **Legal Division**, upon arriving at scene, shall:

- a. Ensure evidence beneficial for litigation is seized.
- b. Document scene.

7. **Behavioral Science Unit** ("BSU") shall:

a. Send members of CIRT to scene, station or hospital to assist involved officers and offer psychological support. CIRT members are present as peer support only and are prohibited from discussing any aspect of incident.

8. **Media Relations Unit**, upon arriving at scene, shall:

- a. Confer with Homicide Detail and Command Staff.
- b. Provide releasable information to the media.
- c. Establish one member of the unit who will act as a liaison with the family of the individual shot during the incident. The liaison will attempt to establish contact with the family within the first 24 hours if circumstances permit.

9. **Police Range** personnel shall:

a. Replace involved officers' firearms.

B. **OCME**

- 1. **OCME**, when a fatality occurs, shall
 - a. Dispatch a Medical Examiner and a Medical Examiner Investigator to scene.
 - b. Provide expert resources to criminal and administrative investigators at scene.
 - c. Obtain a complete picture of the event that led to the fatality for use when performing the autopsy.
 - d. After the processing of the scene is complete, remove the deceased person and transport them to the OCME.
 - e. Formally notify the next-of-kin of the deceased person.
 - f. Conduct an autopsy on the remains, and collect:
 - (1) Biological evidence for toxicological examination.
 - (2) Physical evidence, such as spent bullets.
 - g. Write a final autopsy report in the weeks that follow, documenting the results of examination and testing.

C. DA's Office

- 1. **On-Call Assistant DA and DA Investigators**, upon arriving at scene, shall:
 - a. Meet with Homicide Detail to:
 - (1) Immediately walk-through scene and observe conditions of scene and evidence present.
 - (2) Confer regarding collection and documentation of evidence and participate in preserving and collecting evidence
 - b. Participate in non-compelled interviews of law enforcement witnesses, including officers involved and other departmental witnesses.
 - c. Participate in SFPD interviews of civilian witnesses, and to the extent warranted, conduct separate interviews of civilian witnesses.
 - d. Confer with Homicide Detail regarding investigative process to follow.

D. OCC

- 1. **On-Call OCC Investigator**, upon arriving at scene shall:
 - a. Walk-through and observe scene with Homicide Detail, so that the investigator has a basic understanding of the circumstances and environment of incident.

III. The First Ten Days After the Incident

A. SFPD

1. **Involved officer(s)** shall:

- a. Participate in mandatory debriefing with BSU to learn about reactions to critical incidents and available resources.
- b. Report to Police Range for post-discharge firearm debriefing to ensure that officer retains proficiency in firearm manipulation and operation.
- c. Report to Training Academy for modified force options training to ensure that officer retains ability to effectively resolve shoot/no-shoot scenarios.
- d. Obtain audio of interview with Homicide Detail.
- e. Participate in interview with IAD.
- f. Be assigned to their respective Bureau Headquarters for a minimum of ten calendar days. Officers, however, shall not be returned to their regular duty until the Police Commission has met in closed session with the Chief of Police to determine whether officers shall be allowed to return to duty.

2. **Homicide Detail** shall:

- a. Meet within 72 hours with DA, CSI, Forensic Services Division, and other offices and disciplines to determine:
 - (1) Laboratory testing and analysis to be performed on evidence obtained.
 - (2) Timelines for test results.
 - (3) Additional witnesses to be interviewed.
 - (4) Other investigative actions to be taken.
- b. Obtain sample of blood (first blood) of person shot for toxicological examination.
- c. Continue witness interviews as necessary.
- d. Provide involved officers with copy of their criminal interview prior to their interview with IAD.

3. **Crime Laboratory** shall:

- a. Receive evidence collected and booked by CSI, and:
 - (1) Conduct ballistics examination of every expended shell casing and spent bullet collected and match them to the appropriate firearm.
 - (2) Examine department-issued firearms for adherence to trigger pull standards and inspect for unauthorized modifications.
 - (3) Verify that ammunition used by involved officers was department-issued

- (4) Perform DNA testing as requested.
- (5) Perform other testing and analysis as required.

4. **Media Relations Unit shall:**

- a. Receive updates on investigation to respond to media inquiries and to convey information to family of individual shot.
- b. Establish contact with family of individual shot if it has not already occurred to provide them with relevant information.

5. **BSU** shall:

- a. Conduct a mandatory debriefing with involved officers within 72 hours.
- b. Assess involved officer's ability to return to duty or need for additional support.
- c. Participate in Return to Duty Panel hearing for involved officers.
- d. Provide follow-up and psychological support for officers and their families.

6. **Return to Duty Panel** shall:

- a. Convene five business days after incident.
- b. Conduct a return to duty hearing within five business days of the incident.
- c. Review preliminary investigative findings by IA criminal investigators.
- d. Vote on whether to recommend that involved officer(s) should be allowed to return to regular duty.
- e. Forward its recommendations to the Chief of Police.

7. **Chief of Police** shall:

- a. After consulting with the Return to Duty Panel, determine if the involved officer(s) should be returned to regular field assignment, but only after completion of mandatory debriefing and any recommended retraining.
- b. Forward a written report, which contains the decision and factors supporting the decision, to:
 - (1) Police Commission.
 - (2) Director of the OCC.

8. **Police Commission** shall:

a. At its first meeting following the receipt of the Chief of Police's return-to-duty report, meet in closed session with the Chief of Police to review the Chief's findings and decision regarding whether to allow involved officers to return to regular duty.

9. **IAD** shall:

- a. Schedule interview of involved officer(s) and witness officers.
- b. Obtain information from Homicide Detail and other evidence-processing personnel, including witness interviews, crime scene diagrams, lab requests, supplemental reports, etc.
- c. Participate in return to duty hearing for involved officer(s).
- d. Submit preliminary investigation to Chief of Police and make presentation to Police Commission following Return to Duty Panel.
- e. Attend closed door session with Police Commission to determine return to duty for each involved officer.

B. **OCME**

1. **OCME** shall:

- a. Notify Homicide Detail of any physical evidence collected during autopsy.
- b. Arrange to have clothing evidence booked into Property Control Section for transfer to Forensic Services Division.

C. DA's Office

1. **DA Personnel** shall:

- a. Meet with Homicide Detail investigators and review the status of the evidence collected, as well as witness and involved officer statements.
- b. Obtain copies of all relevant case documents including supplemental reports, lab requests, chronological record of the investigation, and diagrams.
- c. Agree on evidence to be submitted for further analysis and testing.
- d. Identify timelines for expected laboratory test results.
- e. Agree on additional statements to be obtained.
- f. Participate in interviews of additional witnesses.

IV. Within 45 Days of Incident

A. SFPD

1. **Homicide Detail** shall:

a. Submit its final criminal investigation report to FDRB. If criminal investigation report is not completed within forty-five calendar days of incident, Officer-in-charge of Homicide Detail shall appear before Police Commission at earliest possible meeting to explain why report has not been completed.

2. **IAD** shall:

- a. Receive report submitted to FDRB from Homicide Detail, which will be included in IA investigative case file.
- b. Prepare final recommendation and report for submission to FDRB and Chief of Police.

3. **Legal Division** shall:

- a. Work with IAD and OCC regarding evidence/document production.
- b. Obtain incident report for any claim investigation.

B. DA's Office

1. **DA's Office** shall:

- a. Obtain all necessary reports, including autopsy report from Office of the Medical Examiner and other laboratory reports.
- b. Upon conclusion of its independent investigation and receipt of all reports from Homicide Detail, evaluate all evidence to determine potential criminal liability, or lack thereof, of any party.
- c. After completing its investigation, shall notify SFPD of its decision in writing.

V. In Response to DA's Criminal Charges Against an Officer, If Any

A. SFPD

1. **Chief of Police** shall:

- a. Suspend accused officer without pay when the officer is:
 - (1) Charged with a felony.
 - (2) Charged with any serious crime
 - (3) Charged with a violation of moral turpitude.

2. **Accused Officer** shall:

- a. Remain on suspension pending:
 - (1) Resolution of criminal prosecution.
 - (2) Adjudication of any pending administrative investigation.
- b. Have the opportunity to request Return to Duty hearing if:
 - (1) Officer is acquitted at trial and there are no pending administrative charges.

VI. Within 60 Days of Incident

A. SFPD

1. **IAD** shall:

- a. Prepare and submit to the FDRB the completed administrative investigation with recommendations. If this cannot be accomplished in accordance with established timelines,
 Commanding Officer of IAD shall appear before Police
 Commission at earliest possible meeting to explain why report has not been completed.
- b. Prepare a formal presentation of final report to FDRB.

VII. Within 90 Days of Incident

A. SFPD

- 1. **FDRB** shall:
 - a. Convene within thirty days of receipt of the IA investigative report (i.e., within ninety days of incident).

VIII. Within 210 Days of Incident

A. SFPD

- 1. **FDRB**, within 120 days following their first meeting (i.e., within 210 days of incident), shall:
 - a. Complete its investigation and issue its findings in accordance with General Order 3.10.

B. OCC

- 1. **OCC Director** shall:
 - a. Attend FDRB as an advisory member.
 - b. Receive and review FDRB's quarterly reports to Police Commission and provide written responses as appropriate.

IX. (Historically) At Any Point

A. OCC

- 1. **OCC Investigators**, within 10 days of receiving a civilian complaint of police misconduct or improper performance [but likely immediately now based on the recent passage of Proposition D], shall:
 - a. Interview the complainant.
 - b. Request all documents and evidence accessible from or through the complainant.
 - c. Notify SFPD of a civilian complaint.
 - d. Request records, documents and information pursuant to the OCC-SFPD document protocol.
 - e. Request the autopsy report from the OCME.
 - f. Identify and schedule interviews of witnesses.

- 2. **OCC Investigators**, upon receipt of records from SFPD, OCME and other agencies, shall:
 - a. Review all reports, chronologies, interviews, and evidence.
 - b. Interview involved and witness officers.
- 3. **OCC**, upon conclusion of the OCC's administrative investigation, shall:
 - a. Prepare written findings as to whether or not allegations are sustained. In cases resulting in a sustained finding, OCC provides Chief of Police a written report summarizing evidence, giving basis for the findings, and providing recommendations for discipline.



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The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

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Glossary of Terms

- ACLU American Civil Liberties Union
- AIM Administrative Investigations Management
- BWC body-worn camera
- CABLE Computer Assisted Bay Area Law Enforcement system
- CDW Crime Data Warehouse system
- CJSC California Department of Justice's Criminal Justice Statistics Center
- Compstat SFPD computer statistics
- COPS DOJ's Office of Community Oriented Policing Services
- CUAV Community United Against Violence
- DA San Francisco District Attorney
- **DB** SFPD department bulletin
- DGO SFPD department general order
- DOJ U.S. Department of Justice
- DHR San Francisco Department of Human Resources
- **EIS** Early Intervention System
- FBI Federal Bureau of Investigation
- FI field interview
- IAD Internal Affairs Division
- LAPD Los Angeles Police Department
- LGBT lesbian, gay, bisexual, and transgender
- MOU memorandum of understanding
- NAACP National Association for the Advancement of Colored People
- NYPD New York Police Department
- OCC San Francisco Office of Citizen Complaints
- **OIS** officer-involved shooting
- OFJ Officers for Justice
- OIG Office of Inspector General
- OPD Oakland Police Department
- PAL Police Activities League
- PEG Police Employee Group
- POA San Francisco Police Officers' Association
- POBR California Public Safety Officers Procedural Bill of Rights
- POST California Commission on Peace Officer Standards and Training
- PRA California Public Records Act
- SFPD San Francisco Police Department
- SFSO San Francisco Sunshine Ordinance

- SOTF San Francisco Sunshine Ordinance Task Force
- SPU Special Prosecutions Unit
- UCR Uniform Crime Reports

Contents

Intro	oduction
	Background
	Panel Scope and Structure
	Investigatory Process and Methodology
	SFPD Overview and General Recommendations
	Community Perspectives
Cha	pter 1: Stops, Searches, and Arrests
	Background
	Findings
	Recommendations
Cha	pter 2: Personnel
	Background
	Findings
	Recommendations
Cha	pter 3: Use of Force and Officer-Involved Shootings
	Background
	Findings
	Recommendations
Cha	pter 4: Internal Discipline
	Background
	Findings
	Recommendations
Cha	pter 5: External Oversight
	Background
	Findings
	Recommendations
Cha	pter 6: <i>Brady</i> Policies and Practices
	Background
	Findings
	Recommendations

Chapter 7: Culture	37
Background	.37
Findings	38
Recommendations	48
Chapter 8: Crime Data	51
Background	.51
Findings	53
Recommendations	55
Appendix A: List of All Findings and Recommendations	56
Findings19	56
Recommendations	59
Appendix B: A Timeline of San Francisco Police Department Incidents and Calls for Reform	63
Appendix C: Government Motion Containing Textgate Messages	68
Appendix D: List of Selected Panel Interviewees	.77
Appendix E: Selected Correspondence Related to SFPD Cooperation with the Panel 18	80
Appendix F: Proposed Bulletin from Panel to SFPD	93
Appendix G: Panel Public Records Act Request	94
Appendix H: SOTF Order of Determination	02
Appendix I: Draft MOU on Use of Force and OIS Investigations	04
Appendix J: DA's Internal <i>Brady</i> Policy	11
Appendix K: DA's External <i>Brady</i> Policy	24
Annendix I : SEPD's <i>Brady</i> Policy	32

Introduction

The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement (the Panel) was established as an advisory body to the San Francisco District Attorney in May 2015 in the wake of revelations that 14 San Francisco Police Department (SFPD) officers had exchanged numerous racist and homophobic text messages. The text messages—milder examples of which included statements such as "Cross burning lowers blood pressure! I did the test myself!" and "I still hate black people"—expressed blatant hostility toward and mocked people of color—including SFPD officers—and insulted lesbian, gay, bisexual, and transgender (LGBT) people.

The Panel was tasked with answering the critical and obvious question that the text-messaging scandal raised and—to the Panel's knowledge—no other city agency had investigated: Was the racial and homophobic bias so clearly demonstrated by the offensive texts a reflection of institutionalized bias within the SFPD and, if so, to what extent?

Over a one-year period, the Panel examined a number of different aspects of the SFPD to try to develop a comprehensive understanding of the issue, interviewing more than 100 witnesses and reviewing thousands of public documents. The result is this report. Its findings and recommendations strive to give credit where credit is due, but point to several unmistakable conclusions: the SFPD is in need of greater transparency; lacks robust oversight; must rebuild trust with the communities it serves; and should pay greater attention to issues of bias against people of color, both officers and members of the public. In short, the Panel concludes that the SFPD is in urgent need of important reforms.

The report is also timely. Since the creation of the Panel, several incidents involving the SFPD have significantly increased tensions in San Francisco, underscoring the need for transparency, oversight, and reform. In April 2016, a second texting scandal involving four additional officers using racist language came to light. Notably, like the first texting scandal, the second was discovered only through an unrelated criminal investigation of one of the officers involved—raising the question of whether officers not under criminal investigation have engaged in or been disciplined for similar behavior. Also notable is that texts from the second scandal explicitly refer to the first texting scandal in jest, suggesting that efforts by departmental leadership to emphasize the gravity of the first scandal were lost on at least a subset of the officers most in need of intervention.

The deaths of Mario Woods in December 2015 and Luis Gongora in April 2016 in officer-involved shootings—following similar officer-involved shootings leading to the deaths of Alex Nieto and Amilcar Perez-Lopez in the months prior—also significantly raised tensions.¹ These tensions manifested in numerous ways, including sustained protests by groups such as the Justice for Mario Woods Coalition and the Justice for Alex Nieto Coalition at various SFPD-hosted town halls and Police Commission meetings, a prolonged hunger strike by community members nicknamed the "Frisco 5," and several protest marches.

¹ See Chapter 3: Use of Force and Officer-Involved Shootings for more on officer-involved shootings.

Shortly after the Mario Woods shooting, the United States Department of Justice's Office of Community Oriented Policing Services (COPS) agreed to conduct a collaborative review of the SFPD at the request of San Francisco Mayor Ed Lee and Greg Suhr, who was SFPD Chief of Police at the time.² The Panel met with the COPS review team to share information about the scope, processes, and goals of each entity's investigation.

Additional incidents highlighting the need for reform continued to arise throughout the Panel's investigation. On May 13, 2016, a federal judge dismissed a criminal case that had been investigated by the SFPD, finding that video evidence contradicted SFPD statements and incident reports. According to the judge, "The video was unequivocal in rebutting everything the police officer testified to—at least to all the pertinent details." On May 19, 2016, another officer-involved shooting in the Bayview neighborhood resulted in the death of Jessica Williams, an unarmed 29-year-old Black woman. Following this incident, Chief Suhr resigned at the request of Mayor Lee. Deputy Chief Toney Chaplin was named Interim Chief.

This report presents findings and recommendations based exclusively on a local review of the SFPD. It cannot, however, be divorced from broader issues surrounding law enforcement accountability nationwide. Across the country, evidence of instances of questionable police conduct—including cellphone and dash-camera footage of seemingly avoidable officer-involved shootings, local police officers using military gear and aggressive tactics, and the deaths of citizens while in law enforcement custody—has given rise to a national debate and eroded trust between some communities, primarily communities of color, and their police departments. Questions about transparency, accountability, and fairness in law enforcement have intensified, as have attempts to address those concerns, including the formation of President Obama's Task Force on 21st Century Policing. (See Appendix A for a complete list of the Panel's findings and recommendations.)

While the incidents that triggered this review of the SFPD were demonstrations of explicit, individual biases, it is important to distinguish institutionalized or systemic bias—the focus of this report—from individual bias. Bias may be institutionalized when it is promoted, condoned, or acquiesced to by an institution's policies, practices, and/or culture, giving rise to a tendency to produce patterns of differential outcomes. Such bias is especially concerning when it results in unjust outcomes for historically marginalized groups (e.g., groups defined by race, ethnicity, gender, or sexual orientation). The Panel's investigation and report focus on the SFPD as an institution. The report does not attempt to evaluate the conduct or performance of individual officers.

Fiscal concerns, which are similarly outside the scope of this report, must also be considered in any conversation about reform. Is the current budgetary investment in the SFPD yielding intended outcomes? Is the SFPD spending money effectively? What monitoring should the department's use of resources be subject to?

Holding any institution under a microscope will inevitably reveal less-than-perfect policies and practices. Public institutions, however, benefit from regular and consistent review and oversight. And law enforcement organizations must be held to a heightened standard based on their responsibility to maintain public safety—an obligation that necessitates building trust with every community. Special scrutiny of law enforcement organizations is also appropriate because of the immense power police officers hold over citizens, from the authority to act as agents of the law to the ability to lawfully end lives, and because of the potential for abuse of those powers.

Over the past year, Mayor Lee has announced plans to fund police training, violence prevention, and other reforms through the city budget. The Panel is hopeful that any reforms address the institutional issues described in this report. It is also important that the resignation of Chief Suhr not be seen as

² See http://www.cops.usdoj.gov/Default.asp?ltem=2807 for more information about the COPS collaborative reform model.

³ Jonah Owen Lamb, Feds Drop Gun Charges after Video Shows Officer Lied, S.F. Examiner (May 13, 2016), http://www.sfexaminer.com/feds-drop-gun-charges-video-shows-officer-lied/.

⁴ See http://www.cops.usdoj.gov/policingtaskforce for more information about the President's Task Force on 21st Century Policing.

sufficient to address these issues. The SFPD has an unfortunate history of troubling incidents, followed by outside reviews of the department leading to reports and recommendations that are not implemented.⁵ The Panel encourages the Mayor, Police Commission, Board of Supervisors, and others in city leadership to make a public commitment to consider the recommendations presented in this report and to provide the public with regular updates on the status of adoption or implementation of the recommendations. Further, the Panel hopes that the California Attorney General and the United States Department of Justice will take into account the report's findings and recommendations in their review and oversight of the SFPD.

It is common sense that a law enforcement agency "can have the best policies in the world, but if [its] institutional culture doesn't support them, they won't work." The next SFPD chief must have the vision and leadership skills to address the department's institutional culture—he or she must have the dedication to implement 21st century policing best practices, hold regular and meaningful dialogue with diverse community stakeholders, and demand accountability from the top down. An organizational environment must be developed that encourages a compassionate and professional work ethic while earning and maintaining the respect of all officers and staff. The Police Commission has done well to ensure that community input is incorporated in its development of departmental policy—it should consider a mechanism for community input in identifying its candidates to be the next chief. Further, to help rebuild trust with the community, the Mayor should consider hiring a candidate with an unassailable record.

Although this report examines some of the SFPD's shortcomings and the areas in which the department can potentially improve, the Panel acknowledges the work of the many fine SFPD officers who do an excellent job every day, serving their communities with distinction, dignity, and respect. This report does not seek to overlook, trivialize, or undermine their dedication, sacrifices, or hard work.

The findings and recommendations in this report are merely a starting point. Addressing any institutionalized bias will ultimately depend on the commitment of SFPD leadership, civic leaders, and the community as a whole. The Panel is hopeful that its recommendations will assist that process. There can be no question that the time to address these issues is now.

Background

In late 2014, three former SFPD officers were convicted in federal district court in San Francisco on corruption charges related to their illegal entry into hotel rooms in low-income areas and theft from occupants. In March 2015, federal prosecutors filed a motion to deny bail pending appeal to one of these convicted officers, former Sergeant Ian Furminger. Offered as character evidence, the filing revealed that Furminger and fellow SFPD officers had sent and received dozens of blatantly racist and homophobic text messages between October 2011 and June 2012. Days after the publicly accessible motion was filed, San Francisco media outlets began to investigate and publish stories about the texts—now dubbed "Textgate"—eventually reporting that up to 14 SFPD officers had sent or received the bigoted messages.

The text messages were extremely disturbing. A sampling of the messages follows, reprinted only to offer complete context for this report. (**Warning**: the texts contain offensive and upsetting language, including the "N-word.")

⁵ See Appendix B for a brief timeline of these incidents.

⁶ Police Executive Research Forum, An Integrated Approach to De-Escalation and Minimizing Use of Force (Aug. 2012), http://www.policeforum.org/assets/docs/Critical_Issues_Series/an%20integrated%20approach%20to%20de-escalation%20and%20minimizing%20use%20of%20force%202012.pdf, page 33.

⁷ According to the San Francisco City Charter, the Police Commission selects a pool of three candidates for SFPD Chief, from which the Mayor makes the final hire. See Chapter 5: External Oversight for more on the Police Commission.

⁸ A repeated community criticism of former Chief Suhr heard by the Panel during its investigation was his record of conduct and management decisions. See Sylvia Rorem, Mayor Ed Lee: Fire Police Chief Gregory P. Suhr Now!, S.F. Bayview (Apr. 25, 2016), https://sfbayview.com/2016/04/Mayor-ed-lee-fire-police-chief-gregory-p-suhr-now/, and Julia Carrie Wong, The Many Scandals of Police Chief Greg Suhr, S.F. Weekly (Dec. 16, 2015), https://www.sfweekly.com/sanfrancisco/the-many-scandals-of-police-chief-greg-suhr/ Content?oid=4345894.

⁹ The texts released in the Government's motion are included as Appendix C of this report.

- Original text: "Do you celebrate gaunza [sic] at your school?"
 - Response from officer: "Yeah we burn the cross on the field! Then we celebrate Whitemas. It['] s worth every penny to live here away from the savages."
- "Those guys are pretty stupid! Ask some dumb ass questions you would expect from a black rookie! Sorry if they are your buddies!"
- "The buffalo soldier was why the Indians Wouldn[']t shoot the niggers that fought for the confederate.

 They thought they were sacred buffalo and not human. They were not far off Marley was a nigger."
- "Ha! We stole [C]alifornia from the [M]exicans too! Would have had Baha [sic] too but felt it wasn[']t worth it."
- · "Gunther Furminger was a famous slave auctioneer."
- "I can[']t imagine working At costco and hanging out with filthy flips. hate to sound racist but that group is disgusting."
- "White Power Family, [Furminger home address redacted]"
- · "I still hate black people."
- "I'm just leaving it like it is, painting KKK on the sides and calling it a day!"
- "Cross burning lowers blood pressure! I did the test myself!"
- "All niggers must fucking hang"
- Original text from officer: "Just boarded train at Mission/16th"
 - Response from second officer: "Ok, watch out for [Black males]"
 - Original texting officer: "Too late. I'm surrounded. And the only gun I have is broken!"
 - Response from second officer: "Your [sic] fucked"
 - Original texting officer: "Dumb nig nugs."
- "Busted up but thats [sic] what happens to fags!"
- Original text from officer: "I hate to tell you this but my wife [sic] friend is over with their kids and her husband is black! If is an Attorney but should I be worried?"
 - Response from second officer: "Get ur [sic] pocket gun. Keep it available in case the monkey returns to his roots. Its [sic] not against the law to put an animal down"
 - Original texting officer: "Well said!"
 - Response from second officer: "U [sic] may have to kill the half breed kids too. Don't worry.
 Their [sic] an abomination of nature anyway."
- Original text: "Dude. Your boy made Q50. Sgt. Aj Holder"
 - Response from officer: "Fuckin nigger"

San Francisco District Attorney (DA) George Gascón first learned about the texts by reading media accounts in March 2015. The DA indicated that he believed the incident raised serious questions about the fair administration of justice in San Francisco, including the following.

- Did the racial and homophobic biases evidenced by the texts affect the officers' interactions with people of color and members of the LGBT community?
- Were prior arrests made by these officers motivated by bias?
- Had the SFPD failed in its obligation to notify the DA when officers engage in conduct that implicates
 Brady v. Maryland, a landmark 1963 United States Supreme Court case mandating the disclosure of
 potentially exculpatory evidence to criminal defendants? The texts demonstrating bias unambiguously

qualified as *Brady* material and the SFPD had learned about them as early as December 2012, close to two and a half years before the DA found out through the media. Who within the SFPD knew about the texts and when? Why was the DA not immediately notified about these officers through the SFPD's *Brady* process?

 Was there institutionalized and systemic bias within the SFPD? Was biased conduct limited to these 14 officers? Did the SFPD's culture contribute to the officers' decisions to engage in this conduct?
 Were there ways in which SFPD policies and/or practices generally led to biased outcomes?

After Textgate became public, city leaders—including the Chief of Police, the President of the Police Commission, and the President of the Police Officers' Association (POA)—uniformly condemned the texts. No public follow-up inquiry was conducted by any agency, however. In fact, no city, state, or federal agency announced plans to conduct an investigation into the incidents or to analyze whether they were indicative of institutional issues within the SFPD.

The DA determined that, in the absence of investigations by other authorities—and to maintain the integrity of law enforcement in the city and permit him to fulfill his oath to uphold the laws of the State of California—he believed he had the responsibility to initiate a thorough inquiry to investigate and address potential bias in the SFPD. After a request to fund the DA's Trial Integrity Unit to conduct a broader investigation was denied by the Mayor,¹¹ and after the U.S. Department of Justice declined to accept the DA's request for a "patterns and practices" audit of the department, the DA decided to establish the Panel as an independent advisory body to review the issue of whether bias was institutionalized in the SFPD and to provide recommendations to address any problems related to bias that it found.

Panel Scope and Structure

Modeled loosely on the Los Angeles County Citizens' Commission on Jail Violence, the Panel is composed of three former judges with decades of experience in law enforcement oversight, all based outside of San Francisco to ensure neutrality.

- Judge LaDoris Hazzard Cordell was a California Superior Court judge in Santa Clara County, was
 the Independent Police Auditor for the City of San Jose, and recently chaired the Blue Ribbon
 Commission on Improving Custody Operations that investigated jail practices in San Jose.
- Justice Cruz Reynoso, in addition to his service on the California Supreme Court, was the Vice Chair
 of the U.S. Commission on Civil Rights for more than 10 years, and is a recipient of the Presidential
 Medal of Freedom, the country's highest civilian honor.
- Judge Dickran M. Tevrizian was a judge on the U.S. District Court for the Central District of
 California and served on the LA County Citizens' Commission on Jail Violence, which investigated
 the Los Angeles Sheriff's Department. He was also the Vice Chair of the LA County Blue
 Ribbon Commission on Child Protection that investigated failures in the foster care system and
 recommended reforms.

Each of these distinguished former jurists agreed to serve on the Panel on a *pro bono* basis. The Panel's Executive Director, Anand Subramanian, was engaged through PolicyLink, a nonprofit research and advocacy organization with expertise in community-centered policing. The Panel's General Counsel, Jerome C. Roth, of the law firm Munger, Tolles & Olson, also agreed to serve on a *pro bono* basis.

¹⁰ See Chapter 6: Brady Policies and Practices for more detail.

¹¹ See Alex Emslie, No Funding for DA's Police Misconduct Task Force in S.F. Mayor's Budget, KQED News (June 2, 2015), http://www.kqed.org/news/2015/06/02/no-funding-for-das-police-misconduct-task-force-in-s-f-Mayors-budget.

¹² PolicyLink received a grant from the Open Society Foundation and a donation from Denise Foderaro to facilitate the Panel—no public money was used for that purpose.

Several respected law firms with extensive experience in conducting internal investigations were retained by the Panel on a *pro bono* basis. These firms formed working groups to conduct inquiries into issue areas relevant to the potential for institutionalized bias:

- Stops, Searches, and Arrests
- Personnel
- Use of Force and Officer-Involved Shootings
- · Internal Discipline
- · External Oversight
- · Brady Policies and Practices
- Culture
- · Crime Data

The Panel was tasked with two related goals to be completed on independent tracks.

- 1. The DA's fundamental responsibility is to advance justice—an impossible task without reliable evidence provided by law enforcement. The three judges comprising the Panel were asked to review police reports authored by the officers involved in Textgate for indications to determine whether their demonstrated bias may have played a role in their policing. For this task, the judges have been supported by law students at five law schools and one law firm on a *pro bono* basis to review almost 4,000 police reports compiled by the involved officers. The judges' priority is to review all reports that the student and attorney volunteers identify as potentially problematic. This review is ongoing and is expected to be completed by fall 2016. The Panel is also reporting to the DA on prosecutions that may need revisiting based on the outcome of its review.¹³
- 2. The law firm working groups were tasked with examining the extent to which bias was institutionalized within the SFPD's policies and practices, and to recommend solutions to address any bias or threat of bias they discovered. The results of this broader inquiry form the chapters of this report.

Although the DA initiated the Panel as an advisory body and his office provided input and information to it, the Panel was asked to operate, and has operated throughout its existence, as an independent entity. The DA did not control the Panel's decisions or processes, including the ways the law firm working groups conducted their investigations or the drafting of findings and recommendations contained in this report. The Panel's independence and self-direction were considered essential to ensure that the findings in this report were objective and actionable.

Investigatory Process and Methodology

Working Group Investigations and Public Hearings

The law firm working groups developed and employed robust processes for their investigations. They formulated investigation plans that identified witnesses and documents relevant to each topic of inquiry and implemented specific interview protocols that provided for sharing of information with each group before and after interviews. By the end of their investigations, the working groups had interviewed more than 100 witnesses, including the Chief of Police, current and former SFPD officers and employees, every sitting police commissioner, numerous former police commissioners, high-level city officials, staff from a number of city agencies, policy and law enforcement experts, and community leaders. The groups also

¹³ The DA's office also conducted a preliminary review of these incident reports to assess whether any of the criminal cases required reconsideration based on the officers' now-known bias. To date, the DA has reopened and dismissed 16 cases. The DA may also evaluate the judges' review to examine whether any lessons or best practices can be garnered to assess future incident reports for bias.

¹⁴ A partial list of witnesses interviewed by the working groups can be found in Appendix D.

reviewed and analyzed thousands of pages of documentary evidence, including publicly available policies, procedures, and reports, and additional documents and data requested from relevant public agencies.

As an independent advisory body, the Panel did not have any power to compel testimony or subpoena documents. All interviews were voluntary. Working groups received periodic feedback from the judges on their investigations, as well as from Veritas Assurance Group, a consulting firm specializing in law enforcement practices retained by the Panel through a donation to PolicyLink.

The Panel also held five hearings that were open to the public. At the first public hearing, held on December 15, 2015, the working groups updated the judges on their investigative plans and progress and received feedback. The second and third hearings, held on January 14, 2016, and February 22, 2016, respectively, were devoted to taking public testimony from key witnesses. The working groups determined which witnesses to call and conducted the initial questioning of each witness, after which the Panel's judges also questioned the witnesses. The following witnesses presented at these hearings:

- Jeff Adachi, San Francisco Public Defender
- George Gascón, San Francisco District Attorney
- · Jeff Godown, former SFPD Interim Chief of Police
- Joyce M. Hicks, Director of the Office of Citizen Complaints
- Tonia Lediju, Audit Director at the Office of the Controller
- · Suzy Loftus, Police Commission President
- Allison Macbeth, Assistant District Attorney
- · Dr. Joe Marshall, Police Commissioner
- Lt. Joe Reilly, Secretary to the Police Commission (Ret.)
- · Greg P. Suhr, former SFPD Chief of Police
- Rev. Arnold Townsend, Vice President of the San Francisco NAACP
- Sergeant Yulanda Williams, President of Officers for Justice
- Rebecca Young, Assistant Public Defender

The Panel's fourth hearing, held on March 21, 2016, in the Bayview, was devoted exclusively to community feedback and perspectives. At its fifth and final hearing, held on May 9, 2016, the Panel's working groups presented preliminary findings and recommendations for consideration and feedback by the public before finalizing its report.

Efforts to Secure Officer Interviews through the SFPD

As an autonomous body made up of judges assisted by law firms, the Panel hoped and expected to secure broad cooperation from the SFPD, including full access to officers for interviews and departmental documents. As detailed below, the Panel did not always receive the cooperation it hoped for from the SFPD management and the union that represents most officers, the San Francisco POA.

Former Chief Suhr told the Panel in an October 5, 2015, response letter that:

As part of our commitment to the recommendations of the President's Task Force on 21st Century Policing, especially in regard to Pillar One: Building Trust and Transparency, the Police Department supports the efforts of the panel. We are happy to provide documentation and interviews at the request of the panel as practicable.¹⁵

The letter from October 5 asked that "requests for information and/or scheduling of interviews" be directed to Deputy Chief Hector Sainez.

¹⁵ Selected correspondence referenced in this section of the report is included in Appendix E.

On October 23, 2015, the Panel's Executive Director contacted Suhr and Sainez, requesting a number of documents and advising them that the working groups had compiled a list of officers they wanted to interview and would soon be reaching out to schedule the interviews. On November 6, 2015, Suhr sent a letter to the DA, asking for clarification on various aspects of the Panel's scope and authority. The letter questioned whether the Panel was investigating misconduct of individual members of the SFPD. In that regard, Chief Suhr invoked processes and rights officers possess in the context of disciplinary investigations, including advising the Panel to schedule interviews through officers' labor groups, such as the POA. The DA and Panel responded to the November 6 letter in separate letters dated November 12, 2015, addressing Suhr's concerns and clarifying that the Panel was not investigating any specific incidences of alleged misconduct by SFPD officers.

On November 16, 2015, counsel for the POA sent a letter to the DA, representing that Suhr's letter of November 6 raised concerns about the procedural rights of officers for the POA, and also requesting that the Panel schedule interviews with SFPD officers through the POA to protect the rights of officers under investigation. Counsel to the Panel responded to the POA's counsel on November 25, 2015, advising him that scheduling interviews through the POA was not necessary, given that interviews were not related to misconduct and were entirely voluntary—not compelled by or related to an investigation of individual officers.

On November 18, 2015, the Panel's Executive Director emailed Suhr, expressing hope that the letters of November 12 cleared up any misunderstandings regarding the Panel's authority, scope, and goals, and that this would allow the Panel's officer interviews to proceed through the department. Suhr responded on November 30, 2015, suggesting that because officer participation would be voluntary, the Panel should still schedule interviews through the POA or other relevant labor associations. Due to its preference for candid, unvarnished officer testimony free from the influence of any advocacy group, including the POA, the Panel decided to request interviews of officers directly, rather than attempt to schedule interviews through the POA. The Panel shared this decision with Suhr in a letter dated December 8, 2015. Over the following week, the Panel's working groups reached out to several SFPD officers and staff to attempt to schedule interviews.

Counsel to the Panel met with counsel to the POA on December 16, 2015, and assured the POA that the Panel would not be investigating the conduct or performance of individual officers (including officers involved in Textgate), did not intend to name individual officers in its report, and wanted POA leadership to be among those interviewed.

The POA issued a bulletin through the department dated December 15, 2015 (but posted on December 18, 2015) to all SFPD officers. ¹⁶ The bulletin stated:

District Attorney George Gasc[ó]n has created a 'Blue Ribbon Commission [sic] on Fairness & Accountability in Law Enforcement' to investigate whether the text messages involving approximately 12 officers, which are currently the subject of disciplinary and court proceedings, reflect institutionalized bias in the San Francisco Police Department. The POA rejects this premise, but is committed to working with the Commission to ensure that it accurately portrays our department.

It has come to the POA's attention that the Commission is contacting POA members directly and asking them to appear for interviews. The Commission is doing so despite both the Chief of Police and the POA requesting that any contact of POA members be made through the POA.

In our exchanges with the Commission, we have confirmed that it has no delegated authority from either the City or the District Attorney. Any interview is therefore entirely voluntary. If you are contacted by the Commission and asked to attend an interview, we advise you to contact the POA as soon as possible.

¹⁶ According to a current SFPD officer, the bulletin was distributed to all officers at lineup on December 18, 2015.

Counsel to the Panel responded to counsel to the POA, pointing out inaccuracies in the POA's bulletin and noting that the bulletin appeared likely to dissuade officers from participating in interviews. Counsel to the Panel asked the POA to revise its guidance to clearly encourage cooperation and to circulate a revised bulletin that counsel to the Panel drafted in order to provide SFPD officers clear and important information about the Panel. To the Panel's knowledge, the POA did not revise its December 15 bulletin and did not circulate the Panel's proposed bulletin.

The Panel believes that the POA's bulletin ultimately did discourage officers from accepting interviews with the Panel. Witnesses stated that the POA's blanket rejection of what it labelled the Panel's "premise" created a negative perception of the Panel as having prejudged the issue with an unjustified assumption about the SFPD and its officers. The Panel further believes that the POA's advice that officers inform it of any interview request had a chilling effect upon officers' willingness to participate in interviews. Indeed, at the time the bulletin was distributed, an SFPD officer informed members of a Panel working group that officers interpreted the bulletin as a command to call the POA before scheduling interviews with Panel attorneys—that witness perceived that officers were afraid to talk to the Panel because of the POA's bulletin.

On January 20, 2016, the POA sent a letter to Sergeant Yulanda Williams—the President of Officers for Justice (the Black officer affinity group), who herself had been targeted by one of the Textgate texts—after she gave public testimony to the Panel in which she described her perceptions of institutionalized bias in the SFPD. The POA also published the letter in its public journal and sent the letter to its more than 2,000 members. The letter's author—POA President Martin Halloran—stated that he found her "testimony to the Panel to be largely self-centered and grossly unfair." According to Williams, she felt "unsafe on patrol" after the POA published this letter, stating that she viewed the letter as "a personal attack against me and my constitutional rights of freedom of speech.... It sends a clear message that when you go against what they believe in you are then considered an outsider, an outcast and they attempt to slander your name." 19

Several officers informed one Panel working group that officers with views on bias contrary to the POA's views were deterred from participating in interviews by the risks to their professional future, including their position within the department, and, in some cases, their personal safety. For example, one Black officer who initially scheduled an interview with the group canceled it, then rescheduled, then finally canceled again. This potential witness had previously stated on the phone that he feared that speaking out would severely damage his professional career in the SFPD.

In January 2016, former Chief Suhr agreed to be interviewed by the Panel. He was interviewed by counsel to the Panel—first, in a private interview on February 2, and second, at the Panel's public hearing held later that month. In mid-March 2016, after having initially declined to make officers available for interviews while on duty, Suhr agreed to arrange interviews with certain subject-matter expert officers and staff from the department, including officers and staff from the Internal Affairs Division (IAD), the Technology Division, the *Brady* Unit, and from human resources.

The Panel also began working with the POA to schedule interviews of officers after very few officers responded to direct invitations from working groups. After a series of emails between the Panel and counsel to the POA in December 2015 and early 2016, the POA made members of its leadership—including its President, Sergeant Martin Halloran—available to interview with working groups. The POA also suggested and arranged several interviews of SFPD officers. Each of these interviews was monitored by a POA attorney. The POA did not, however, arrange all interviews that working groups requested. On multiple occasions, counsel for the POA indicated that experts in use of force were available for interviews only to subsequently cancel the interviews.

¹⁷ The Panel's proposed bulletin is attached as Appendix F.

¹⁸ See Letter from Martin Halloran, SFPOA Pres., to Yulanda Williams, Pres. Officers for Justice (Jan. 20, 2016), http://sfpoa.org/journal_archives/POAJournal_February2016.pdf, p. 6.

¹⁹ Jonah Owen Lamb, Police Union Targets Black Officer for Vocal Critique of Racism in the Department, S.F. Examiner (Feb. 1, 2016), http://www.sfexaminer.com/police-union-targets-black-officer-for-vocal-critique-of-racism-in-the-department/.

The Panel invited Sergeant Halloran to give testimony at a public hearing on two occasions. He was first invited to testify at the February 2016 public hearing. Despite having initially indicated that he was available on that date, Sergeant Halloran declined to testify, citing undisclosed scheduling conflicts. Through his counsel, Sergeant Halloran subsequently cited the fact that he would not be able to be questioned by a POA attorney as the primary reason he declined. Sergeant Halloran was then asked to provide testimony at the following hearing, scheduled for March 21, 2016. Sergeant Halloran's counsel indicated that he would not be able to attend that hearing either, citing various travel plans.

Counsel to the POA sent a letter on March 29, 2016, asking to permit additional witnesses selected by the POA to give public testimony to the Panel. Having already conducted working group interviews of these witnesses and having no further plans for public hearings with witness testimony, the Panel declined.

Ultimately, the Panel was able to interview then-Chief Suhr, Sergeant Williams, officers selected by the POA, officers and staff who were designated subject-matter experts by the department, officers in two ride-alongs provided by the SFPD, and officers and staff who agreed to be interviewed only on a confidential basis.²⁰

In addition to the POA's December 15, 2015 bulletin, San Francisco's political context may have also hindered officer participation. Although the Panel was independent and was neither directed nor supervised by the DA, it was initiated by his office. Statements by the POA and its agents asserted throughout the investigation that this was "George Gascón's Blue Ribbon Panel" and, as such, was biased against the SFPD. Former Chief Suhr called the Panel "political grandstanding" and POA consultant (and former POA President) Gary Delagnes wrote of Gascón, "We need to go after this guy hard."²¹ POA President Martin Halloran sent a letter to every staff member in the DA's office calling Gascón's efforts to investigate the department "antics" and "political pandering." The POA hired political consultant Nathan Ballard, who produced radio ads and drafted press releases blaming Proposition 47, which Gascón supported, for rising property crime rates.²² Delagnes and other POA representatives claimed in declarations and later in videos posted on the internet that they had overheard Gascón making racist remarks over dinner in 2010-claims the DA categorically denied. An email leaked to the San Francisco Examiner sent by an attorney for the POA congratulated Ballard after publication of these declarations, stating that Gascón had "picked a fight with the wrong people."23 On May 9, 2016, perhaps reacting to news accounts that the Panel had released a preliminary report when in fact it had not, the POA released a statement "dismiss[ing] the report"—which did not exist at the time and therefore the POA could not have read—as "biased, one-sided, and [an] illegitimate work of fiction."24

Public Records Act Request to the SFPD

Lacking subpoena power, the Panel had the same authority as the general public to access documents critical to its investigation. The Panel sought to obtain relevant documents from the SFPD first through an informal request and subsequently through a formal request under the California Public Records Act (PRA) and its local equivalent, the San Francisco Sunshine Ordinance (SFSO). The SFPD did not respond to the Panel's request in the timeframe required by the PRA and SFSO—a failure that resulted in formal censure

²⁰ The Panel also interviewed several former officers and staff of the department who insisted on confidentiality.

²¹ See Jonah Owen Lamb, Gascon Draws SF Police Union Rebuke over Officer Misconduct Investigation, S.F. Examiner (Apr. 6, 2015), http://archives.sfexaminer.com/sanfrancisco/gascon-draws-sf-police-union-rebuke-over-officer-misconduct-investigation/Content?oid=2925769.

²² One of the press releases inaccurately stated that there had been a 669.9% increase in property crime in San Francisco since Gascon became the DA, a statement that was subsequently retracted. Vivian Ho, Amid Push for S.F. Police Reform, Union Escalates Counterattack, S.F. Chronicle (Mar. 24, 2016), http://www.sfchronicle.com/crime/article/Amid-push-for-S-F-police-reform-union-escalates-7004239.php.

²³ Michael Barba and Jonah Owen Lamb, SF Police Union Claims Gascon Made Disparaging Remarks, S.F. Examiner, Mar. 2, 2016, http://www.sfexaminer.com/sf-police-union-claims-gascon-made-disparaging-remarks/.

²⁴ S.F. Police Officers' Ass'n, SFPOA: Gascon's 'Blue Ribbon' Report Is A Biased, One-Sided, Illegitimate Work Of Fiction (May 9, 2016), http://d31hzlhk6di2h5.cloudfront.net/20160509/f6/8e/87/38/4f89b43717715de42a271bcc/Blue_Ribbon_Panel_Response.pdf.

of the police department by the San Francisco Sunshine Ordinance Task Force (SOTF)—and refused to produce critical information with insufficient justification, at times even after it had originally promised to do so.

The Panel initially sent an informal request for documents to the SFPD on October 23, 2015. This informal request asked for a range of documents needed for this investigation, including stop, arrest, and clearance data; policy documents and data concerning body-worn cameras, *Brady v. Maryland*, hiring, and use of force; training materials; IAD compliance files; and information regarding the text-messaging incidents. The SFPD responded to this request on November 6, 2015, but instead of responding to the Panel, it directed its response to the DA to "review and disseminat[e] as [it] deemed appropriate." The SFPD produced some important data and documents, such as E585 traffic stop data, use-of-force logs, and certain department bulletins (DBs), but refused to produce other information, inappropriately citing various PRA exemptions or arguing that the nature of the request was "too vast." Further, the response included documents with information protected under state law. After consulting with the City Attorney, the DA returned these documents to the department before the Panel gained access to them. The rest of the documents were turned over to the Panel.

This limited production was insufficient for the Panel to complete its investigation, so on December 16, 2015, the Panel filed a formal PRA request. That omnibus request, reproduced in Appendix G, contained 30 requests seeking additional information, including the following.

- Information regarding the SFPD's Brady committee and Brady list
- Stop, search, arrest, and crime clearance data
- Training materials related to bias, community policing, interactions with youth, procedural justice,
 Brady, and use of force
- Referrals to IAD, including the number of officers investigated, procedural guidelines governing IAD proceedings and imposing discipline, and complaints of biased policing
- Data, policies, and procedures regarding recruitment and promotion
- All department bulletins issued since 2010
- Communications and documents relating to the first text-messaging incidents

The information sought was critical to supplement the limited information the department provided on its website.

According to the law, public agencies have 10 days to respond to a PRA request, and in "unusual circumstances" can invoke a single 14-day extension. The SFPD invoked the "unusual circumstances" exception on December 24, 2015, and subsequently made its first substantive response on January 8, 2016, producing a total of four documents. In this response, the SFPD addressed eight of the 30 requests, although two of the eight responses indicated that there were no responsive documents, and two refused to produce documents based on certain PRA exemptions. The SFPD also stated in this response that it would continue to produce documents on an "incremental or rolling basis," but did not provide any timelines for production or indicate whether it planned on invoking any additional exemptions.

The Panel promptly filed a complaint with the San Francisco Sunshine Ordinance Task Force (SOTF), a local administrative body charged with enforcing open government laws including the PRA and the SFSO.

The SFPD made its next production on February 1, 2016, 47 days after receiving the formal PRA request. This production responded to a number of requests that the SFPD had previously ignored, but only produced six months' worth of department bulletins and one additional document. This response invoked several PRA exemptions as grounds for refusing to produce documents. Because the Panel still needed critical information and the SFPD continued to violate its PRA and SFSO obligations, the Panel requested a hearing before the SOTF on February 9, 2016.

At the hearing on March 2, 2016, the SOTF voted unanimously that the SFPD had violated three provisions of the SFSO by failing to produce records in a timely manner; failing to provide sufficient assistance to the requester; and failing to provide appropriate justification for withholding certain records. That Order of Determination is attached to this report as Appendix H. In addition, the SOTF ordered the SFPD to provide a timeline to produce additional documents and urged the Panel and the SFPD to meet and confer over the remaining requests.

On March 4, 2016, the SFPD submitted timelines for responding to the remaining requests. Some of these timelines were quite long. For example, the SFPD stated that it could not produce all DBs for an additional 10 weeks, or 149 days after it first received the formal PRA request. Counsel to the Panel met with officers from the SFPD's legal division at SFPD headquarters on March 9, 2016, in an effort to help the SFPD focus its production efforts. At this meeting, the Panel narrowed or eliminated certain requests and prioritized others in exchange for a pledge from the SFPD that it would produce documents more quickly. The SFPD did not, however, produce any documents faster and missed five of the nine deadlines it set for itself. The Panel went back before the SOTF on April 6 and April 19, 2016, but further admonishment from the SOTF did not result in faster document production.

The SFPD's difficulty in responding to these requests—in particular the formal PRA request—revealed major barriers to transparency. The department does not maintain critical information in an organized, accessible, or useful way, and its legal division, which is staffed by sworn members, not lawyers, is ill-equipped to respond to PRA requests in conformance with the law. Ultimately, the SFPD produced a number of department bulletins and select other documents in response to the Panel's PRA request, but did not produce all documents to which the Panel was entitled under the PRA and did not do so in the time required by law.²⁶

Throughout this process, the SFPD repeatedly offered two justifications for not complying with applicable public records laws.

- 1. First, the SFPD stated that the records the Panel sought were not kept in a manner that made them easily retrievable in response to the request. The SFPD's application of this reasoning to the Panel's request for documents sufficient to show the number of complaints involving bias is particularly instructive.²⁷ By stating that the records were not maintained in the manner sought, the SFPD conceded that it did not know how many complaints involving bias it receives and reviews per year. If the SFPD is not tracking the number of bias complaints it investigates, then it is extremely difficult to envision how SFPD leadership might study and understand the magnitude of any potential bias problem in the department. The SFPD also invoked this rationale as a reason to delay or decline to produce other critical information—even in redacted form—including its *Brady* list, attendance records from training sessions, lists of other referrals to IAD, and lists of officers assigned to IAD.
- 2. Second, the SFPD continually stated that it did not have the resources to respond to the Panel's request in a timely fashion. The SFPD's legal division is staffed by three officers (a lieutenant and two sergeants). None of these three personnel is an attorney. The SFPD did not devote any additional resources to responding to the Panel's request. In a move that further compounded the problems the already understaffed unit had in responding to the Panel's request, then-Chief Suhr replaced the lieutenant in charge in mid-March 2016. This was done without any notice to the Panel and merely days after the face-to-face meeting between a Panel representative and the former lieutenant in charge.

In addition to failing to respond to the PRA request in the timeframe the law requires, the SFPD refused to produce documents in response to several requests citing various statutory exemptions. The PRA

²⁶ The SFPD made limited additional productions on February 19, February 25, March 24, April 5, April 8, April 22, and May 20, 2016.

²⁷ The SFPD initially stated that the records were not maintained in the manner sought but would attempt to compile information responsive to the Panel's request. It subsequently reversed its position and stated that it would not produce any information because the records were not maintained in the manner sought.

permits public agencies to withhold public records if they fall within certain enumerated categories. ²⁸ The SFPD cited some of these exemptions in refusing to produce documents responsive to requests for information regarding its *Brady* list and IAD complaint files, SFPD training materials, and information concerning the first text-messaging scandal. The various exemptions that the SFPD invoked are suspect, especially in three areas.

- 1. First, the SFPD would not produce IAD complaint files, even in redacted form, claiming that these files were completely protected from production under Penal Code § 832.7, which provides that police officer personnel records are "confidential." While the underlying personnel record may be confidential, the SFPD could have produced factual summaries of the complaints so as to avoid identifying the officer involved. For example, the Office of Citizen Complaints (OCC) publishes the facts of each complaint it investigates in a way that does not reveal the identity of the officer under investigation and does not violate Penal Code § 832.7.²⁹
- 2. Second, the SFPD would not produce training materials because it considers them "records of intelligence information or security procedures" that are exempt from production under Government Code § 6254(f). The Panel requested training materials related to a wide variety of areas. It is difficult to envision how training materials related to bias, procedural justice, or *Brady v. Maryland* implicate this exemption.
- 3. Third, the SFPD refused to produce documents and communications relating to the original text-messaging incidents themselves. It claimed that doing so would violate one actual and two proposed protective orders entered in *Daugherty v. City and County of San Francisco*, the legal action brought by officers involved in the original texting incidents that challenged the SFPD's ability to discipline them. But most of the documents requested were not documents created during the course of the *Daugherty* case. The Administrative Code clearly indicates that documents previously created in the ordinary course of business that were not exempt from disclosure at the time they were created do not become exempt merely because they are subsequently used in litigation.³⁰ More fundamentally, the orders invoked do not cover the documents sought. The orders pertain to specific documents filed with the court, which were not the subject of the Panel's request. The Panel sought underlying documents and communications involving the text-messaging cases, not those filed with the court.

SFPD Overview and General Recommendations

The mission of the SFPD is to "preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County."³¹ It is headed by the Chief of Police, who is appointed by the Mayor. Between April 2011 and May 2016, the Chief of Police was Greg P. Suhr, who rose through the ranks and had been in the SFPD for over 30 years. As noted earlier, Suhr resigned on May 19, 2016. As of the date of this report, the current Interim Chief is Toney Chaplin, who has been with the department for 26 years. The Chief of Police reports to the Police Commission.³² Either the Commission or the Mayor has the authority to remove the Chief.

Until recently, the SFPD was divided into five bureaus: Operations (housing the Patrol Division and the Investigations Bureau); Administration (budget, information technology, personnel, and other functions); Special Operations; Airport; and Chief of Staff (community engagement, media relations, and risk management including internal affairs). In February 2016, former Chief Suhr announced the creation of the new Professional Standards and Principled Policing bureau, which was tasked with implementing

²⁸ Cal. Gov't Code § 6254.

²⁹ See Chapter 5: External Oversight for more on the OCC.

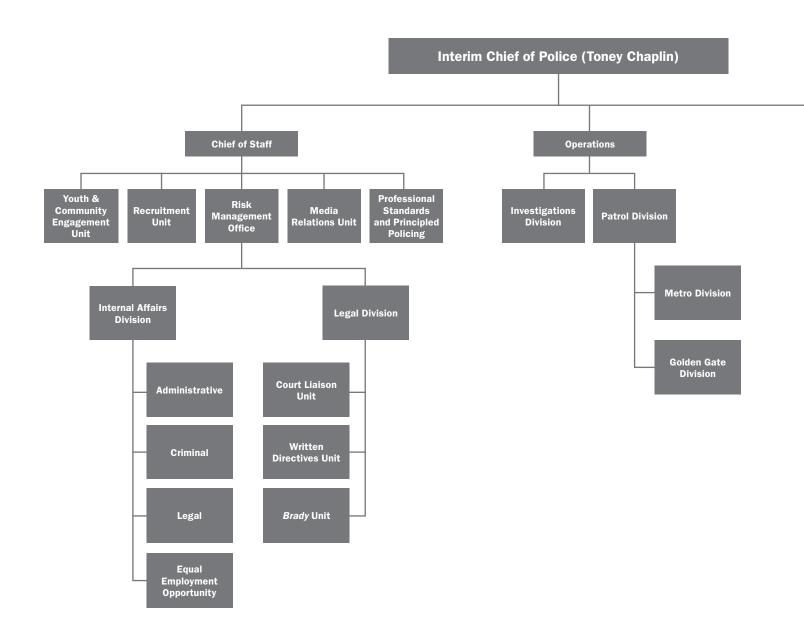
³⁰ See § 67.24(b)(1); see also Cal. Gov't Code § 6254(b) (defining the litigation documents exemption as applying only if the "document was specifically prepared for use in litigation").

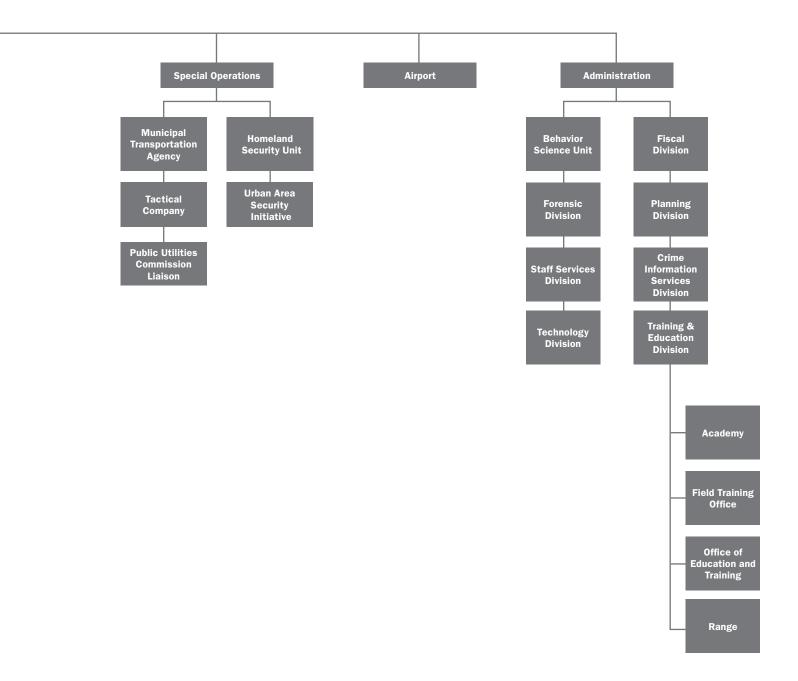
³¹ Charter § 4.127.

³² See Chapter 5: External Oversight for a full description of the Police Commission.

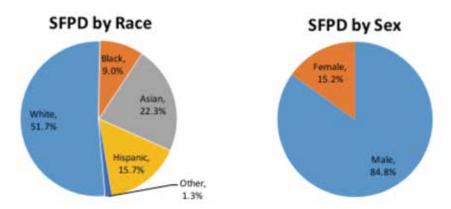
recommendations from the Department of Justice COPS review. Patrol and investigation responsibilities are divided geographically into 10 district stations. Other functions, such as special operations, internal affairs, and general administration, are centralized, generally at the new Public Safety Building and Police Headquarters, which opened in April 2015.

The following chart approximates the structure of the SFPD, as of publication of this report.





The SFPD's budget for 2015-2016 was about \$530 million. According to the 2014 SFPD annual report (the most recent report available), 88 percent of the budget went to salaries and benefits for SFPD sworn officers and employees. As of February 11, 2016, the SFPD had 2,114 sworn members, 143 more than the 1,971 sworn officers mandated by Charter § 4.127. It is the largest department in the Bay Area. A recent study found that the SFPD has the highest average pay of any department in the state, and that its Chief—at an annual salary of \$307,450—was one of the highest-paid police chiefs of any major city in the country. The department's demographic breakdown is demonstrated below.



The Police Commission sets rules and policy for the department through department general orders (DGOs), all of which are available on the SFPD's website. ³⁶ There are about 120 DGOs governing the department's organization and administration, equipment and operations policies, use of force, and more. DGOs are meant to serve as a guide for an SFPD officer's day-to-day duties, and "contain policies and procedures" of the SFPD as well as "rules governing conduct."

It is unclear whether the SFPD and the Police Commission have a specific schedule for reviewing and revising the DGOs, or what factors and circumstances contribute to the SFPD and the Police Commission determining that a DGO should be updated. Many do not appear to be updated on a regular schedule: two-thirds of the DGOs have not been updated since the 1990s, including ones that bear on important topics such as use of force (DGO 5.01, last updated October 4, 1995) and the internal discipline process (DGO 2.07, last updated July 20, 1994). Only nine have been updated in the last five years. When DGOs are updated, this process is typically led by the Command Staff and the Police Commission, with input from the POA and community stakeholders.

The DGOs are supplemented by department bulletins (DBs) on certain specific areas of conduct. Many DBs are not easily locatable or accessible, despite the fact that they appear to be as important a component of the SFPD's policies as DGOs. Some of these bulletins are de facto updates to the DGOs and supplement the general guidance of the DGOs in specific conduct areas. Others are simply reminders to police officers on the existence of various policies. For example, in December 2015, seen in part as a response to the shooting death of Mario Woods, the SFPD added a DB that amended the DGOs and elevated drawing and pointing a firearm at a person as a reportable act. This DB explicitly states that it "amends DGO 5.01 & 5.02," and thus appears to be a specific *amendment* to SFPD's policies. ³⁷ In contrast, DB 15-106, titled "Avoiding the 'Lawful but Awful' Use of Force," does not appear to be anything more than a reminder by former Chief Suhr to SFPD officers to consider alternatives before implementing uses of force.

³³ San Francisco Police Dep't, 2014 Annual Report, http://sanfranciscopolice.org/annual-reports.

³⁴ Jonah Owen Lamb, SF Police Paid a Pretty Penny, S.F. Examiner (Sep. 8, 2015), http://www.sfexaminer.com/s-f-police-paid-a-pretty-penny/.

³⁵ Data, San Francisco Police Dep't, (May 26, 2016, 12:47 PM), http://sanfranciscopolice.org/data#demographics.

³⁶ SF Police General Orders, San Francisco Police Dep't, (May 26, 2016, 12:47 PM), http://sanfranciscopolice.org/sf-police-general-orders.

³⁷ Department Bulletin 15-255.

General Recommendations³⁸

The Police Commission should review department general orders on a regular basis.

The Police Commission should set a review schedule to examine all existing DGOs to ensure that they are up to date and reflect national best practices—where they do not, they should be revised as soon as practicable.

2. The SFPD should cease the use of department bulletins to modify policies.

Any amendments to policies should be made to the text and language of the relevant DGOs. To the extent the SFPD wishes to continue to use DBs, they should be used to provide guidance or general clarifications of the DGOs, but should not operate as specific changes to the DGOs themselves.

3. The SFPD should make all department bulletins publicly available online.

The SFPD currently posts its DGOs online, but it does not make its DBs publicly available except through a Public Records Act request. Best practices indicate that a police department should post all of its bulletins, orders, training bulletins, and manuals online, DBs contain important policing procedures and policies that impact the public. If the SFPD continues changing policy outside of the public and transparent process of the Police Commission, the public ought to be aware of these policy changes. Currently, there is no way to know what DBs exist, as the SFPD does not even publish an index on its website.

Community Perspectives

The texting incident that gave rise to the Panel was deeply alarming for a number of reasons, primarily for the revelation that certain SFPD officers harbored and felt free to express extreme prejudice against communities of color and LGBT communities. It was essential, therefore, for the Panel to listen to and collect information from these communities about their experiences with the SFPD. The results of that inquiry, referenced on occasion in the various chapters of this report, are described here.

The Panel solicited community feedback about the SFPD in a variety of ways. In addition to interviews of community leaders by law firm working groups related to their issue areas, the Panel heard from community members at its five public hearings—one of which was devoted exclusively to receiving community perspectives. Additionally, the Panel's Executive Director interviewed representatives of community coalitions and leaders of community-based organizations. He also attended the three community listening sessions held by the COPS office, various community coalition and organizational meetings, and focus groups at Balboa and Mission High Schools. Finally, the Panel maintained an email address—<u>SFBlueRibbonPanel@mto.com</u>—through which the public asked questions and provided comments.

Anecdotal support for findings may be perceived to be less rigorous than other forms of evidence, but it provides an important means to try to understand the experiences of those potentially affected by the bias evinced by the text messages. Detecting and eliminating systemic bias requires paying attention to the perceptions and accounts of these community members. Many of the anecdotal experiences recounted to the Panel by community members were corroborated by other accounts and other forms of evidence, as discussed elsewhere in this report.

While the Panel was unable to incorporate all feedback submitted by community members, perspectives largely centered on the following concerns.39

³⁸ See Appendix A for a complete list of the Panel's findings and recommendations.

³⁹ The Panel also heard numerous perspectives expressing concerns about support for SFPD officers' mental health (including the potential need to address PTSD for returning veterans), the role of the SFPD in the context of gentrification and displacement, and officer interactions with the homeless, with people in need of mental health support, and with young people (including the need for officers to better understand the adolescent brain, the view that gang injunctions are inherently biased and unjust, and the role of officers at schools). While these areas warrant consideration by the department, community members, and other stakeholders, they are outside the central focus of this report.

Textgate

Outrage over the first texting incident was raised by various community members in several ways, including the following examples.

- Some community members said the texts severely damaged trust between the community and the department.
- Some said the texts corroborated consistently voiced claims by communities of color that they are aggressively policed and unfairly profiled by the SFPD.
- Some said the department's failure or inability to discipline officers involved in Textgate contributed to the community's perception of a culture of impunity and a general lack of accountability.
- One leader of the Justice for Mario Woods Coalition argued that one of the text's references to Black people as "animals" was substantiated by incidents like the death of Mario Woods, whom the leader perceived to have been shot like an animal.

Absence of Community Policing

Despite the existence of DGO 1.08, which expresses the SFPD's commitment to "community policing," a consistent theme community members shared was a perception that the SFPD did not engage in community policing in neighborhoods like the Bayview, the Western Addition, the Mission, and other areas with a critical mass of Black and Latino populations.

DGO 1.08 defines community policing as "a philosophy and organizational strategy in which the police work collaboratively with community members, community-based organizations, other city agencies, and others, in order to reduce violent crime, create safer communities, and enhance the health and vibrancy of neighborhoods in San Francisco." DGO 1.08 also identifies various components of community policing—including partnerships with the community and interaction with youth—and provides that, "as staffing allows," district captains and lieutenants must ensure the assignment of officers to steady beats and sectors, regular attendance of beat and sector officers at all community meetings, and regular staffing of foot beat assignments.

A significant number of community members expressed a desire for community policing that would include:

- officers assigned to the communities where they live or grew up;
- long-term assignments in a community to get to know and build trust with residents;
- officers on regular foot patrols and not exclusively in vehicles;
- officers engaging with community members respectfully, as fellow community members;
 - Several community members expressed a desire for officers to be unarmed while engaging with the community to increase trust in and reduce fear of the officer. Suggestions included a focus on community building for the first two years of an officer's career (after which the officer would qualify for a firearm) and a set number of unarmed "community hours" per year for all officers.
- mandated, robust continuing education for officers on community policing, cultural competency, language access, implicit bias, and systemic racism; and
- regular evaluations of officers to ensure that they qualify to serve under current standards.

Stops, Searches, and Arrests

Chapter 1: Stops, Searches, and Arrests provides detailed findings and recommendations regarding stops and searches, including selected community perspectives. The following related themes were also raised numerous times by community members and coalitions.

- Several community members expressed their perception that Black men could not walk down the
 sidewalk in the Bayview without being harassed by SFPD officers. Bayview residents also shared their
 view that SFPD officers over-police in their neighborhood, stopping Black people for minor infractions.
 Further, there is a perception that officers stop Black people in an overly aggressive manner,
 perpetuating the idea that officers view all Black people as dangerous. This view was compared to the
 perception that police treat people with courtesy in predominantly White neighborhoods.
- Community members shared their view that SFPD officers regularly asked people of color whether
 they were on probation or parole. Community members believed this question reduced trust and
 perpetuated the idea that officers viewed all Black and Latino people as criminals. Community
 members also expressed frustration that officers conducted searches of people who were on
 probation or parole without probable cause for the search (though current law permits this practice).
- Some community members expressed skepticism that the SFPD's imminent adoption of body-worn
 cameras would increase police accountability, given the perception that current cellphone and other
 footage of officer-involved shootings have not guaranteed that the officers are held accountable.

Use of Force and Officer-Involved Shootings

Chapter 3: Use of Force and Officer-Involved Shootings provides detailed findings and recommendations regarding officer-involved shootings (OIS), including selected community perspectives. The following related themes were also raised numerous times by community members and coalitions.

- Community members expressed their perception that the department regularly and immediately
 investigates and disparages victims of officer-involved shootings before investigating the shooting
 itself—including, for instance, claims by the department that the victim "lunged" at the shooting
 officers before all the evidence had been collected. This strategy was thought to be connected to
 the "reasonableness" standard for officers using force—if the department could paint the victim as
 dangerous, that would potentially frame the shooting as "reasonable."
 - The "reasonableness" standard itself—stemming from the U.S. Supreme Court decision in Graham v. Connor—was frequently raised as highly problematic and unjust, allowing for "lawful but awful" shootings.⁴⁰
 - Community members also expressed concern about the families of OIS victims, claiming that the SFPD's priority was to go to the media first to ensure that its version of events was reported, even before informing the victim's family of the incident.
 - Community members also opined that families of OIS victims should qualify under the California Victims' Compensation Program.
- Many community members expressed indignation over the high number of bullets officers sometimes shoot at a single person, which to them confirmed their perception that officers did not value the lives of people of color and were shooting to kill. Community members also perceived that officers too often did not attempt to call for medical attention for OIS victims.
- Community members expressed outrage about the SFPD hiring officers from other departments who had improper use-of-force incidents and OIS on their records. Some laterally moved officers were known to then engage in similar incidents as members of the SFPD.
- Community members expressed concern about autopsy reports of OIS victims issued by the city
 medical examiner's office, claiming that—in the Alex Nieto case, for example—the autopsy reports
 too often echoed events as framed in the related SFPD incident report and did not represent truly
 independent conclusions.

⁴⁰ Graham v. Connor, 490 U.S. 386 (1989).

SFPD Cooperation with Federal Agencies

Leaders of several civil and legal rights organizations expressed concern about the SFPD's cooperation with federal law enforcement agencies—including the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force and Immigration and Customs Enforcement—potentially in violation of local laws. They pointed to the cases of Sarmad Gilani⁴¹ and Pedro Figueroa-Zarceno⁴² as recent examples.

The perception that the SFPD cooperates with federal agencies may be enough to reduce instances in which community members call on the department for assistance. Leaders of civil rights and legal rights organizations and numerous community members reported that they would not call on the police for basic public safety assistance (even in an emergency) because of fear of deportation. According to one community coalition leader, "If people do not reach out for help because they think they'll be arrested or deported and separated from their families, that's a serious public safety issue ... all it takes is seeing your neighbor taken away after they called the police to ruin trust."

SFPD Treatment of Domestic-Violence Incidents

Leaders of coalitions supporting immigrant domestic-violence survivors—primarily Latina and Asian women—shared concerns about officers' handling of these incidents. While some leaders lauded the SFPD for adopting policies on language access and officer-involved domestic violence, forming a language access working group, and engaging in community-led trainings on domestic violence, they also expressed concern about implementation of policies and trainings. Coalition and organizational leaders and members cited the following ongoing challenges related to domestic violence.

- Instead of arresting the perpetrators, SFPD officers sometimes arrest domestic-violence survivors.⁴³
 According to leaders of relevant community-based organizations, this may happen for a number of reasons.
 - The perpetrator may approach the officer first upon arrival and disparage the survivor, casting her⁴⁴ as "crazy" or "on meds." This dynamic is often exacerbated when the perpetrator speaks English and the survivor does not.
 - The survivor may be the subject of a valid warrant. While arrests based on warrants may seem justified, community leaders noted that even survivors with arrest warrants should be eligible for protection from domestic violence, yet these arrests dissuade survivors from seeking needed help.
- SFPD leadership and officers who act as liaisons to the domestic-violence advocacy community
 rotate positions within the department too frequently to build trust and improve policies and
 practices. This results in frequently having to start relationships with officers from scratch, an
 impediment to progress.
- Transgender domestic-violence survivors—particularly low-income people of color—have experienced ridicule from SFPD officers and a refusal to record their preferred genders.
- The SFPD does not consistently share data about its interactions related to domestic violence, presenting a barrier to assessing systemic issues. When a critical mass of anecdotal evidence is presented as proof of systemic issues, the department and oversight bodies do not see it as a systemic issue occurring over and over again and only consider the individual cases, often attributing the cause as "bad apple" officers.

⁴¹ See Alex Emslie, FBI-S.F. Police Counterterrorism Activity Violated Local Law, Advocates Say, KQED News (Jan. 15, 2016), https://www.kqed.org/news/2016/01/15/fbi-s-f-police-counterterrorism-activity-violated-local-law-advocates-say, for more information about the Sarmad Gilani case.

⁴² See Vivian Ho, SF Cops Admit Car-Theft Victim Was Wrongly Turned Over to ICE, SFGate (Feb. 8, 2016), https://www.sfgate.com/bayarea/article/S-F-cops-admit-car-theft-victim-was-wrongly-6810705.php, for more information about the Pedro Figueroa-Zarceno case.

⁴³ Advocates who worked with those subjected to domestic violence typically referred to them as "domestic-violence survivors."

⁴⁴ In examples shared with the Panel by community leaders and members, domestic-violence survivors invariably identified as female.

- Some officers reportedly blame the victim, asking questions like "What did you do to make him
 hit you?" and have dissuaded victims from filing reports against perpetrators, advising, e.g., "He's
 going to make you look bad in court."
- Some officers refuse to file an official report or file a report of a "verbal dispute" if they cannot perceive any visible marks of domestic abuse.
- Contempt by officers for non-English speakers was a common theme expressed by several survivors, including a lack of willingness to provide language access. Community members reported that officers asked how long they had been in the country and why they did not speak English.⁴⁵
- Some officers reportedly violated policy by not regularly assessing the need for interpreters, not calling for interpreters upon request, and/or by using family members to translate.
- Several Spanish-speaking domestic-violence survivors reported that they were forced to wait for
 excessive periods of time (e.g., seven hours) to file reports at Mission District Station—the reason
 for the delay given by the department was the absence of an interpreter. When these survivors
 were finally given the opportunity to file a report, they were forced to share sensitive details in a
 public waiting room, with neighbors within earshot.
 - Similarly, a Cantonese-speaking survivor reported that officers told her no interpreters were available when she went to Central station and asked her to call from her apartment. When she went back and called into the station, she was again told no interpreters were available.
- Survivors fear filing reports of misconduct with the OCC because the complained-against officer may also be responsible for enforcing custody or restraining orders on behalf of the survivor.
- Officers are perceived to avoid domestic-violence calls because of their confusing and potentially
 dangerous nature. Confusion may arise when survivors decline to press charges or don't want to
 leave their abusive partners. Coalition members suggested that officers needed to be trained on
 the fundamental nature of domestic violence, cultural contexts, and survivors' perspectives to
 alleviate this confusion.

The themes presented above highlight areas susceptible to bias that the department must address to start rebuilding trust with the community. This will necessitate a candid and deep examination of—and a top-down commitment to improving—the department's interactions with communities of color and LGBT communities.

⁴⁵ In several community meeting settings, Latino/a residents reported that SFPD officers treated them with suspicion—as though they were undocumented—regardless of actual status.

Chapter 1: Stops, Searches, and Arrests

Background

This chapter discusses issues related to bias in SFPD stops, searches, and arrests.⁴⁶ While the SFPD's policies prohibiting biased policing are in line with best practices, available statistics indicate racial disparities in its stops, searches, and arrests. Black and Hispanic⁴⁷ people are more likely to be searched without consent than any other group, and, of those searched, Black and Hispanic people had the lowest "hit rates" (i.e., the rate at which searches found contraband).

Moreover, there is a perception among communities of color that bias exists in SFPD stops, searches, and arrests, and some community members expressed concern that the SFPD does not engage in community policing. The investigation also uncovered incidents of stop-and-frisk practices, but it is unclear how widespread these practices are. While interviewees generally agreed that body-worn cameras will be beneficial for the SFPD and the public, a number of issues in SFPD's draft body-worn camera policy warrant additional consideration.

The SFPD's data does have a number of limitations. The department's data collection efforts suffer from low compliance among officers, and the SFPD has failed to accurately report the number of Hispanic arrestees to the California Department of Justice, classifying them instead as "White" arrestees.

SFPD Policies Related to Stops, Searches, and Arrests

SFPD DGO 5.17 prohibits biased policing, which the policy defines as "the use, to any extent or degree, of actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity in determining whether to initiate any law enforcement action in the absence of a specific suspect description." Where a suspect is identified or described in part by any of the listed characteristics, officers may rely on those characteristics "in part only in combination with other appropriate identifying factors" and such characteristics "should not be given undue weight." The policy provides that officers "must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrest[s], nonconsensual searches and property seizures."

DGO 5.17 also recommends steps that can be taken to prevent perceptions of biased policing when conducting pedestrian, bicycle, or vehicle stops. These steps include being courteous and professional, providing an explanation for the stop, ensuring the detention is no longer than necessary, answering questions the person may have about the stop, and providing the officer's star number.

⁴⁶ This issue area includes both vehicle and pedestrian stops. Excluded from the issue area are searches carried out pursuant to a warrant.

⁴⁷ The term "Hispanic" is used by the Panel here in accordance with the SFPD's data collection category. For purposes of this report, "Latino" and "Hispanic" are interchangeable.

On the issue of detentions, DGO 5.03 states that "[f]actors such as the person's race, sex, sexual orientation, gender, gender identity, gender presentation, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others." Further, per DGO 5.03, and pursuant to California Penal Code Section 849(b), SFPD officers are required to issue a Certificate of Release ("849(b) form") to all released detainees, except for "brief detentions." The officer must provide the original 849(b) form to the person being released and forward a copy to the Records Section.

SFPD DB 15-150 provides that officers should fill out a field interview (FI) card anytime an officer conducts a consensual encounter or detains a suspect, and an incident report is not required. FI cards include demographic information, as well as fields for recording the person's name, country of origin, sex, birthdate, height, weight, hair, eyes, hair style, complexion, clothing, addresses, phone, and location, date, and time of interview. In addition, the card includes fields regarding vehicle information, including year, make, model, style, color, license, VIN number, vehicle damage, and vehicle peculiarities. Moreover, the card lists investigative categories for selection (e.g., drugs, vice, gangs) and a field for a description of the stop. DB 15-150 states that filling out an FI card for each subject "is particularly important when officers encounter multiple subjects together, i.e. several gang members in a car during a traffic stop," and provides procedures for entering the information into an FI database.

DB 13-258 sets out procedures for police interactions with transgender individuals. It explains how to address transgender individuals appropriately, prohibits detentions based on appearance or gender identity alone, prohibits searches to determine a detainee's gender, prohibits detaining a transgender arrestee in a district station's holding cell, and requires notification to dispatch of the starting and ending mileage when an officer transports a transgender individual.⁴⁸ DB 13-258 does not address the procedure officers should follow if they need to conduct a search of a transgender individual.

DGO 1.08 asserts the department's commitment to "community policing," which it defines as "a philosophy and organizational strategy in which the police work collaboratively with community members, community-based organizations, other city agencies, and others, in order to reduce violent crime, create safer communities, and enhance the health and vibrancy of neighborhoods in San Francisco." It identifies various components of community policing—including partnerships with the community and interaction with youth—and provides that, "as staffing allows," district captains and lieutenants must ensure the assignment of officers to steady beats and sectors, regular attendance of beat and sector officers at all community meetings, and regular staffing of foot beat assignments.

Data Collection

Under SFPD's traffic stop data collection program, officers are required to collect and record certain traffic stop data, known as "E585" data. DB 14-059 instructs officers to fill out E585 forms "after any vehicle stops related to the following incidents."

- Moving violations, including bicycles and pedestrians
- Municipal Police Code violations
- · Penal Code violations
- Transportation Code violations
- 916 vehicles (suspicious person in vehicle) and high-risk stops
- · Mechanical or non-moving violations
- · Driving under the influence violations
- Traffic collisions

⁴⁸ Per DGO 2.01, the same mileage reporting requirement applies when transporting a female. Neither DGO 2.01 nor DB 13-258 includes a rationale for the mileage reporting requirement.

- · Assistance to motorists
- Be on the lookout (BOLO), all-points bulletin (APB), or warrants⁴⁹

For the above incidents, officers are required to report (1) date and time of the stop; (2) driver's race, sex, and age; (3) reason for the stop; (4) whether a search of the vehicle was conducted; (5) result of the contact; and (6) location of the stop. ⁵⁰ SFPD's Compstat Unit has been tasked with developing monthly reports on E585 data, according to a 2012 review of SFPD's Compstat program by the Controller's Office. ⁵¹

Ordinance No. 166-15, passed by the Board of Supervisors and approved by Mayor Lee in September 2015, amends the Administrative Code to require the SFPD to collect and regularly report data on all "encounters," defined as a detention or traffic stop "where the Officer initiates activity based solely on the Officer's own observations or the observations and direction of another Officer, rather than on information provided by dispatch or reported by a member of the public."52 "Detention" is further defined as "an interaction between an Officer and an individual in which the Officer detains the individual," and "traffic stop" is defined as "an interaction between an Officer and an individual driving a vehicle, in which the Officer orders the individual to stop the vehicle." The ordinance largely retains the above-listed categories of data from the E585 form.⁵³ but it additionally requires that the SFPD analyze and report its data to the Mayor, Board of Supervisors, Police Commission, and Human Rights Commission on a quarterly basis. The reports must include the total number of encounters, use-of-force incidents, and arrests—as well as data regarding the reasons for the encounters and arrests—broken down by race or ethnicity, age, and sex. The ordinance also requires the SFPD to obtain from the OCC and include in each report the total number of OCC complaints received or closed during the reporting period alleging bias based on race or ethnicity, gender, or gender identity, and the total number of each type of disposition for such complaints. The first reports on arrest and use-of-force data are due on June 30, 2016, but full compliance with the reporting requirements is not due until June 2017.

The Racial and Identity Profiling Act of 2015, signed by California Governor Jerry Brown in October 2015, requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops, including demographic information. For agencies like the SFPD that employ 1,000 or more peace officers, the first annual report is due by April 1, 2019.⁵⁴

Body-Worn Cameras

Body-worn cameras (BWCs) are small video-recording systems worn by police officers as they perform their duties, capturing audio and video of officers interacting with the public. In recent years, police departments across the country have begun implementing BWCs. In April 2015, the Mayor, Chief of Police, and Police Commission announced that the city would fund BWCs for SFPD officers. The Police Commission formed a BWC policy working group, which met from June to August 2015 and was composed of representatives from the SFPD, the San Francisco Public Defender's Office, the OCC, the Human Rights Commission, the San Francisco Bar Association, and the public. The Police Commission approved the draft BWC policy on

⁴⁹ SFPD Department General Order 14-059, Traffic Stop Report Entry.

⁵⁰ Lorie Fridell, Fair & Impartial Policing: Recommendations for the City & Police Department of San Francisco 10-11 (2007), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14851-Fair_and_limpartial_Policing_Report.pdf.

⁵¹ Memorandum from the S.F. Controller's Office on CompStat Review to the S.F. Chief of Police 13-14 (Jan. 20, 2012), http://sfcontroller.org/sites/default/files/FileCenter/Documents/2878-SFPD_CompStat_Memo_FINAL.pdf.

⁵² S.F. Bd. of Supervisors Ordinance No. 166-15, File. No. 150643 (2015), http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0166-15.pdf.

⁵³ The ordinance originally required officers to record a person's gender identity—in addition to race or ethnicity, sex, and age—but that provision was removed at the request of LGBT groups concerned that it would "place transgender individuals at an increased risk for discrimination, harassment, or violence." Seth Hemmelgarn, SF Supes Address Trans Concerns on Police, Bay Area Rep. (Sept. 10, 2015), http://www.ebar.com/news/article.php?sec=news&article=70884.

⁵⁴ Cal. Assembly Bill No. 953 (2015-2016 Reg. Sess.), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?billid=201520160AB953.

December 2, 2015, after which it went into the meet-and-confer process with the San Francisco POA. 55 As a result of negotiations during the meet-and-confer process between the city and the POA, the draft policy was altered to expand officer review of footage, and the Police Commission approved the policy as amended on June 1, 2016. 56

On February 24, 2016, the Board of Supervisors approved \$2.4 million in funding for the BWC program.⁵⁷ According to the SFPD, it will deploy 800 BWCs by late July 2016, covering about 37 percent of its 2,100 members, and the department expects to have 1,800 officers equipped with BWCs by the end of 2016.⁵⁸ SFPD has reportedly hired nine legal assistants (of a planned total of 11) who will ensure the department is complying with the BWC policy, redact BWC footage appropriately, and respond to requests for BWC footage.⁵⁹ It is unclear who they will report to or what training they will receive.

The BWC policy states that the purpose of the policy is for the SFPD to demonstrate its commitment to transparency, ensure the accountability of its members, increase public trust in officers, and protect its members from unjustified complaints of misconduct. Multiple members of the BWC policy working group reiterated that the purpose of the policy is transparency and accountability. Former Chief of Police Greg Suhr also indicated he believed BWCs, along with other initiatives, will help foster trust within the community.

Stop and Frisk

According to the SFPD, its officers do not practice "stop and frisk,"⁶⁰ but a number of community members reported stop-and-frisk incidents. DGO 5.03 states that "[a] police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to the criminal activity. The officer, however, must have specific and articulable facts to support his/her actions; a mere suspicion or 'hunch' is not sufficient cause to detain a person or to request identification." DGO 5.03 has not been revised since 2003.

In May 2014, the SFPD issued a department bulletin on *Terry* searches.⁶¹ DB 14-154 provides a "legal update" on *Terry* searches based on *Florida v. J.L.*, 529 U.S. 266 (2000)—a U.S. Supreme Court case decided 14 years earlier—and gives "guidance regarding the suspicion factors that in combination with the responding officers' observations would justify a detention and 'pat search' [or *Terry* search for weapons]" following an anonymous telephone tip to police dispatch. It instructs officers to consider a consensual encounter if there is no "reasonable suspicion" to justify a detention, as consensual encounters do not require "reasonable suspicion."

In other metropolitan areas, the use of stop-and-frisk policies has drawn scrutiny from courts and civil rights groups and has led to concerns about racial profiling disproportionately affecting Black and Latino

⁵⁵ S.F. Police Comm'n, Body Worn Cameras Policy: Recommended Draft (2015), http://sanfranciscopolice.org/Modules/ShowDocument.aspx?documentID=27676; Minutes of S.F. Police Comm'n Meeting, S.F. Police Dep't (Dec. 2, 2015), http://sanfranciscopolice.org/meeting/police-commission-december-2-2015-minutes.

⁵⁶ Jonah Owen Lamb, *Police Commission Approves Body Cameras for SFPD*, S.F. Examiner (June 2, 2016), http://www.sfexaminer.com/police-commission-approves-body-cameras-sfpd/.

⁵⁷ Joshua Sabatini, Supes Release \$2.4M for Police Department Body Cams, S.F. Examiner (Feb. 25, 2016), http://www.sfexaminer.com/supes-release-2-4m-for-police-department-body-cams/.

⁵⁸ Philip Marcelo, *Police Around the Country Are 'Woefully Short' on Body Cameras*, Business Insider (May 4, 2016), http://www.businessinsider.com/ap-police-begin-wider-body-camera-use-after-months-of-testing-2016-5.

⁵⁹ Sabatini, Supes Release \$2.4M for Police Department Body Cams, supra note 57. The draft BWC policy does not address the redaction of BWC footage, so it is unclear what guidelines will be used.

⁶⁰ S.F. Police Dep't, Review and Response of the Final Report of The President's Task Force on 21st Century Policing 16 (2015), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27535-SFPD%20Response_21st%20Century%20Policing_Final%202015_09_22.pdf

⁶¹ In *Terry v. Ohio*, the U.S. Supreme Court held that the Fourth Amendment prohibition on unreasonable searches and seizures is not violated when a police officer stops and frisks a suspect without probable cause to arrest, if the officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime and has a reasonable belief that the person "may be armed and presently dangerous." 392 U.S. 1, 30 (1968).

people. Reports found the vast majority of people stopped and frisked by the New York Police Department (NYPD) were Black or Latino and the majority of them had done nothing to warrant suspicion. For example, although young Black and Latino men make up only 4.7 percent of New York City's population, Black and Latino males between the ages of 14 and 24 accounted for 38.6 percent of stops in 2013, and nearly 90 percent of them were innocent of any wrongdoing. Moreover, an expert witness noted NYPD's stop-and-frisk policy alienated the community. In 2013, a federal court order mandated changes to NYPD's stop-and-frisk policy, finding the policy violated Fourth Amendment rights and constituted a "policy of indirect racial profiling."

In Chicago, an American Civil Liberties Union (ACLU) analysis of stop-and-frisk data for May through August 2014 found that Black people were disproportionately stopped. Black people were subjected to 72 percent of all stops, even though they made up just 32 percent of Chicago's population. ⁶⁴ In 2015, Chicago and the ACLU reached an agreement to monitor how police officers conduct stops. The agreement requires officers to collect data for all investigatory stops and protective pat-downs (including investigatory stops that do not lead to an arrest) and to conduct pat-downs only when the officer is reasonably suspicious that a person is armed and dangerous. An independent consultant will issue public reports twice a year on the stops and recommend policy changes.

Philadelphia agreed in 2011 to court monitoring of their stop-and-frisk program to settle a lawsuit brought by the ACLU and others, who alleged police officers used racial profiling and stopped people with little or no justification. For example, an analysis of 2012 and 2013 stops and frisks revealed the rate of stops without reasonable suspicion for Black people was 6.5 percentage points higher than the rate for White people, indicating that police were using a higher threshold of "reasonable suspicion" for stops of White suspects. The suit was settled when the Philadelphia Police Department agreed to collect stop-and-frisk data and make it available in an electronic database. The settlement also requires that officers limit stops to when there is reasonable suspicion rather than vague rationales such as loitering or acting suspiciously.

Findings

1. The SFPD's stated policies prohibiting biased policing are in line with best practices.

The SFPD's policy on unbiased policing (DGO 5.17) tracks the language of the U.S. Department of Justice's (DOJ) consent decree with the Los Angeles Police Department (LAPD),⁶⁵ and goes further by adding religion, gender, age, sexual orientation, and gender identity to the list of characteristics that officers may not use in determining whether to initiate any law enforcement action in the absence of a specific suspect description.⁶⁶ A report submitted to the Mayor's Office in 2007 by Dr. Lorie Fridell found an earlier version of DGO 5.17 was a strong model because it provided for very narrow uses of factors, such as race and ethnicity, in making law enforcement decisions.⁶⁷

The SFPD's plans to provide department-wide training on implicit bias, procedural justice, and racial profiling are also in line with training programs in other jurisdictions. ⁶⁸ The SFPD Command Staff recently

⁶² NYCLU, New NYCLU Reports Reveal Historic Failure and Bias of Bloomberg Administration's Signature Public Safety Program (2014), http://www.nyclu.org/news/new-nyclu-reports-reveal-historic-failure-and-bias-of-bloomberg-administrations-signature-publ.

⁶³ Floyd v. City of N.Y., 959 F. Supp. 2d 540, 605, 660-63 (S.D.N.Y. 2013).

⁶⁴ ACLU of Illinois, Stop and Frisk in Chicago 3 (2015), http://www.aclu-il.org/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf.

⁶⁵ See Consent Decree ¶ 103, *United States v. City of L.A.*, No. 2:00-cv-11769-GAF-RC (C.D. Cal. June 15, 2001) (prohibiting use of "race, color, ethnicity, or national origin (to any extent or degree) in conducting stops or detentions, or activities following stops or detentions, except when engaging in appropriate suspect-specific activity to identify a particular person or group").

⁶⁶ See SFPD Department General Order 5.17.

⁶⁷ Fridell, Fair & Impartial Policing, supra note 50, at 7.

⁶⁸ See, e.g., Mike Blasky, Oakland Police Becoming Example for Departments Seeking to Reform, Santa Cruz Sentinel (May 10, 2015), http://www.santacruzsentinel.com/article/NE/20150509/NEWS/150509685; Matt Zapotosky, In Push to Reform Police Work, Officers Examine Their Own Biases, Wash. Post (Jan. 6, 2016), https://www.washingtonpost.com/local/public-safety/in-push-to-reform-police-work-officers-examine-their-own-biases/2016/01/06/b196ab66-a361-11e5-9c4e-be37f66848bb_story.html.

received implicit bias training as part of city-wide training. According to a recent post by SFPD's "Not On My Watch" campaign, all Police Academy recruits are now required to participate in implicit bias training, and all SFPD officers will receive implicit bias and procedural justice training by the end of 2016.⁶⁹ The SFPD is pursuing a contract that would give all officers and staff implicit bias and procedural justice training every other year, and online training in the off years. This would include "cultural competency" training provided by community members. The SFPD has also reinstated racial profiling training for all officers, which was previously offered but then limited to an academy class in 2005. While this list of training programs sounds impressive, the SFPD refused the Panel's request for any of the materials used at the trainings or any evaluations of their efficacy, making it impossible to determine the impact of these trainings.

2. Available statistics indicate racial disparities in SFPD stops, searches, and arrests.

The statistics available to the Panel suggest there are racial disparities regarding SFPD stops, searches, and arrests, particularly for Black people. According to 2013 findings from the W. Haywood Burns Institute, Black adults in San Francisco are more than seven times as likely as White adults to be arrested. Horeover, the disparity gap in arrests was found to have been increasing in San Francisco, whereas it was decreasing statewide. In San Francisco, rates of arrest were higher for Black adults than White adults for every offense category, and between 1994 and 2013 the disparity gap increased for every drug offense category despite overall reductions in rates of arrest for drug offenses. The disparity gap in arrest rates was even higher for Black women. According to an April 2015 report from the Center on Juvenile and Criminal Justice, Black women in San Francisco were arrested at rates 13 times higher than women of other races.

Analysis of public SFPD arrest data from the California DOJ's Criminal Justice Statistics Center (CJSC) for the period 2005-2014 shows that 43 percent of all arrests during that period were of Black people. This roughly corresponds to the figures reported in an undated "Racial Profiling Assessment" presented to the Police Commission by the SFPD. The figure was even higher for juvenile arrests, where 52 percent of all juvenile arrests were of Black people under 18 years old. During the same period, the CJSC data shows that 44 percent of arrests were of White people (Hispanic people were included in this category) and 13 percent were of other races.

The SFPD's "Racial Profiling Assessment" also includes a summary of recent E585 data, which shows the following rates of traffic stops by racial group during the period 2011-2014: White (40 percent); Black (16 percent); Hispanic (14 percent); Asian (18 percent); and Other (12 percent). In February 2016, the SFPD published on its website the following rates of traffic stops by racial group for 2015: White (36 percent); Black (15 percent); Hispanic (13 percent); Asian (17 percent); and Other (19 percent). SFPD published the following rates for 2014: White (38 percent); Black (14 percent); Hispanic (13 percent); Asian (18.5

⁶⁹ Not On My Watch, S.F. Police Dep't, SFPD Confronts Prejudice with "Not On My Watch" Campaign, (2016), http://notonmywatchsfpd.org/sfpd-confronts-prejudice-with-not-on-my-watch-campaign/.

⁷⁰ Burns Instit. for Juvenile Justice Fairness & Equity, S.F. Justice Reinvestment Initiative: Racial & Ethnic Disparities Analysis for the Reentry Council: Summary of Key Findings (2013), http://www.burnsinstitute.org/wp-content/uploads/2013/12/JRI_SF-RED-Analysis-SUMMARY-of-FINDINGS.pdf.

⁷¹ Michael Males, Ctr. on Juvenile & Criminal Justice, San Francisco's Disproportionate Arrest of African American Women Persists (2015), http://www.cjcj.org/uploads/cjcj/documents/disproportionate_arrests_in_san_francisco.pdf.

⁷² CJSC statistics on arrests are available at https://oag.ca.gov/crime/cjsc/stats/arrests.

⁷³ The figures in SFPD's "Racial Profiling Assessment" were slightly higher, showing 47 percent of "all arrests" for the period 2009-2014 were of Black people. See Introduction at page 10 for more on the Panel's Public Records Act request to the SFPD.

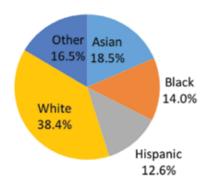
⁷⁴ The figures in SFPD's "Racial Profiling Assessment" were again higher, showing 62 percent of "all juvenile arrests" for the period 2009-2014 were of Black juveniles.

percent); and Other (16.5 percent).75 For context, 2014 census data shows that San Francisco's population is 41.2 percent White, 5.8 percent Black, 15.3 percent Hispanic, and 34.9 percent Asian.

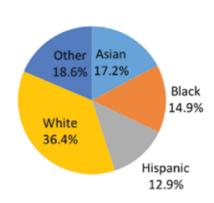
Experts, such as Dr. Fridell, have cautioned against drawing hard conclusions about biased policing when analyzing stop data based on census data alone and without an appropriate "benchmark" or comparison group.⁷⁶ According to Dr. Fridell, current best practices regarding data collection and analysis suggest it is easy to look at disparities in numbers but hard to parse out the causes of disparities.⁷⁷ One suggestion is to focus on the search "hit rate" (i.e., the rate at which searches turn up contraband). 18 If there is a lower hit rate for searches of one racial group compared to other racial groups, that suggests the police cast a "wider net" when it comes to that racial group (i.e., the police are performing searches of that racial group with lower levels of evidence). As discussed further below, given the complexity of conducting a meaningful analysis of stop data, other cities have engaged outside researchers and consultants to analyze their police departments' data.

Analysis of the SFPD's publicly available E585 data confirms the above percentages for 2014 and 2015.79

2014 Traffic Stops by Race



2015 Traffic Stops by Race



⁷⁵ Notably, the E585 data for 2014 included in SFPD's "Racial Profiling Assessment" differs from the traffic stop data recently released on SFPD's website, which shows a higher number of stops for all racial groups. S.F. Police Dep't, Data: Traffic Stops by Race and Ethnicity (2014-2015), http://sanfranciscopolice.org/index.aspx?page=5064. A possible explanation is that the figures on SFPD's website include "Crossroads" data, which is E585 data collected on mobile devices through a pilot project launched in 2013. See Max A. Cherney, Farewell Ticket Books: SFPD to Use Mobile Devices to Issue Tickets, File Collision Reports, S.F. Appeal (June 13, $2013), \\ \underline{\text{http://sfappeal.com/2013/06/farewell-ticket-books-sfpd-to-use-mobile-devices-to-issue-tickets-file-collision-reports/.} \\$ However, even accounting for the absence of Crossroads data in SFPD's "Racial Profiling Assessment," the data on SFPD's website still shows a slightly higher number of stops across all racial groups. A more recent (but still undated) version of SFPD's "Racial Profiling Assessment" includes revised figures for 2014 that conform to the figures published on SFPD's website, and also includes 2015 figures.

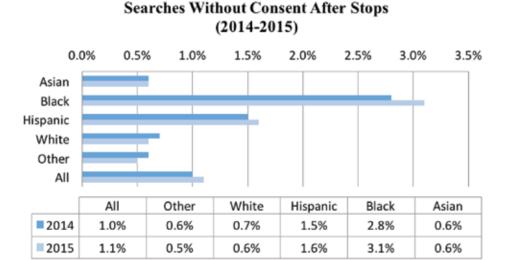
⁷⁶ Dr. Fridell has written extensively about the importance of benchmarking in analyzing stop data. See, e.g., Fridell, Fair & Impartial Policing, supra note 50, at 60 n.49.

⁷⁷ See also Liam Dillon, The Promise, and Problems, That Come with Police Data, Voice of San Diego (Jan. 17, 2014), http://www. voiceofsandiego.org/racial-profiling-2/the-promise-and-problems-that-come-with-police-data/.

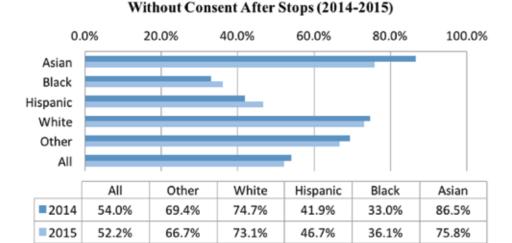
⁷⁸ Lorie Fridell, Police Exec. Research Forum, By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops 216-18 (2004), http://www.cops.usdoj.gov/html/cd_rom/Mayors72nd/pubs/ExecutiveSummaryBytheNumber.pdf.

⁷⁹ Publicly available E585 data for 2014 and 2015 were obtained from SFPD's Data website available at http://sanfranciscopolice.org/ data#trafficstops.

Further analysis of the data shows that Black and Hispanic people were more likely to be searched than any other group following a traffic stop. Of those stopped in 2015, searches were conducted on 1.1 percent of Asian people, 13.3 percent of Black people, 5.3 percent of Hispanic people, 1.7 percent of White people, and 1.3 percent of "Other" races/ethnicities. Black and Hispanic people also had the highest rates of searches without consent.⁸⁰ As a result, although Black people accounted for less than 15 percent of all stops in 2015, they accounted for over 42 percent of all non-consent searches following stops.⁸¹



Of all people searched without consent, Black and Hispanic people had the lowest "hit rates" (i.e., the lowest rate of contraband recovered). The disparities in search hit rates, shown in the chart below, suggest the SFPD performs non-consensual searches of Black and Hispanic people with lower levels of evidence than for other racial or ethnic groups. According to Dr. Fridell, "[a] lower hit rate for ethnic minorities is a red flag for bias."⁸²



Hit Rates for Searches

80 Excluded from searches without consent / non-consent searches are (1) searches as a result of probation of parole condition, (2) searches with consent, (3) searches incidental to arrest, and (4) vehicle inventories.

⁸¹ Hispanic people accounted for 19 percent of all non-consent searches in 2015, although Hispanic people accounted for 13 percent of all stops. By contrast, of all non-consent searches in 2015 Asian people accounted for 9.6 percent, White people 20.9 percent, and Other races/ethnicities 8.3 percent, although of all stops Asian people accounted for 17.2 percent, White people 36.4 percent, and Other races/ethnicities 18.6 percent.

⁸² Joaquin Palomino, *Racial Disparities in SF Traffic Searches Raise Concerns of Bias*, S.F. Chronicle (Apr. 8, 2016), http://www.sfchronicle.com/crime/article/Racial-disparities-in-SF-traffic-searches-raise-7235690.php.

For example, in 2014, officers recovered contraband only 33.0 percent of the time from Black people and 41.9 percent of the time from Hispanic people as a result of non-consent searches. On the other hand, officers recovered contraband 74.7 percent of the time from White people and 86.5 percent of the time from Asian people as a result of non-consent searches. Dr. Fridell stated that a similar finding by the San Francisco Chronicle "implies that when police search Whites and Asians, they're pretty darn sure they're going to find something" and the data suggests "there's a wider net being cast and a lower level of proof (required) before initiating a search of African Americans and Latinos." 83

The San Francisco Chronicle's analysis of searches with consent from 2013 to 2015 showed many of the searches conducted with consent were concentrated in the Bayview. It further found Black people were eight times more likely to be searched with consent than White people after traffic stops, and Hispanic people were searched with consent at almost four times the rate of White people.⁸⁴ However, the data on searches conducted with consent does not include data on how many requests for consent searches were declined.⁸⁵

Based on the reasons recorded for stops, Black people were the least likely of any racial group to be stopped for a moving violation in 2014 and 2015,86 and had a higher likelihood than any other racial group of being stopped and cited for mechanical or other nonmoving violations.87

3. Community members and others have experienced bias in SFPD stops, searches, and arrests of people of color.

Some SFPD officers have not followed the department's recommendations on preventing perceptions of biased policing. In December 2015, the Federal Public Defender's Office for the Northern District of California filed a discovery motion in a case involving arrests made during joint narcotics sweeps of the Tenderloin by SFPD officers and agents from the Drug Enforcement Administration in 2013 and 2014, referred to as "Operation Safe Schools." The motion cites numerous instances of SFPD officers using racial slurs, acting in a sexually inappropriate manner toward Black women, and committing acts of violence against Black people. Moreover, use of racially inappropriate language and conduct was documented in videos of Operation Safe Schools' investigations. All 37 defendants in the case are Black, even though the racial demographics of people who sell drugs in the Tenderloin are diverse.

Among some members of the public, there appears to be a perception of bias in SFPD stops, searches, and arrests regarding people of color, specifically Black and Latino people. Despite the SFPD's stated policy prohibiting biased policing, witnesses repeatedly attested that the SFPD exhibits bias when conducting stops, searches, and arrests. One community leader stated that "an antagonistic, biased culture pervades and is taught in the SFPD," and several others opined in substance that SFPD officers do not appear to

⁸³ Id.

⁸⁴ Id.

⁸⁵ Consent searches themselves have come under scrutiny for potentially leading to biased outcomes. See, e.g., ACLU of Illinois, Racial Disparity in Consent Searches and Dog Sniff Searches: An Analysis of Illinois Traffic Stop Data from 2013, http://www.aclu-il.org/racial-disparity-in-consent-searches-and-dog-sniff-searches/.

⁸⁶ The options for reasons for stops in the SFPD E585 forms include (1) moving violation, (2) mechanical or non-moving violation, (3) DUI check, (4) penal code violation, (5) MPC violation, (6) BOLO/APB/Warrant, (7) traffic collision, or (8) assistance to motorist. Of those stopped in 2014, the percentages stopped for moving violations were as follows: Whites (69.4 percent), Blacks (52.7 percent), Hispanics (59.7 percent), Asians (68.7 percent), and Other (77.7 percent). Of those stopped in 2015, the percentages stopped for moving violations were as follows: Whites (71.3 percent), Blacks (54.2 percent), Hispanics (62.0 percent), Asians (71.5 percent), and Other (80.5 percent).

⁸⁷ Of those stopped in 2014, the percentages stopped for mechanical or nonmoving violations were as follows: Whites (29.2 percent), Blacks (45.5 percent), Hispanics (37.1 percent), Asians (29.7 percent), and Other (20.5 percent). Of those stopped in 2015, the percentages stopped for mechanical or nonmoving violations were as follows: Whites (27.3 percent), Blacks (41.5 percent), Hispanics (35.0 percent), Asians (27.6 percent), and Other (18.3 percent).

⁸⁸ Mot. to Compel at 61-69, United States v. Mumphrey, No. 3:14-cr-00643-EMC (N.D. Cal. Dec. 2, 2015).

⁸⁹ Id. at 4.

⁹⁰ *Id.* at 13-22; see *also* Chris Roberts, *Operation "Safe from Black People,"* S.F. Weekly (Feb. 24, 2016), http://www.sfweekly.com/sanfrancisco/news-drugs-tenderloin-operation-safe-schools-sfpd-dea-black-lives-matter/Content?oid=4501559.

view Black and Latino people as human beings. These witnesses acknowledged that the perception of such bias is a national issue in police departments and is not limited to the SFPD.

A community member of color who interfaces with the SFPD as a city commission member and director of a community-based organization recalled a recent incident in which she was pulled over by SFPD officers after picking up her teenage son from a concert late at night. She said there was no reason for the officers to pull her over, but it is what she expects, and she could see the disappointment on the officers' faces when they saw she was an "old mom." She has also seen young drivers in neighborhoods with public housing being pulled over and fully searched by SFPD officers, rather than just being issued a ticket—her perception of the typical experience of drivers in more affluent neighborhoods.

Witnesses shared countless anecdotes regarding unwarranted stops, searches, and arrests of Black and Latino youth (e.g., for jaywalking), and disproportionate stops, searches, and arrests in minority neighborhoods such as Bayview-Hunters Point, Mission, Tenderloin, and Western Addition. One witness implied that stops, searches, and arrests are disproportionately based on race, regardless of neighborhood, sharing an example of a young Black Uber driver who was recently stopped and detained by SFPD officers for alleged marijuana possession while waiting for a passenger in a parked car in Noe Valley.

A sampling of anecdotes recounted by witnesses and victims of alleged bias includes the following.

- 1. A Black man was leaning against a car in the Tenderloin waiting for his girlfriend who commutes to a job in another city. An SFPD officer in an unmarked SUV questioned him by asking—"What are you doing? How much longer will you be waiting? Are you on probation or parole?" The man walked away, but the officer told him to stop, tackled him, and found drugs on him. The police report acknowledged the officer did not see anything illegal but stated the man appeared nervous and refused to remove his hands from his pocket, so he was searched and arrested for officer safety. The key to the girlfriend's car was booked as evidence. Without the key, the girlfriend could not easily get to her job.
- 2. A young Black man claimed that he felt violated when he was inappropriately groped near Howard and Market Streets by an SFPD officer who claimed he was looking for drugs and a gun.
- 3. SFPD officers told a Black woman to "shut up" and threatened to arrest her when she questioned the officers while they were interviewing her child about an incident.
- 4. SFPD officers mistakenly believed that residents of a half-way house were breaking and entering—the Black suspects were handcuffed and placed in a patrol car, while the White residents stood nearby and were calmly questioned by police officers.
- 5. A Black San Francisco Municipal Transportation Agency driver was wrongfully stopped and detained after SFPD's Automatic License Plate Reader misread her license plate and indicated to the SFPD officer her vehicle was stolen. The officer, who was Asian, engaged in a high-risk stop: he ordered the victim from her car at gunpoint, and detained and questioned her. The witness strongly believes race was at play in the situation.⁹¹

These anecdotes were not limited to the Black community. Other witnesses say they have observed bias related to Latinos, stating SFPD officers assume they are gang members and/or undocumented. These witnesses said SFPD officers sometimes identify a group of friends as a "gang" because they happen to live in a particular area. According to witnesses, Latinos in those neighborhoods experience harassment by SFPD officers, such as being stopped and searched for no apparent reason.

A recent letter from the Racial Justice Committee of the San Francisco Public Defenders Office to the Board of Supervisors cited "a March 2015 tape-recording of a [SFPD] Gang Task Force sergeant talking to Bayview officers about how to file gang charges against a group of black men who had been rounded up

⁹¹ This incident was the subject of a case that was settled in October 2015 for \$495,000 after the district court's grant of summary judgment to the officer was reversed on appeal. See *Green v. City & Cnty. of S.F.*, 751 F.3d 1039 (9th Cir. 2014).

[and detained] en masse, without reasonable suspicion or probable cause."92 According to the letter, the sergeant told arresting officers to put gang charges on one of the men, who he did not know to be a gang member, in order to "hold him in custody" and because "he's up there with all of them." In addition to the incident cited in this letter, San Francisco and federal public defenders observed that some of their clients of color have been stopped and searched based on questionable or limited information (e.g., suspect was a Black male wearing a hoodie).

According to Community United Against Violence (CUAV), a nonprofit that works with transgender people in the city, the organization gets at least one complaint every week from LGBT people who say they have been harassed or wrongfully arrested by SFPD officers.⁹³ A CUAV representative observed that bias by the SFPD plays out in two primary ways.

- 1. First, many of CUAV's members have encountered verbal abuse and other "non-courteous behavior" from the police.
- 2. Second, many members have complained the police failed to respond adequately to emergency calls because of bias. For instance, in the situation of an officer responding to a domestic-violence incident involving a transgender female, the officer may use insults or "mis-gender" (e.g., refer to the transgender woman as "he"). The officer may respond to the call insufficiently, such as refusing to treat it as a domestic-violence complaint and instead viewing it as just "two men fighting" or arresting both parties. The officer may also not take the call seriously and fail to take action.

According to a SFPD officer assigned to the Tenderloin district, the SFPD does not engage in racially biased stops, searches, or arrests. He pointed out the high percentage of minorities in the neighborhood he patrols as a reason officers in his district might stop a high proportion of minorities. Another SFPD officer disagreed and explained the department has a culture of "arrest everyone, take everyone to jail, [and] take names later," because the department values officers who bring in the most arrests. The officer, who is Black, further stated, "the racist culture is deeply rooted and goes back years and years." That officer relayed the story of SFPD officer Lorenzo Adamson, a Black off-duty officer who was stopped by White officers in Bayview. Instead of asking for his license and registration, the off-duty officer was asked, "Are you on probation or parole?" The officer recounting this story also shared that when officers make pretextual stops of Black men and release them, they think that "at least he is in the system now, so when he commits that crime, we got him." The officer further stated that police interactions differ by neighborhood, sharing that police in some neighborhoods stop individuals who may not match a suspect's description. He explained: "I don't like to do the race thing, but it's real. If a suspect description is an unknown male, or even Black male, officers may stop someone that really doesn't fit the description at all; you shouldn't stop a white Honda when the description is a green Chevy."

4. Community members have expressed concern that the SFPD does not engage in community policing.

Witnesses consistently stated that the SFPD engages in aggressive policing practices rather than community policing. Some witnesses described SFPD as an "occupying force" in Bayview-Hunters Point—"warriors" as opposed to "guardians." A former SFPD officer stated the department often engaged in a more aggressive approach to policing, despite claims it provides a community-policing approach. In 2014, the San Francisco National Association for the Advancement of Colored People (NAACP) submitted a best practices plan to the SFPD and the Police Commission (SF NAACP Three-Point Plan), which recommended

⁹² Letter from Racial Justice Committee to San Francisco Board of Supervisors (May 3, 2016).

⁹³ Hemmelgarn, SF Supes Address Trans Concerns on Police, supra note 53.

⁹⁴ Vivian Ho, S.F. Cop Says He Was Racially Profiled, SFGate (June 4, 2013), http://www.sfgate.com/crime/article/S-F-cop-says-he-was-racially-profiled-4576864.php.

⁹⁵ Witnesses did not offer a unified definition of community policing, but reduced officer turnover, increased foot and bike patrols, and proactive coordination between SFPD and community leaders were cited as examples.

(1) sensitivity training, (2) community policing, and (3) aggressive recruitment of Black personnel.

A current SFPD officer stated some neighborhoods, such as the Bayview district, have higher crime rates and are policed more aggressively as a result. He contrasted the number of "criminals" in the Bayview district with the Richmond district, Sunset district, Pacific Heights, and Chinatown, and stated disparities in the SFPD's policing styles in different neighborhoods can be explained by varying crime statistics for those neighborhoods.

The following anecdotes are a sampling of those shared by witnesses and other community members regarding a perceived lack of community policing.

- 1. A witness stated SFPD officers routinely damage property or take personal items belonging to suspects of color (e.g., by towing cars and booking bike messengers' bikes). These items can be difficult to retrieve, and their confiscation by the SFPD creates "huge economic burdens on people who are already struggling to make it."
- 2. Witnesses stated SFPD officers routinely antagonize youth of color. For instance, a member of SFPD's Gang Task Force was "egging on" a 13-year old in the Bayview (e.g., "Did you see what so and so said about you on Instagram? Are you going to let him get away with that?"). This conversation occurred prior to the 13-year old shooting another child.
- 3. Another witness observed that SFPD officers at Northern Station know nothing about the churches in the community and typically are not residents of the community.

The department has recently made some efforts in this regard. The "Not On My Watch" campaign recently launched by former Chief Suhr is "aimed at rooting out potential bigotry and intolerance among San Francisco police officers by promoting diversity in recruitment, bias training, community involvement and a first-of-its-kind pledge that department officers have been making."96 According to the SFPD, it is aggressively recruiting police officers from a variety of cultural backgrounds to help the department reflect the city's demographic makeup, including recruiting in the city's multicultural neighborhoods. 97 The SFPD currently has a cadet program through which it has provided more than 1,400 jobs to young people, mainly in communities of color. 99 According to former Chief Suhr, the current Police Academy class has nine Black recruits out of 50, which he described as a "huge" increase.

A number of witnesses expressed their belief that community policing can have a positive impact on community-police relations. A community member engaged in community-policing efforts stated that some of the SFPD officers involved in the efforts have expressed that the young people they interact with changed. She pointed out that it is not the kids who changed, but the officers' perspective. A current SFPD officer who has focused on building trust with the community he serves stated community members inform him of crimes because of the relationships he has created. A Black SFPD member opined, however, that the department has no respect for community policing. He stated community policing is only starting to be implemented because of national media coverage on policing, saying "the department is being forced to pretend to at least put policies in place to say that we're doing something because it's in the limelight. There's resentment from everybody I speak to—they don't want change to occur."

5. The SFPD may use confrontational and intrusive policing tactics in certain neighborhoods.

Several witnesses reported aggressive policing in neighborhoods with large concentrations of Black and Latino residents, including the Western Addition, Tenderloin, Bayview/Hunters Point, Mission, and Excelsior. For example, in the Tenderloin, certain officers—"always the same ones"—would enter single-occupancy hotel rooms by obtaining a key from hotel management and later falsely claiming that they had the occupant's consent to search. In the Mission, one officer was known to pick up gang members wearing

⁹⁶ SFPD Confronts Prejudice with "Not On My Watch" Campaign, supra note 69.

 $^{97 \ \ \}text{Although as demonstrated in Chapter 2: Personnel, the data do not necessarily support this assertion.}$

⁹⁸ San Francisco Police Cadet Program, S.F. Police Dep't, http://www.sf-police.org/index.aspx?page=1654.

⁹⁹ For more on SFPD hiring, see Chapter 2: Personnel.

their gang color, drive them to a rival gang's territory, and leave them. Further, youth of color in these areas were reportedly often put into the juvenile justice system for possession of marijuana while White youth received only a warning. This approach to policing has led many members of the community to view the police with mistrust, and community members are therefore reluctant to aid police investigations.

A current city official stated that youth in certain neighborhoods may also be misunderstood simply because of cultural differences, which create additional challenges. The official recounted a situation in which a Black teenager in conversation with an officer was getting very animated, and the officer started getting jumpy. The officer didn't draw his weapon, but the official was unnerved, sensing that the tension exhibited by the officer made everyone else more uncomfortable. The city official told this story as an example of a "cultural disconnect" with officers who did not grow up around Black communities, and/or have not been around poor people.

A commissioner expressed concern about the department's use of the Ingleside, Bayview, and Tenderloin districts as new officer training grounds. This practice requires new officers to enter unfamiliar neighborhoods and this may have an adverse impact on those communities; their inexperience may contribute to biased policing. A community leader echoed this view, stating that there is high officer turnover at the Northern and Bayview Stations, but not at, for example, Haight-Ashbury or Financial District-area stations. According to this leader, the SFPD assigns "neophytes" to stations at Bayview and Northern Station to "give them an exercise in ticket writing and stopping Black folks." Police officers working at the Northern and Bayview-Hunters Point Stations, according to this witness, do not see African-Americans "as humans" and seem to "protect against African-Americans." He stated that these are some of the reasons why these communities have conflicts with the SFPD. A retired Officers for Justice (OFJ) officer who has remained active with the police independently confirmed this view, stating that the SFPD uses Black neighborhoods as training locations to train recruits in aggressive policing techniques. These practices further reduce trust between SFPD officers and the Black community.

6. The SFPD's current traffic stop data collection program is outdated and inconsistent.

Although the contents of the E585 form represented "good practice" when it was developed in 2001, it was outdated soon thereafter. Dr. Fridell flagged this issue in her March 2007 report, but the E585 form still does not appear to have been updated to collect additional information beyond the limited categories included when it was developed. Moreover, other cities, such as Oakland, have broader stop data collection requirements that apply to all stops, not just traffic stops.

7. A recently passed city ordinance requires data collection for all encounters and regular analysis and reporting of data.

Ordinance No. 166-15, approved in September 2015 and described above, expands the SFPD's data collection requirements to all encounters, and mandates regular reporting and analysis of the data. It also requires the SFPD to track and report complaints of bias filed with the OCC. Full compliance with the reporting requirements is not due until June 2017, and it is unclear when the SFPD will begin to collect the underlying data required by the ordinance.

¹⁰⁰ See Fridell, Fair & Impartial Policing, supra note 50, at 72.

¹⁰¹ See S.F. Police Dep't Bulletin No. 14-059 (Mar. 3, 2014).

8. The SFPD has not consistently collected traffic stop data.

Despite the SFPD's policy requiring collection of traffic stop data, compliance with the policy has been lacking. In her 2007 report, Dr. Fridell noted that court records from 2005 indicated that SFPD issued 111,000 traffic citations for moving violations, but only 70,000 traffic stops were reported through E585 forms that year. This is despite the fact that there should be more E585 forms than citations because E585 forms are supposed to be submitted for all stops including those that do not result in citations. Dr. Fridell found that "there was no consistent system to facilitate officer compliance." 102

It does not appear as though the SFPD has made much progress on this issue. In 2014, during the investigation of a complaint involving a traffic stop, OCC investigators found evidence¹⁰³ suggesting that officers in a specialized SFPD unit failed to record traffic stop data for 76 percent of the vehicle stops they made.¹⁰⁴ While failure to collect traffic stop data generally accounts for about a third of all sustained OCC complaints, it appears that only a fraction of such failures are discovered, as such policy violations only accounted for 15 of the 58 OCC cases with sustained findings (26 percent) in 2014, and only 15 of 43 OCC cases with sustained findings (35 percent) in 2013.¹⁰⁵ The small number of sustained complaints clearly reflects only a small fraction of all traffic stops. OCC Executive Director Joyce Hicks stated in the media that the number of missing entries of stop data is likely much higher, noting they can only identify the failure to collect traffic stop data when an individual complains about a traffic stop and the OCC cannot find a record of it.¹⁰⁶

Former Chief Suhr imposed a system of "progressive discipline" for officers who repeatedly failed to collect E585 data. ¹⁰⁷ That is, consistent failures to enter data resulted in increasingly severe punishments, starting with an admonishment (which is not considered punishment), then a one-day suspension, then a five-day suspension, and then a 10-day suspension. The former Chief used the threat of sending the case to the Police Commission as a deterrent. According to the Police Commission's Veronese Reports, which give skeletal information about discipline cases the Police Commission hears, the Police Commission has heard only one case involving failure to collect traffic stop data in the past five years, and that case originated in the OCC. ¹⁰⁸

9. The requirements of the SFPD's current traffic stop data collection program are unclear.

SFPD officers and OCC investigators have found the language of DB 14-059 confusing, but the department does not appear to have issued any revised department bulletins to clarify the requirements of its traffic stop data collection program. DB 14-059 itself was adopted in March 2014 to specifically include pedestrians stopped for moving violations in the E585 data collection program. However, in response to a May 2014 OCC complaint that an officer failed to collect E585 data, the officer stated that it was difficult to understand whether traffic stop data should be collected when stopping someone who is not in a vehicle, such as a pedestrian cited for jaywalking, because DB 14-059 specifically states that entries

¹⁰² Fridell, Fair & Impartial Policing, supra note 50, at 6.

¹⁰³ See Chapter 5: External Oversight for more detail on OCC findings related to the failure to collect traffic stop data.

¹⁰⁴ Office of Citizen Complaints, City & Cnty. of S.F., 2014 Annual Report, App'x A at 60 (May 13, 2015), http://sfgov.org/occ/sites/default/files/OCC_2014.pdf [hereinafter OCC 2014 Annual Report]. The unit's supervising officer "stated that he was unable to access the E585 entries made by the officers he supervised and thus could not determine whether the officers were complying with department requirements concerning traffic stop data collection." *Id.*

¹⁰⁵ Id. at 22.

¹⁰⁶ Joaquin Palomino, SFPD Traffic Stop Data Show Signs of Gaps, S.F. Chronicle (Apr. 8, 2016), http://www.sfchronicle.com/crime/article/SFPD-traffic-stop-data-show-signs-of-gaps-7235674.php.

¹⁰⁷ See, e.g., OCC 2014 Annual Report, supra note 104, at 22.

¹⁰⁸ S.F. Police Comm'n, Report of Disciplinacy Actions (2012), No. IVF C12-035, http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission-DisciplinaryActions-2012.pdf.

¹⁰⁹ OCC 2014 Annual Report, supra note 104, at 24 n.11. The previous version, DB 13-091, was adopted in May 2013 to include bicycles stopped for moving violations in the E585 data collection program, after former Chief Suhr disagreed with the OCC's sustained finding of an officer's failure to collect E585 data while conducting a traffic stop of a bicyclist. Former Chief Suhr found a "Policy Failure" because SFPD's data collection policy (then DB 11-097) specifically referred to vehicles, not bicycles, and the officer was not disciplined. Id.

are to be made for "vehicle stops." The OCC found this explanation reasonable in light of DB 14-059's "confusing language," which it recommended the department revise in its April 2015 findings. Just a few months later, in July 2015, the OCC made the same recommendation following its investigation of a January 2015 OCC complaint, when an officer provided the same explanation for failing to collect E585 data. Despite these recommendations, the department did not provide any revised department bulletins on traffic stop data collection.

10. The SFPD has not regularly analyzed its stop data.

The Panel found only one SFPD analysis of its stop data, in the "Racial Profiling Assessment" discussed above, which contained a summary of traffic stops by race for the period 2011-2014. The Panel initially did not find publicly available sources of the SFPD's E585 data, and was only able to obtain E585 data for the period 2010-2015 after submitting a request for the data underlying the "Racial Profiling Assessment" presentation. The presentation also included a summary of arrest data for the period 2009-2014, but the SFPD did not provide the underlying arrest data in response to a public records request. Following the Panel's request, the SFPD has started to post its annual E585 data on its website as part of the White House Police Data Initiative. The SFPD website currently displays data for 2014 and 2015. 113

Other cities have engaged outside researchers and consultants to analyze their police departments' stop data. Los Angeles engaged a consulting firm to analyze its police department's pedestrian and vehicle stop data to determine whether there was evidence of racially biased policing. 114 San Jose set aside \$125,000 for a consultant to conduct an independent analysis of its police department's traffic stop data. Oakland hired Dr. Jennifer Eberhardt of Stanford University to go over its police department's stop data. Dr. Eberhardt's team is using the data to determine why there are racial disparities in Oakland, where 59 percent of all stops carried out by the Oakland Police Department (OPD) from April 2013 to October 2014 were of Black people, who only make up 28 percent of Oakland's population. 116 The team has also been given access to OPD officers' BWC footage.

Oakland has a database with reports on a given officer's civilian interactions going back years—including the race of the suspect, the location of the stop, whether there was a search, and whether anything was found—as well as thousands of hours of BWC footage. The database is designed to automatically scan an officer's records for red flags regarding implicit bias. San Jose will soon implement a system that can recover data on any police stop "in 90 seconds or less." A former chief of police of another city noted

¹¹⁰ Office of Citizen Complaints, City & Cnty. of S.F., Quarterly Reports, Second Quarter 2015, App'x at 9 (Sept. 9, 2015), http://sfgov.org/occ/sites/default/files/OCC_2015.pdf [hereinafter OCC 2nd Quarter 2015 Report]; see also Office of Citizen Complaints, City & Cnty. of S.F., Complaint Summary Report 91 (2015), http://sfgov.org/occ/sites/default/files/OCC_04_15 openness.pdf.

¹¹¹ Office of Citizen Complaints, City & Cnty. of S.F., Complaint Summary Report 102 (2015), http://sfgov.org/occ/sites/default/files/OCC_07_15 openness.pdf.

¹¹² In response to a public records request by the working group, SFPD produced what appears to be a more recent (but still undated) version of the "Racial Profiling Assessment." It has an additional summary of traffic stops by race for 2015, and the 2014 figures are substantially different from the figures in the earlier version (showing a higher number of stops for each racial category, lower percentages of stops of Blacks and Hispanics, and a higher percentage of stops of Whites). Only the 2014 version is available on the SFPD's website: S.F. Police Dep't, Racial Profiling Assessment: Arrests & Traffic Stops, http://sanfranciscopolice.org/sites/default/files/Final.pdf.

¹¹³ S.F. Police Dep't, Data, supra note 35.

¹¹⁴ Analysis Group, Inc., Pedestrian & Motor Vehicle Post-Stop Data Analysis Report (2006), http://www.analysisgroup.com/uploadedfiles/content/insights/cases/lapd_data_analysis_report_07-5-06.pdf.

¹¹⁵ Tracy Kaplan, Robert Salonga, & Leigh Poitinger, SJPD Data Show San Jose Cops Detained Greater Percentage of Blacks, Latinos, Mercury News (May 9, 2015), http://www.mercurynews.com/crime-courts/ci_28084891/sjpd-data-show-san-jose-cops-detained-greater.

¹¹⁶ Darwin BondGraham & Ali Winston, *OPD Still Appears to Be Targeting Blacks*, East Bay Express (Feb. 4, 2015), http://www.eastbayexpress.com/oakland/opd-still-appears-to-be-targeting-blacks/Content?oid=4185368.

¹¹⁷ Adam Brinklow, San Francisco Dangerously Behind the Times on Police Oversight, S.F. Weekly (Jan. 21, 2016), http://www.sfweekly.com/thesnitch/2016/01/21/san-francisco-dangerously-behind-the-times-on-police-oversight.

¹¹⁸ Id.

that many progressive law enforcement agencies are using IA-Pro software that includes plugins such as Blue Team, which allows commanding officers to set flags for officers (e.g., an unusually high number of discourtesy complaints, use-of-force complaints, or traffic stops).

11. The SFPD has failed to report the number of Hispanic arrestees to the California Department of Justice.

While the arrest data reported in the SFPD's "Racial Profiling Assessment" included five racial categories, ¹¹⁹ the arrest data the SFPD reported to the California DOJ only included three racial categories: Black, White, and Other. Although there is a separate category for "Hispanic" in the CJSC arrest data, the SFPD reported only one arrest of a Hispanic person for the period 2005-2014. Instead, it appears that the SFPD classifies Hispanic arrestees as "White." SFPD has thus failed to report the number of Hispanic arrestees and inflated the number of White arrestees for the CJSC data.

According to SFPD's Chief Information Officer, Susan Merritt, the department is required to report its arrest data in accordance with the racial categories set by the Office of Management and Budget, which does not include "Hispanic." Other police departments—including those in Oakland, Los Angeles, and San Jose—report the number of Hispanic arrestees to the California DOJ.

12. The department's 849(b) release forms do not include demographic information and are kept only in hard copy.

California Penal Code section 849(b) authorizes officers to release persons arrested without a warrant because of, among other reasons, insufficient grounds for making a criminal complaint against the person. SFPD is legally required to provide a record of release for persons released pursuant to Section 849(b). The Panel was able to obtain a copy of a blank 849(b) form, which officers are required to complete when releasing such persons. The form does not include any demographic information, and completed forms are kept only in hard copy.

Former Chief Suhr said the department will modify its 849(b) form to require demographic information, such as race. According to Director Merritt, the department plans to launch a pilot program next year to allow officers to enter 849(b) information on a smartphone app. 122 if the department gets funding.

13. Field interview cards include demographic information and are maintained electronically.

FI cards are supposed to be entered into the department's mainframe Computer Assisted Bay Area Law Enforcement (CABLE) system and pulled into its Crime Data Warehouse, although Director Merritt doubted that the cards are consistently entered. Information from the cards is theoretically used in solving subsequent crimes, but the department does not compile or analyze the demographic information they contain. According to Director Merritt, the department also plans to launch a pilot program next year to allow officers to complete FI cards on a smartphone app, subject to available funding.

14. Body-worn cameras are predicted to reduce the number of citizen complaints and use-offorce incidents.

Interviewees generally agreed BWCs will be beneficial for SFPD officers and the public, and believe both groups will behave better if they are being recorded. Some interviewees think BWCs also will help curb bias in stops, searches, and arrests. For example, a public defender in San Francisco stated that "a police officer wearing a camera knows his voice and conduct is being filmed and will behave as if on camera

¹¹⁹ The categories are: Black, White Hispanic, White Non-Hispanic, Asian, and American Indian/Alaskan Native/Aleut/Pacific Islander.

¹²⁰ See Shoshana Walter, SF Police Underreport Arrest Rates for Latinos, Asians, S.F. Chronicle (Aug. 15, 2012), http://www.sfgate.com/bayarea/article/SFPD-underreports-Latino-Asian-arrests-3788809.php.

¹²¹ Director Merritt explained that "Hispanic" is not considered a race, but rather an ethnicity.

¹²² SFPD implemented department-issued smartphones in 2013.

and this provides a curb to bias." One SFPD officer expressed his view that BWCs will likely result in fewer citizen complaints. Another SFPD officer said that BWCs will show the public what officers face on a daily basis. In Rialto, California, the police department saw a 60 percent reduction in officer use-of-force incidents and an 88 percent reduction in citizen complaints after launching a BWC pilot program. 123

One of the BWC policy working group members stated that while BWCs might highlight more incidents of bias, they will not necessarily address the issue of bias in stops, searches, and arrests. She feels that for the SFPD to make progress in addressing bias there must be more people in the department who think change is needed. She noted there is currently a lot of video footage of use-of-force incidents, but the problems persist, and she cited the case of Eric Garner as an example.

15. Body-worn camera footage will be used as evidence in legal and administrative proceedings.

The BWC policy states it will help preserve evidence for use in criminal and administrative investigations (including disciplinary cases), civil litigation, officer performance evaluations, and to review police procedures and tactics as appropriate. Interviewees indicated that BWCs in other jurisdictions, such as Oakland, have provided evidentiary value in both internal investigation affairs and criminal matters. For example, an interviewee said that OPD has video footage of almost every complaint, which can be reviewed during internal investigations. In the past, there was insufficient evidence to prove or disprove allegations in internal investigations, but BWCs have filled in that evidentiary gap. Rank-and-file police officers in Oakland initially doubted the use of BWCs, but according to former Oakland Chief of Police Sean Whent, 124 BWC footage has supported the officers almost every time.

SFPD and POA members were disproportionately represented on the body-worn camera policy working group.

Some members of the public expressed their view that the BWC policy working group included a disproportionately high number of police officers and low number of community representatives. Half of the BWC policy working group members were SFPD representatives, including a representative from every minority officer association, which are under the umbrella of the POA.¹²⁵ The San Francisco Public Defender's Office was not initially included in the working group and had to petition to be included in the drafting process. Some members of the working group suggested that the DA's Office should have been included in the working group as well. A few interviewees felt that the POA had too much influence on the working group.

17. Members of the body-worn camera policy working group disagreed over the issue of officer review of footage.

According to members of the BWC policy working group, the initial draft policy was put together by the SFPD using policies from other jurisdictions, such as Oakland. The working group then proceeded by noting where they agreed or disagreed with the initial draft policy.

The BWC policy working group members largely agreed on the contents of the draft policy, but there was disagreement regarding when officers should be allowed to review BWC footage before giving a statement or writing a report. According to interviewees, some of the officer representatives thought that officers should be allowed to review BWC footage in all circumstances. Some members of the working group

¹²³ William Farrar, Operation Candid Camera: Rialto Police Department's Body-Worn Camera Experiment, Police Chief Mag. (Jan. 25, 2014), http://nationaluasi.com/dru/Operation-Candid-Camera-Rialto-Police-Department%E2%80%99s-Body-Worn-Camera-Experiment-012514.

¹²⁴ Whent resigned as Oakland Chief of Police in June 2016. See Rachel Swan, Sean Whent Is Out As Chief of Police, S.F. Chronicle (Jun. 10, 2016), http://www.sfgate.com/bayarea/article/Sean-Whent-is-out-as-Oakland-police-chief-7974600.php.

¹²⁵ None of the SFPD representatives on the BWC policy working group accepted interview requests.

supported allowing officers to review BWC footage after giving an initial statement, and then submitting a supplemental statement.

The draft policy presented to the Police Commission initially prohibited officer review if the officer "is the subject of the investigation in any of the following circumstances that were captured by the BWC": (1) an officer-involved shooting or in-custody death, (2) criminal investigation, or (3) at the discretion of the Chief of Police or his or her designee. The draft BWC policy approved by the Police Commission in December 2015 retained these carve-out circumstances and added another provision that permitted officer review even in the first two circumstances at the discretion of the Chief of Police or his or her designee.

During the meet and confer process, the draft policy was modified to allow officer review "[f]ollowing any (1) officer-involved shooting, (2) in-custody death, or (3) criminal matter," but only if the officer provides an initial statement before reviewing the recording. The policy provides that the initial statement "shall briefly summarize the actions that the officer was engaged in, the actions that required the use of force, and the officer's response." After giving an initial statement, the officer "shall have an opportunity to review any audio or video recordings depicting the incident with his or her representative or attorney prior to being subject to an interview." The Chief's discretion to permit or prohibit officer review was removed from the policy.

One Police Commissioner expressed concern regarding the lack of clarity regarding the parameters of an officer's initial statement, and another expressed concern about the lack of officer questioning. ¹²⁷ The ACLU position is that officers should be required to make a full and complete statement before viewing BWC footage and then make a supplemental statement, if necessary. The Police Commission will review the BWC policy six months after its implementation and decide if it needs to be revised.

18. The Risk Management Office will monitor compliance with the body-worn camera policy.

A current Police Commissioner predicted that the biggest challenge with the BWC policy will be monitoring SFPD officer compliance with the policy. He noted that other cities where BWC policies have been implemented have seen low compliance rates. The BWC policy provides that the SFPD Risk Management Office is the BWC program administrator, and its duties include conducting periodic and random audits of BWC recordings for SFPD members' compliance with the policy.

19. There is anecdotal evidence that some members of the SFPD engage in stop-and-frisk detentions, contrary to official SFPD policy.

According to the SFPD, the department does not practice stop-and-frisk detentions. The department's official protocol is to conduct pat-checks only to ensure a police officer's safety. Some witnesses expressed the view that SFPD employs unlawful stop-and-frisk practices that lead to racial profiling and disproportionately impact people of color, particularly Black and Latino males. For example, San Francisco Public Defender Jeff Adachi opined "[B]lack and Latino men in San Francisco are subject to unjustified searches all the time." Another San Francisco public defender said Black males report being subjected to a SFPD practice referred to as "hop outs," which usually involve three undercover officers who all "hop out" of a car simultaneously and then triangulate and frisk the surrounded person for no apparent reason. Federal public defenders recounted hearing similar experiences from their clients, including Black and Latino people.

¹²⁶ S.F. Police Comm'n, Body Worn Cameras Policy (2016), http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission060116-RevisedDraftBWCPolicy052716.pdf.

¹²⁷ Lamb, Police Commission Approves Body Cameras, supra note 56.

¹²⁸ Julia Carrie Wong, Lyrical Bust: Rap Video Turns Into Crime Scene When Cops Allegedly Stop and Frisk Musician, S.F. Weekly (Mar. 25, 2015), http://www.sfweekly.com/sanfrancisco/san-francisco-sucka-free-city-julia-carrie-wong-yung-lott-music-video-raid-sfpd/Content?oid=3495278.

Other anecdotal examples include the following.

- A college-bound, Black Mission High School student reported having been stopped by an SFPD
 officer—who went through his pockets—for no apparent reason. When he asked why he had been
 stopped, he was told to "be respectful" by the officer in a way he perceived as threatening. A Black,
 male Thurgood Marshall High School student also reported being stopped for no reason by an SFPD
 officer who went through his pockets and confiscated his cell phone.
- In 2015, Samuel Sinyangwe, a data scientist and policy expert on the Campaign Zero planning team, described his experiences living in the Tenderloin neighborhood: "You routinely see people getting stopped by police and frisked in some instances for just standing on the sidewalk." He further stated, "[w]hen you see these practices happening, it targets people who are low-income, Black, and homeless." Former Chief Suhr, however, stated Tenderloin officers are mostly responding to neighborhood residents' complaints, and officers do not intentionally target low-income people of color.
- In 2015, the SFPD detained and searched 20 Black men during filming for a rap video at a Bayview playground. Footage was captured of the incident. Officer Albie Esparza, stated the searches were justified and "not a stop and frisk," because police spotted a Black male wearing a black hoodie with a loaded gun walking into the crowd and needed to search everyone else for officer safety. On the other hand, Public Defender Adachi stated there was no excuse for "a wholesale search," noting officers need a "specific, articulable reason" to search any individual.¹³⁰

A lack of data makes it impossible to conclusively confirm or refute these witnesses' allegations regarding SFPD's alleged use of stop-and-frisk tactics. Data are not consistently collected, compiled, or analyzed regarding stop-and-frisk incidents to permit a statistical analysis regarding the prevalence of such practices. As discussed above, hard copy 849(b) forms are to be completed when a person is stopped or detained, but this information is not electronically maintained and the forms do not include demographic information. Officers may complete FI cards after questioning someone, but information from these cards is not consistently entered.

Mayor Lee considered and ultimately abandoned implementing a policy allowing stop-and-frisk detentions in San Francisco. Former Chief Suhr reportedly provided a "tepid" response regarding the proposal, and stated he thought "all the detentions in San Francisco should be based on reasonable suspicion." Many San Francisco residents expressed disapproval of the proposal, noting concerns about racial profiling. For example, the Black Young Democrats of San Francisco rallied against it, and a majority of San Francisco Supervisors passed a resolution opposing the idea. 133

¹²⁹ Vivian Ho, SFPD Has Head Start on Activists' Race Reforms, SFGate (Aug. 30, 2015), http://www.sfgate.com/crime/article/SFPD-has-head-start-on-activists-race-reforms-6474891.php.

¹³⁰ Wong, Lyrical Bust: Rap Video Turns Into Crime Scene When Cops Allegedly Stop and Frisk Musician, supra note 128; Henry K. Lee, Suit Says S.F. Police Harassed Men in Raid During Rap Video Shoot, SFGate (May 14, 2015), https://www.sfgate.com/crime/article/Lawsuit-filed-over-raid-of-rap-video-by-San-6262504.php.

¹³¹ Demian Bulwa & Vivian Ho, Few Back Stop-and-Frisk Idea in Violent S.F. Area, SFGate (June 30, 2014), http://www.sfgate.com/crime/article/Few-back-stop-and-frisk-idea-in-violent-S-F-area-3671588.php; see also John Coté & Heather Knight, Stop-and-Frisk Policy Might Cut Violence, Ed Lee Says, SFGate (June 27, 2012), http://www.sfgate.com/bayarea/article/Stop-and-frisk-policy-might-cut-violence-Ed-Lee-3668653.php (noting former Chief Suhr stated once the Mayor "hears the downside of this and how it was not well received in New York or Philadelphia or by law enforcement in general, he'll see that's not the best way to do business here").

¹³² Bulwa & Ho, Few Back Stop-and-Frisk Idea in Violent S.F. Area, supra note 131.

¹³³ Fenit Nirappil, San Francisco Mayor Ends Stop-Frisk Consideration, Associated Press (Aug. 7, 2012), http://thegrio.com/2012/08/07/san-francisco-Mayor-ends-stop-frisk-consideration/.

Recommendations

The SFPD should engage in community policing and community outreach.

San Francisco community leaders, current and former SFPD officers, and public defenders all recommended consistent community policing. Community policing was also recommended in the SF NAACP Three-Point Plan, which provided that to counteract the public's perception of bias, SFPD should (1) engage in more foot patrols (as opposed to vehicle patrols), especially in minority neighborhoods; (2) interact more with communities in non-crisis situations; and (3) incentivize officers to form relationships with leaders and members of the communities they police.¹³⁴

For example, one community leader observed that SFPD presence in the Fillmore/Western Addition area was mainly via vehicle patrol and that foot patrols are now rare. He recalled a time when police officers would interact with the community at events and suggested that this non-crisis interaction is key to improving relations between the community and SFPD. On the other hand, one SFPD officer from the Tenderloin station stated that officers do interact with community members, including playing basketball with children in the communities they patrol.

SFPD recently created a Bureau of Professional Standards and Principled Policing to focus on community-oriented policing. The new bureau is intended to implement the upcoming recommendations of the DOJ's Office of Community Oriented Policing Services, which launched a collaborative review of the SFPD in February 2016. The bureau was to have been led by Interim Chief Chaplin under former Chief Suhr—as of this report's print date, Interim Chief Chaplin had named Deputy Chief Garret Tom to direct the bureau. Prioritizing the leadership and development of this bureau would be a positive step toward building community trust.

A current SFPD officer stated that "the department is being forced to pretend to at least put policies in place" because of national media coverage on policing, but other officers he speaks to do not want the change to occur. Given this possibility, the SFPD should follow a former Police Commissioner's recommendation to measure community-policing efforts. Whereas much of policing is measured in coercive encounters (i.e., stops, searches, and arrests), SFPD could do more to document community partnerships, attendance at community meetings, street fairs, community-based organizations' events, etc.

2. The SFPD should improve initial and follow-up training on implicit bias, procedural justice, and racial profiling.

The SFPD should ensure that it follows through on its plans to provide department-wide training on implicit bias, procedural justice, and racial profiling, including (1) requiring all Police Academy recruits to participate in implicit bias training; (2) providing all SFPD officers and staff implicit bias and procedural justice training every other year, and online training in the off years; and (3) continuing racial profiling training for SFPD officers.

This training should be conducted in a classroom for the first few years, with online training incorporated later on in the training process. A former high-level SFPD officer stated "canned" training videos on bias may not have been enough, and officers would benefit from live training using more realistic scenarios. A former chief of police of another city witnessed an implicit bias training in St. Louis that included both the police and the community, and he observed substantial progress even from one session. He further stated that framing training from a customer service perspective—as dealing with individual customers rather than a large faceless entity of "the community"—can teach respect, follow-up, and going the extra mile for customer service. In his city, discourtesy complaints dropped by 40 percent when the police department shifted to a customer service model and a guardian model.

¹³⁴ The Police Athletic League and Police Cadet Corps were cited by witnesses as exemplar programs.

¹³⁵ Michael Barba, New SFPD Bureau to Focus on Community-Oriented Policing, S.F. Examiner (Feb. 22, 2016), http://www.sfexaminer.com/new-sfpd-bureau-focus-community-oriented-policing/.

3. The SFPD should incorporate procedural justice language into its department general orders and department bulletins.

The SFPD should incorporate procedural justice language into its department general orders, such as DGOs 5.03 (Investigative Detentions), 5.17 (Policy Prohibiting Biased Policing), and 2.01 (General Rules of Conduct). The DGOs should *require* officers to explain why an individual has been detained or searched and provide in writing the officer's name, contact information, and the complaint/commendation process (such as providing a business card with this information). DGO 5.17 states that officers "should" explain the reason for the detention but it does not require officers to do so, and DGO 2.01 only requires officers to provide their name, star number, and assignment "when requested." Furthermore, the SFPD should issue a department bulletin that sets forth the legal standards for a detention, search, and consensual encounter and requires officers to state the reason for their stop and/or search. The President's Task Force on 21st Century Policing emphasizes that procedural justice is essential to strengthening police-community relations.

4. The SFPD should issue a department bulletin addressing searches of transgender individuals.

The SFPD should partner with community-based organizations and coalitions focused on transgender people to issue a department bulletin addressing the procedure officers should follow if they need to conduct a search of a transgender individual. This issue is not addressed in DB 13-258 regarding police interactions with transgender individuals, which only provides that officers are prohibited from searching any person "if the sole purpose of the search would be to determine a detainee's or arrestee's gender." SFPD should revise DB 13-258 to establish a written procedure for searching transgender individuals.

5. The SFPD should update its current data collection policy to clearly define when data collection is required.

Given officer confusion over the language of DB 14-059, the SFPD should issue a revised department bulletin that clearly states the SFPD's data collection requirements. DB 14-059 instructs officers to fill out E585 forms "after any vehicle stops related to . . . [m]oving violations, including bicycles and pedestrians," (emphasis added) and officers have stated they are unsure whether to collect E585 data for bicycle or pedestrian stops given the reference to "vehicle stops." The SFPD should revise the language of its current data collection policy to clearly specify that data collection is required for any stops related to moving violations, including stops of vehicles, bicycles, and pedestrians.

6. The SFPD's policies implementing the recent data collection ordinance should clearly define when data collection is required.

The recently passed data collection ordinance requires data collection for all "detentions" (interactions in which an officer detains an individual) and "traffic stops" (interactions in which an officer stops an individual driving a vehicle), in which the officer initiates activity based on the officer's own observations or the observations and direction of another officer. Given officer confusion over the requirements of the SFPD's current data collection program, SFPD's policies implementing the new data collection requirements should clearly state when data collection is required, such as defining what it means to "detain" an individual.

7. The SFPD should implement a system to monitor and facilitate officer and supervisor compliance with its data collection policy.

Given the historical lack of officer compliance with its data collection policy, the SFPD should implement a consistent system to monitor and facilitate officer compliance. Dr. Fridell flagged this issue in her 2007 report, but, as recently as 2014, a sergeant supervising a specialized unit stated that he was unable to

44

access the E585 entries made by the officers he supervised and thus could not determine whether the officers were complying with the department's data collection program. Supervisors should be able to compare the E585 entries of their subordinates with the number of traffic stops made to monitor compliance, and should regularly report on compliance rates if needed. Supervisors should also be held accountable if the officers they supervise fail to maintain a sufficient level of compliance with the department's data collection policy.

Former Chief Suhr stated the department is moving toward e-citations and planned to have a pilot program in place in late 2016. According to Director Merritt, the SFPD currently has a pilot program for a smartphone app that allows officers to enter citations on their department-issued smartphones, and requires them to enter race and ethnicity information when entering citations. A separate E585 form is also available on the smartphones. The SFPD should merge the citation and E585 forms so that officers cannot issue a citation without entering the required E585 data.

The SFPD should also be regularly audited to ensure that officers comply with the department's new requirements under the recently passed data collection ordinance. In particular, the SFPD needs a system to monitor compliance with data collection on "detentions," which are not limited to traffic stops. This may involve requiring quarterly reports on the number of OCC complaints alleging failure to collect data. The ordinance already requires quarterly reports on the number of OCC complaints alleging bias based on race or ethnicity, gender, or gender identity. Given that not all encounters result in a citation or arrest, smartphone apps can only go so far in ensuring compliance.

8. The SFPD should make its stop data publicly available on a monthly basis.

In February 2016, the SFPD started to post its annual E585 data on its website, providing increased transparency and allowing interested parties to analyze the data for themselves. But to provide a more upto-date picture of SFPD stops, searches, and arrests, the SFPD should post monthly E585 data. The SFPD should also continue to make its data publicly available when it implements the requirements of the new data collection ordinance.

9. The city should engage outside researchers or consultants to analyze stop data.

San Francisco should engage outside researchers or consultants to analyze SFPD stop data. Given the difficulty of drawing conclusions about biased policing from stop data without an appropriate "benchmark," other cities have turned to researchers and consultants with experience in this type of analysis. The SFPD's BWC footage could be used to supplement this analysis, as Dr. Eberhardt's team is doing for Oakland. Although the new data collection ordinance requires the SFPD to analyze and report its data on a quarterly basis, it does not require in-depth analysis using benchmarks. The city should therefore obtain an independent analysis of the data on an annual basis to get a more accurate picture of whether there is evidence of bias in its stops and searches.

10. The SFPD should internally audit and regularly review its stop data for internal benchmarking.

The SFPD should also use its stop data to evaluate individual officers and units within the same police district for potential outliers in terms of racial disparities in their stop, search, and arrest figures. If individual officers or units are identified as engaging in potentially biased policing, the department could then address the issue in a targeted manner, such as retraining those officers or units on implicit bias and racial profiling.

¹³⁶ See OCC 2014 Annual Report, supra note 104.

11. The SFPD should require demographic information on 849(b) forms, analyze the data from 849(b) forms and field interview cards, and issue a certificate of detention to anyone detained and released in accordance with 849(c).

The SFPD should modify its 849(b) form to require demographic information, such as race, as Former Chief Suhr stated. The 849(b) form should also include a certificate of detention issued to all detainees briefly explaining that, pursuant to California Penal Code Section 849(c), the stop is not deemed an arrest, but a detention only. The department should also implement its plans to launch pilot programs to allow officers to enter 849(b) information and complete FI cards on a smartphone app, and the city should provide necessary funding to do so. The demographic information from 849(b) forms and FI cards should be analyzed by the department and/or outside researchers or consultants.

12. The body-worn camera policy should prevent officer review of footage following any reportable use-of-force incident.

The BWC policy allows officer review in cases of officer-involved shootings after the officer provides an initial statement. These statements are not mandated before officer review of other reportable use-offorce incidents. Some witnesses opined that whether an officer should be allowed to review BWC footage should not depend on the type of force exerted (e.g., whether the officer used a club rather than a gun). One witness cited a recent incident in which two Alameda County sheriff's deputies severely beat a man with batons in the Mission district of San Francisco, and noted that those deputies would be allowed to review the BWC footage under the SFPD's BWC policy because that situation would not fall within the exceptions to officer review. In Florida, footage of a 2014 arrest in which sheriff's deputies beat an arrestee was captured by both a BWC and a nearby surveillance camera. The BWC was intentionally angled to obscure the officers involved, who repeatedly yelled "stop resisting" while beating the victim. The surveillance camera footage, however, revealed that the arrestee had already surrendered (lying face down with his arms and legs spread) before the deputies began beating him.¹³⁷ Under the SFPD's BWC policy, the deputies would be allowed to review the BWC footage before giving a statement. It is inconsistent to regulate officer review in cases of officer-involved shootings but allow officer review in other reportable use-of-force incidents.

The SF Public Defender's Office suggested the Police Commission should consider an additional carveout prohibiting officer review for all reportable use-of-force incidents. Any additional carve-out would still be subject to the Chief's discretion to permit officer review. A number of police departments that have implemented BWC policies do not permit officer review of BWC footage in any use-of-force incident (e.g., the New York Police Department), and some do not permit officer review in any circumstance.

13. The SFPD should establish specific criteria for the release of body-worn camera footage to the public.

The BWC policy provides that the department will accept and process PRA requests for BWC footage. Body cameras can increase transparency, and the SFPD should also consider releasing footage—particularly following controversial events—to increase public confidence through improved transparency. Former Oakland Police Chief Whent was enthusiastic about the benefits of Oakland's BWC policy. Whent explained that the Oakland Police Department has released footage to the public following controversial events. Whent felt that the ability to release footage and thereby participate in the public discourse after an incident was beneficial, and in some cases this transparency shifted public opinion in favor of the police department. Ultimately, as with Oakland's policy, the SFPD's release of body camera footage will be discretionary and the transparency benefits will therefore be dependent on the SFPD's approach to footage release.

¹³⁷ Jay Stanley, A Video That Every Potential Juror Should See, ACLU (Mar. 11, 2016), https://www.aclu.org/blog/free-future/video-every-potential-juror-should-see.

14. The SFPD should use body-worn camera recordings for internal and external accountability purposes.

The SFPD should use its BWC recordings as part of officer and Police Academy training to identify both negative and positive police-citizen encounters and monitor the effectiveness of police training. For example, Oakland Police Department has partnered with researchers at Stanford University to build automated tools to comb through BWC audio to isolate police-citizen encounters that either went particularly poorly or well. The goal is to quickly identify problems and real world examples of great police work. The Stanford team is researching ways BWC data can be used to track and inform the effectiveness of training in the field, using the camera data to see whether the classroom experience translated effectively to encounters on the street.

As the SFPD rolls out its BWCs, it should evaluate how BWC footage might be useful in its training programs, particularly in de-escalation training. Former Chief Whent of the Oakland Police noted that BWCs have provided good evidence in internal affairs and criminal investigations, because the police department now has video footage of almost every complaint that comes into the department. The SFPD could take this one step further, and analyze BWC footage to get a comprehensive view of how officers are implementing their training and identify candidates for remedial training. The SFPD policy mentions the use of footage to review police procedures and tactics, although it does not contemplate how this would work in practice. The SFPD should therefore develop a process by which it will incorporate the review and use of BWC footage in its training programs.

The BWC policy should also clearly state that footage should be used in Internal Affairs Division investigations and OCC investigations.

15. The SFPD should collect data regarding body-worn camera usage to monitor compliance and should establish a clear policy that body-worn camera violations may be grounds for discipline.

The SFPD should consider collecting data regarding BWC usage, such as the number of recordings, to monitor compliance. The Oakland Police Department monitors compliance with its BWC policy in its monthly risk management meetings and reviews the number of recordings per officer to identify outliers. OPD also monitors compliance in regard to citizen complaints and use-of-force investigations. The BWC policy does not include penalties for non-compliance. The department must hold officers and supervisors accountable for ensuring compliance with the policy.

16. After the body-worn camera policy is implemented, it should be actively reviewed every six months and revised if necessary.

The Police Commission should actively review the BWC policy every six months and revise it if necessary. Several members of the BWC policy working group agreed that the policy should be reviewed every six months and revised if needed based on its effectiveness in practice. This also would allow for the policy to move forward with changes in technology.

17. The body-worn camera training materials should provide more specificity regarding usage.

The BWC policy does not provide specific instructions or define what constitutes a "department-approved mounting position" for BWCs. BWC training materials should include more details regarding basic BWC usage, such as where the camera should be placed on the body. Other police departments provide greater levels of specificity regarding usage. The Oakland Police Department, for instance, requires officers to

¹³⁸ S.F. Police Comm'n, Body Worn Cameras Policy, supra note 126.

mount cameras on the front of their uniforms. SFPD should similarly specify where officers are required to mount cameras when it implements its BWC policy.

18. The SFPD should develop and implement a training program for body-worn camera use.

The SFPD should develop an implementation plan to ensure consistent and effective use of BWCs, given that the draft BWC policy does not indicate how training will be conducted. For example, BWC training should include the use of dummy training cameras. OPD uses dummy training cameras so that officers can get accustomed to the process of using the cameras and learn how to activate them. The dummy training cameras allow officers to practice mounting and activating BWCs in a low-stress environment.

19. The SFPD should eliminate any unlawful stop-and-frisk practices and should collect the data necessary to determine whether such practices are occurring in violation of SFPD policy.

As noted above, stop-and-frisk practices have been widely linked to racial profiling. If people are stopped and not arrested or issued a citation, officers should be required to make a record of it, and the data should be electronically recorded and made publicly available. In addition, officers should have to provide a receipt to civilians at the end of stops. This receipt should state the officer's name and badge number, the time and place of the encounter, and the reason for the encounter. Receipts will ensure a record of the event and facilitate any civilian complaints regarding the encounter. For example, in New York, new rules require officers to provide receipts after stops and frisks that would be provided to anyone stopped but not arrested, and officers must check off the reason the person was stopped. Officers are also directed to have "reasonable suspicion" before frisking someone. This proposal is intended to provide documentation of all stops and make the responsibilities of officers more explicit.

Chapter 2: Personnel

Background

This chapter details the SFPD's recruitment, hiring, and promotion processes and evaluates the policies and practices in which bias has the most potential to play a role. The Panel found that the SFPD Chief retains broad discretion over who the SFPD hires and who is promoted, and while more promotions are now going to officers of color and women than historically, racial and gender diversity at the SFPD has been stagnant over the past three years. This chapter also describes how nepotism and favoritism are a concern. These problems should be addressed by greater transparency and by recommitting the department to increasing its diversity.

Recruiting

The SFPD employs a variety of techniques to attract new applicants. It recruits candidates both informally and formally and uses a multi-faceted campaign administered by its Recruitment Unit. As part of that effort, the Recruitment Unit has implemented an outdoor advertisement campaign and advertises career opportunities on local public radio and television.

The Recruitment Unit also participates in a large number of events throughout the San Francisco Bay Area and the state of California, including street fairs, career seminars, and other community events. The SFPD attended 227 recruitment or community events between January 2015 and December 2015. The Recruitment Unit keeps tally of the events attended throughout the year and the demographic group(s) at which the events were targeted. For example, in April 2015 the SFPD attended the Cherry Blossom Festival and the SFPD's records note this effort was geared toward Asians and Pacific Islanders. The demographic groups targeted from January 2015 and December 2015 were military and veterans at 43 events, women at 19 events, Blacks at 22 events, Hispanics and Latinos at 17 events, Asians/Filipinos/Pacific Islander at 10 events, and seven events geared toward diversity in general.

In addition to these formal recruiting tactics, SFPD officers carry small cards with the department's website address and instructions for how to apply to be a police officer. Officers hand these out to people who they believe will make good police officers. The department also has a referral bonus program, where sworn officers who refer a new candidate to the SFPD receive a referral bonus of \$500 if the candidate successfully completes the Police Academy and another \$500 if the candidate successfully completes field training. To qualify for the bonus, the sworn officer must verify that he or she has made at least three contacts with the candidate prior to the candidate's start date at the Police Academy.

The SFPD works year-round to increase public awareness of the job opportunities at the SFPD and now accepts applications at any time via web submission. This is a significant departure from past practices, where the SFPD accepted applications only during a two-week window each year. The former practice gave

so-called "legacy" applicants—applicants with a parent or other close relative already in the department—an advantage in hiring because they would be in a position to know when the department was accepting applications. This new practice helps place non-legacy applicants on an equal playing field and the percentage of non-legacy officers has reportedly risen in recent years.

In addition to traditional recruiting tactics, the SFPD offers programs geared toward youth engagement, for both the purposes of recruitment and to promote education. These programs include the following.

- Cadet Academy: In March 2015, Mayor Lee announced the revival of the SFPD Cadet Academy, allowing Bay Area youth between the ages of 18 and 21 who are enrolled in accredited colleges or universities to obtain paid positions with the SFPD. The students perform various civilian law enforcement duties under the direct supervision of sworn SFPD staff. In addition to completing a minimum of 12 units of coursework each semester at their respective schools, cadets commit to working 20 hours per week with the police force. At the age of 21, a cadet may then attend the Police Academy to become a sworn officer. Although the program is open to all, Mayor Lee has emphasized that the program will target youth from "San Francisco's highest-risk neighborhoods." Applicants in the program are required to undergo a background investigation process, including a polygraph evaluation and medical and psychological examinations. Candidates compete for 30 to 40 Cadet Academy spots each year.
- PAL Law Enforcement Cadet Program: Separate from the Cadet Academy, the Police Activities
 League (PAL) runs a program intended to provide youth between the ages of 14 and 20 with insight
 into law enforcement and public service careers. The program is open to students enrolled in high
 school or college who pass an SFPD criminal history background check. Selected applicants attend
 the Summer Cadet Academy, which provides four weeks of intensive law enforcement training at the
 SFPD Academy. Those who successfully complete the summer program are then awarded year-round
 internships at SFPD stations.
- Future Graduates Program: The San Francisco Police Foundation, a nonprofit that is independent of the SFPD, offers a technology-driven, eight-week, paid, summer internship for students between the ages of 14 and 18 who are committed to graduating high school. Each student is placed with a participating employer—a list that includes the SFPD, other government agencies, and certain private employers—and is expected to work 20 hours per week under the supervision of that participating employer. In 2015, 41 students participated in this program.

Hiring Process

There are 10 basic steps to admission to the Police Academy. The first three steps consist of separate written, physical, and oral exams that are given by the San Francisco Department of Human Resources (DHR). Applicants who successfully complete these three exams are then placed on the list of eligible applicants. The SFPD may then select an applicant from that list—at its discretion—and put the applicant through a further vetting process that involves a personal history evaluation, background investigation, polygraph examination, controlled substance test, psychological examination, and medical examination. These steps are administered by the SFPD. If a candidate successfully completes these steps, he or she may be selected by the screening or hiring committee and the Chief of Police to participate in the Police Academy. After the Academy, the final stage requires successful completion of a 17-week field training officer program. These steps are described in more detail below.

The hiring process begins when an applicant submits an application online or in person with the City

¹³⁹ The process is different for lateral candidates, defined as candidates that possess a current Peace Officer Standards and Training ("POST") certificate and have two years of patrol experience. To become SFPD officers, lateral candidates must take and pass the FrontLine National written examination, a work sample test battery, and an oral interview. Lateral candidates must also undergo a background investigation, which includes investigation of previous law enforcement positions held. If hired, lateral candidates may be placed in abbreviated Police Academy and Field Training Officer (FTO) training programs.

and County of San Francisco. After submitting the application, the applicant must schedule and take the FrontLine National law enforcement written examination, a two-and-a-half hour, three-part examination. This exam is administered year-round by the National Testing Network. The examination schedule is set according to a yearly exam plan created by the DHR's Exam Unit in consultation with the SFPD based on the SFPD's anticipated hiring needs and its master hiring plan. The written examination consists of three parts: a video-based human relations test, a reading ability test, and a written language ability test.

Applicants who successfully pass the written examination are asked to submit to a physical ability test and, if they pass that test, to participate in an oral interview. Both of these exams are, like the written examination, pass/fail. The oral interview aims to assess interpersonal skills, problem solving, oral communication skills, and abilities not tested by other examination components. Two to three people from the department conduct the oral interview. The interviewers include at least one civilian and a sworn SFPD officer, usually a sergeant or another seasoned officer. The civilian interviewer is a graduate of the Community Police Academy¹⁴⁰ or is recommended by one of the SFPD's district captains and is there to ensure consistency between the interviews. The California Commission on Peace Officer Standards and Training (POST) provides the questions, and the pass/fail guidelines are set by the SFPD. The department does not give consideration to matching the minority status, or lack thereof, of the interviewers and any specific applicant, as any given interviewer team may conduct many interviews each day, but one interviewee indicated that thought is given to ensuring that the pool of interviewers is diverse and representative of the community at large.

If the candidate passes the written examination, physical ability test, and oral interview, he or she is placed in the pool of viable candidates who are considered "eligible" to become police officers. The SFPD has the option to hire any candidate from that pool.

If and when the SFPD selects an applicant, the department then puts the applicant through multiple examinations and evaluations. First is the personal history questionnaire, which is an online, multiple-choice questionnaire that asks for detailed information about the candidate's family and personal relationships, locations lived, and work history. This document forms the basis for further investigation of the candidate and it identifies those candidates who appear most likely to pass the full background investigation.

Candidates who successfully complete the written examination, physical ability test, oral interview, and personal history questionnaire are referred to the SFPD's Background Investigation Unit. The Background Investigation Unit is headed by a lieutenant and is tasked with investigating the background of all applicants after the applicant submits a completed background packet. The packet uses POST forms and is reviewed by the officer in charge and a case assignment officer. Based on that review and the other aspects of the application process, the candidate may, or may not, be assigned to a background investigator—again, at the department's discretion. One interviewee indicated that a candidate must be assigned to an investigator to advance in the process, but because of the sheer volume of applicants who make it to this stage, not all candidates who are eligible to advance are assigned to an investigator.

Background investigators conduct an extensive assessment of each candidate's history. The total number of background investigators fluctuates depending on the department's yearly hiring projections, but one interviewee estimated there were 30 background investigators in 2013. All of the background investigators are current officers who are assigned to modified duty, or retired SFPD officers who are permitted to work on a part-time basis and still retain their retired status, meaning they remain eligible to receive retirement benefits. One interviewee estimated that 75 percent of the background investigators are retired SFPD officers. Background investigators are selected by SFPD officials. Any sergeant or lieutenant may recommend a current or retired officer for the role. That recommendation is approved by a captain and then a deputy chief. The selected investigators then attend POST Background Investigation School.

¹⁴⁰ The Community Police Academy is a 10-week program designed to develop awareness of policing and given to members of the community selected through an application process.

Background investigators work based on the department's hiring needs; one interviewee indicated they do not have a set schedule. While their caseload depends on where the department is in the hiring process, each investigator handles approximately six cases at a time. The sergeant and lieutenant who oversee the Background Investigation Unit allocate the cases among the background investigators. If a background investigator has a prior relationship with one of the candidates he or she is tasked with investigating, the investigator is expected to disclose this conflict. One interviewee believed such disclosure was mandated by the general guidelines that required background investigators to proceed in a fair and equitable manner, but other interviewees stated that it was simply a "best practice" and that background investigators rarely made such disclosures—either because they did not follow the practice or because there were a minimal number of conflicts.

In conducting investigations, background investigators collect the candidate's driving and judicial records and contact the candidate's friends, family, past employers, and neighbors. The investigator also conducts a credit check. Background investigators focus on recency and frequency of questionable activities, as well as any activity of a criminal nature. The standards the background investigators employ are provided by POST. The SFPD's website states that past felony convictions will result in automatic disqualification and indicates the types of misdemeanor violations that will result in disqualification. Lateral candidates undergo a similar background investigation process, including previous law enforcement experience.

At the end of their investigations, background investigators recommend whether to "non-select," "pass over," or "accept" the candidate. A candidate who is "non-selected" is not disqualified—he or she merely had something in his or her file that renders him or her ineligible at that point in time (for example, a poor work history). The "non-selected" candidate may consider entering the background investigation process again, at a later date. A candidate who is "passed over" does not meet the POST guidelines. Like "non-selection," "passed over" candidates may be eligible at a later time. The background investigator provides his or her recommendation to the sergeant and lieutenant in the Background Investigation Unit.

The candidate will then submit to a controlled substance test. The SFPD's website states, "Any use of controlled substances after the date of application may be cause for rejection; rejection is mandatory for illegal use. Rejection for prior use of controlled substance(s) is based on the type of substance(s) used and the frequency and recency of such usage. All information submitted by candidates regarding the use of controlled substances will be reviewed during the polygraph examination." Thus, while the department tolerates some past drug use, those specific standards are not publicized.

During the background investigation, the candidate completes a polygraph test, which presumably tests the accuracy of information given by the candidate during the investigation process. If the applicant successfully passes the polygraph, he or she proceeds to the next phase of the hiring process and is required to submit to medical and psychological examinations. The psychological examination is a one-on-one meeting with a clinical psychologist who determines the candidate's suitability as an SFPD officer.

A screening committee reviews the files of candidates who successfully passed the 10 steps during what is called a "hiring meeting." The committee's composition varies, but usual participants include sworn members in Staff Services ranked sergeant or higher. During the meeting, each of the employees who reviewed a candidate or a candidate's file (e.g., the psychologist(s), medical professional, and background investigator) presents to the screening committee perspectives on that candidate.

As a result of the hiring meetings, the screening committee presents a list of applicants who meet the SFPD's standards for the Police Academy and for becoming a sworn officer to the Deputy Chief of Administration and then the Chief of Police. Each year, the city requisitions a specific number of Police Academy spots based on its budget. With that number in mind, the Chief reviews the screening committee's list and decides whether or not an applicant is admitted to the Police Academy. The Chief can pick any applicant on the list and the criteria the Chief uses is not publicized.

Promotions

Promotions for the ranks of lieutenant, sergeant, and captain are made through a testing and selection process administered at various stages by the SFPD and the DHR. However, the ultimate decision as to which candidates receive a promotion is, within certain parameters, vested solely in the Chief of Police.

The examination process to qualify for promotion is driven by the expiration of eligibility lists compiled based on the results of prior promotional exams administered by DHR. If and when a list for a particular rank is set to expire, DHR reaches out to the SFPD to determine whether (1) a new exam should be administered or (2) the current list should be extended (which may happen if the Chief and DHR determine that a particular list still has a healthy pool of candidates). As a part of this dialogue, DHR and the SFPD will jointly conduct a jobs analysis, where they consider changes in the scope of duties for a particular rank; the minimum qualifications candidates must possess; and the knowledge, skills, and abilities required for success in the position. Once the jobs analysis is completed, DHR may make an exam announcement, which is disseminated via online posting and departmental bulletin.

Given the absence of rules determining how often exams for a particular rank must occur, the frequency with which exams are held varies. For the rank of sergeant, the most recent promotive examination was given in the summer of 2012, and before that, the summer of 2009. For the rank of lieutenant, the most recent exam was given in the summer of 2011, and before that, the summer of 2008. Finally, for the rank of captain, the most recent exam was given in the summer of 2015; before that, the next most recent exam was given in the summer of 2010.

The promotion exam itself consists of oral and written components that test competencies specific to the rank for which the exam is being given. Interviewees were not aware of any classes or other support offered to candidates interested in sitting for promotional exams. One interviewee indicated that the absence of classes or other support to help candidates prepare for promotional exams may adversely impact groups if the standardized tests contain inherent racial or other biases.

Once exam results are finalized, DHR creates a promotion list ranking candidates in terms of their performance on the exam. On the list, each score obtained represents a rank; two or more candidates who achieve the same score on the exam are considered to occupy the same rank. As a part of the jobs analysis conducted before the exam, DHR and the SFPD will also settle on a selection rule, which, along with the number of vacancies that must be filled, determines the size of the pool from which the Chief may select candidates for promotion. Interviewees noted that recent exams have followed the "rule of 10" scores, meaning that when one vacancy is sought to be filled, the 10 highest scores on the list will be eligible for a promotion. However, when more than one position is to be filled, the number of scores that will be considered eligible will be the number of vacancies plus nine. Thus, for example, if the SFPD had to fill five vacancies using the rule of 10 scores, the Chief may select any candidates from the top 14 scores to fill those five vacancies.

Promotions are made when it is determined there is an operational need for vacancies in a given rank to be filled. Once such positions are approved, the SFPD requests DHR to refer a list of names for the promotion recruitment process. The SFPD canvasses people on the list of referred candidates to determine if any are interested in being considered for promotion.

Once a candidate has expressed interest in being considered, the Deputy Chief for Administration holds a promotive meeting to consider the applicant's secondary criteria form. The form enables the Deputy Chief and Chief to consider various factors separate from a candidate's score on the promotion exam—the form will contain information on the candidate's previous assignments, commendations, education, and other experiences and abilities. No rules require the consideration of secondary criteria during the promotions process. Once the Deputy Chief has considered all eligible candidates, he or she will recommend a list of candidates to the Chief for review and selection, who may also consider each candidate's secondary criteria. Despite the discretion to consider secondary criteria, however, many interviewees indicated their understanding that the former Chief simply went "down the list," meaning that promotions were largely

made in rank order without regard to secondary criteria. This rank-order practice may adversely impact groups who are qualified but do not test well, as it does not take in account other potentially relevant attributes that should be represented among higher ranking officers. On the other hand, several current officers raised concerns about the discretionary authority of the Chief to select officers for promotion at the expense of those who had scored higher on the qualifying exam, stating that it further entrenched the perception that there is a culture of favoritism and an informal "good old boys" club.¹⁴¹

The role of a candidate's disciplinary history in the promotions process is unclear. Under the memorandum of understanding (MOU), the collective bargaining agreement between the City and County of San Francisco and the Police Officers' Association, the Chief is authorized to consider certain types of disciplinary history within given time limits. Performance-related documents in a candidate's personnel file indicating past discipline greater than a reprimand may be considered for up to five years for promotional decisions; anything lower may only be considered for up to two years. Interviewees were unable to point to any structured processes to ensure that SFPD administration considered a candidate's prior discipline when determining whether to give that candidate a promotion.

Statistics on Hiring, Promotion, and Retirement

In May 2016, the SFPD finally produced data on the demographics of officers who were hired, promoted, terminated, or retired between 2011 and 2015—data that had been requested in December 2015. The data, along with a publicly available Excel dataset¹⁴² that describes the demographic contours of the department as of February 11, 2016, helps inform several of the findings below.

The Panel's Public Records Act request sought demographic data relating to Academy applications, enrollment, and graduation; field training passage; promotion; termination; and retirement. The SFPD only produced data on the latter four topics; it did not produce any Academy-related data.

Findings

1. The SFPD prioritizes recruitment outreach to young people and aims to provide them with a positive experience of the department.

The SFPD works to engage Bay Area youth and raise interest in becoming an officer. Anecdotal evidence indicates that its programs are successful. One interviewee, describing one of the SFPD's intern programs, recalled that through the program approximately 80 interns were invited to meet SFPD officers, watch them work, and learn more about what they do. Before participating in the program, the interns were asked whether they wanted to become officers and what their interactions with officers were like. The responses were overwhelmingly negative. After participating in the program—and learning about the pay and pension—the interns overwhelmingly responded positively to the prospect of becoming officers. These programs may foster diversity in the department ranks.

2. The Chief of Police, as the appointing authority, makes the final decision about who will be invited to attend the Police Academy.

As described above, the Hiring Committee provides the Deputy Chief of Administration with the final list of applicants who meet the standards for the Police Academy. The Deputy Chief, in turn, takes that list to the Chief of Police, and the Chief makes the final determination about who is invited to the Police Academy. Interviewees repeatedly stated that the Chief makes this decision without assistance from others and does not disclose what, if any, criteria he uses. This decision process is therefore largely a mystery and opens the door to accusations of nepotism or favoritism.

¹⁴¹ See Chapter 7: Culture for more detail about this perception.

¹⁴² SFPD Sworn Demographic Data, http://sanfranciscopolice.org/data#demographics.

3. The SFPD's Background Investigation Unit conducts extensive investigations, but its operations are fairly opaque and inefficient.

Background investigators play an important role in the hiring process and in determining whether a candidate is eligible for hire. The background investigation is rigorous and the passage rate is very low. One interviewee estimated that 20 to 25 percent of candidates successfully pass the background investigation phase.

Despite this important role, the criteria background investigators use to determine whether to accept a candidate are not fully understood. The unit is largely a "black box" with respect to how background investigators are selected, how the investigator makes his or her decision, and whether an investigator who has a relationship with the candidate being investigated will disclose that conflict of interest.

In some ways, this secrecy may make sense—the SFPD wants to protect against applicants somehow gaming the system or manipulating this important step, and it does not want background investigators to be interrupted in their quest for insight into an applicant's past. Nevertheless, this lack of transparency may be undermining the department by creating an area ripe for abuse and favoritism.

Further, there is little transparency in the selection of background investigators. Almost all are, or have been, SFPD officers. Most interviewees believed the Chief gave these roles out as rewards to retired officers with whom he was close. Retired officers have the option to work for the department for up to 960 hours per fiscal year and still maintain their retired status. One interviewee relayed that the background investigation job is considered a "perk" in retirement.

There is also concern that retired officers do not make the best background investigators. These former police officers may have outdated attitudes and a racial makeup that is unrepresentative of the police force today. In the absence of clear guidelines designed to ensure unbiased hiring, unconscious in-group bias may lead retired officers to perpetuate the department's culture by selecting officers like themselves, rather than selecting candidates who make good officers for the current climate.

Further, because they have retired status, these background investigators set their own schedules and work a limited amount of hours, regardless of how many applications are sitting on their desks. In interviews with the Panel, witnesses expressed that the background investigation created some inefficiency in the hiring process, with applicants sometimes waiting a very long time for their background investigations to be completed. There is concern that strong applicants get frustrated and leave San Francisco for another city.

The background investigation process is fairly mysterious, with many people applying for the role and being rejected without being told why. One interviewee stated that there was recently an Academy class where a large proportion of the class was related to people already in the department. The interviewee opined that it creates suspicion when—after the pass/fail tests are administered and the screening committee constructs its list of Academy-eligible candidates—the top third of the list is made up of individuals related to people already employed by the department.

Before commencing their investigations, it is considered "good practice" for background investigators with a relationship to the individual whom they are investigating to disclose the relationship or recuse themselves, but such disclosure does not seem to be mandated by policy. In interviews with the Panel, sources provided differing accounts of whether background investigators routinely disclose relationships: one interviewee said that such relationships were disclosed and two interviewees said they were not.

4. While the SFPD has an explicit policy against nepotism and favoritism, and the department has instituted some practices to guard against nepotism, more can be done to curb actual or perceived nepotism in hiring.

Section 201.3 of the department's General Provisions makes clear that nepotism or favoritism is prohibited in all aspects of employment at the SFPD. However, the media has reported on recent instances of nepotism and favoritism in the SFPD's hiring and training process, and witnesses indicated that nepotism remains a problem within the department.

In November 2015, the San Francisco Examiner published a leaked department memorandum drafted by Sergeant Matt Rodgers and addressed to field training office staff. 143 The memorandum suggests the existence of nepotism or favoritism and acknowledges the correlating frustration among rank-and-file field training officers.

The memorandum came after various news outlets reported that Jake Lawson, a family friend of former Chief Suhr, received special treatment and was allowed to remain in the department despite being recommended for release by a field training officer. In early 2015, Lawson was sent to the department's Bayview Station to start his field training. He was unable to complete the program successfully, and in the end, he failed the program entirely. Breaking with protocol, Lawson was eventually transferred to another station to go through field training again. That transfer order was signed by former Chief Suhr. Lawson failed his first Police Academy class as well as his field training—in both cases, he was given second chances that others were not afforded.

Sergeant Rodgers' memorandum did not mention any particular instance of nepotism or favoritism, nor did it mention Lawson by name. But it did state that "a recruit was reassigned to another station and assigned to another FTO [field training office]. While this is not unprecedented, it is outside of the normal procedures set forth by the Field Training Program." Another excerpt from the memorandum, included below, emphasizes how decisions to circumvent traditional hiring and training protocol undermine department morale.

In the last day, I have heard a considerable amount of frustration expressed regarding this decision; the consensus being that this decision undermines us as FTO's. Additionally, that it must be predicated on either a lack of trust, or is a blatant disregard of the knowledge, skills, and abilities we possess in doing so. While we can surmise the ultimate reason behind said decision, we as FTO's must understand that we have no say in such matters. Our function is to teach recruits, document their understanding and aptitude for this job, and recommend, based on our observation of said aptitude, whether or not they should be retained as police officers. The decision to accept or reject any given recommendation regarding every single recruit within our program is simply not within our scope. I know that such an explanation does not make this decision any easier to accept, but it is unfortunately, the only one that exists.

That being said, I have also heard considerable discussion regarding why, we as FTO's, must continue to train and evaluate if our recommendation, as subject matter experts in Field Training, will not be heard. I understand this frustration as well, and do not begrudge any of you whom may wish to cease your participation in the Field Training Program as a result. That is your decision to make, and is one which may weigh heavy upon you. I fully support anyone who ultimately decides to resign.

Witnesses suggested that this instance of perceived favoritism was not an isolated incidence, but symptomatic of a larger culture of nepotism within the SFPD. As one interviewee explained, the SFPD is a "family business." Similarly, another interviewee described the SFPD "as an East Coast department on the West Coast" because employees went to high school with one another, and their families are frequently related to one another or have some sort of personal relationship.

The SFPD recently adopted policies that make it easier for non-legacy applicants to apply to the department. As discussed, there is no longer a small, two-week application window that potential recruits have to know about. This practice favored families who were already connected to the department. Now, the SFPD accepts applications all year, administers the hiring test monthly, and has a "living" waitlist.

¹⁴³ Jonah Owen Lamb, Leaked SFPD Memo Indicates Practice of Special Treatment Is Widespread, S.F. Examiner (Nov. 27, 2015), http://www.sfexaminer.com/leaked-sfpd-memo-indicates-practice-of-special-treatment-is-widespread/.

According to former Chief Greg Suhr, the percentage of non-legacy officers has risen. Other interviewees indicated the practice of favoring legacy hires may be changing—one interviewee even estimated that 75 percent of candidates who were children of SFPD officers were disqualified through the hiring process. Nevertheless, there is room for improvement, and given the evidence of past nepotism in SFPD hiring, more will need to be done to eradicate the perception that nepotism remains an issue.

5. The absence of rules governing the selection of promotional candidates and the discretion held by the Chief, along with the lack of programs offering support to those seeking promotions, raises the likelihood of bias or favoritism in promotion decisions.

The promotions process at the SFPD was identified by one interviewee as the personnel procedure in most need of reform at the department. A number of witnesses concurred that several aspects of the process are in need of improvement.

First, interviewees expressed concerns related to the initial stages of the promotions process. The relatively long life of some eligible lists may be cause for concern. One interviewee noted that for the eligible list created from the 2010 captain's exam, almost all candidates on that list received a promotion to the rank of captain before the 2015 exam was given. Considering that applicants who take the exam are rarely, if ever, left off the eligible list entirely, this means almost every candidate who sat for the captain's exam in 2010 received a promotion to captain. Interviewees had further concerns regarding certain minimum qualifications that may be out of step with industry standards. For example, the 2015 captain's promotional announcement required candidates to have served in the rank of lieutenant for at least three years to be eligible for a promotion. However, interviewees noted that because of shortages of well-qualified candidates, industry standards recommend requiring candidates serve only one year in the rank of lieutenant before becoming eligible for promotion to captain.

Second, the ultimate selection of candidates for promotion is a highly discretionary process which increases the risk of bias and favoritism in the promotions process. When coupled with the fact that secondary criteria—which often signal important life experiences and competencies—are sometimes not considered, this discretion has the potential to pass over candidates who are uniquely qualified to navigate the difficult and contentious relationship that sometimes exists between law enforcement and the public.

Third, the lack of any structured processes by which the decision-maker considers disciplinary history is troubling and not consistent with standard law enforcement practices. Consideration of a promotional candidate's disciplinary history, within the parameters set out by the MOU, should be a primary consideration, along with the examination results and secondary criteria, in assessing a candidate's fitness for promotion. While interviewees were not able to provide a clear understanding of whether, how, and to what extent disciplinary history is considered by the Chief, the lack of written policies and procedures on this topic allows for the possibility that candidates who have been disciplined for bias-related conduct will advance through the promotions process unimpeded and ultimately occupy positions of power within the SFPD. Such a result undermines accountability and belies the goal of reflecting a commitment to diversity and equality in the organization's management.

Finally, the lack of programs offering support to candidates preparing for the promotional exams may serve to adversely impact otherwise qualified candidates who face unique barriers to scoring well on standardized tests. Such programs, which may exist in many forms including mentorship or classes, provide the opportunity to level the playing field for candidates with diverse backgrounds and life experiences. One possible solution is for officer affinity groups—such as Officers for Justice—to get resources to mentor applicants.

6. Available data indicate that racial and gender diversity at the SFPD has been stagnant over the past three years, during a time when the department greatly increased its hiring.

As of February 2016, the SFPD is 51.7 percent White, 22.3 percent Asian, 15.7 percent Hispanic, 9.0 percent Black, and 1.3 percent other. It is 84.8 percent male and 15.2 percent female. ¹⁴⁴ Former Chief Suhr stated that it was a goal of his to "force the door open" for minority applicants and get a more diverse set of recruits. Data produced by the SFPD indicate that the SFPD did not become more diverse under Suhr's watch when the SFPD began hiring again in 2013 (after it did not add a meaningful number of officers in 2011 and 2012). ¹⁴⁵ If anything, the SFPD is slightly more White, and slightly more male than it was three years ago.

During the period 2013-2015, a higher percentage of those who passed field training were White than the percentage of Whites in the department as a whole. On average, 61.5 percent of officers who passed field training during this period were White. Taking terminations and retirements into account, 19 of the 32 officers (59.4 percent) that the SFPD net added over this time period were White. The trend toward adding more White officers is corroborated by SFPD age cohort data. Whites currently make up 55 percent of all officers under the age of 35 in the department. Younger officers tend to have joined the department more recently (although not all recent hires are young). The SFPD's recent hiring has thus slightly increased the concentration of White officers.

The trend for gender is even more pronounced. The SFPD is 84.8 percent male. During the period 2013-2015, 87.4 percent of those who completed field training were male. Accounting for terminations and retirements, the SFPD added net 36 men over this same timeframe and lost a net of four women.

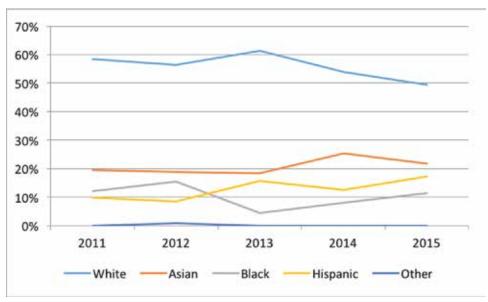
7. The percentage of officers of color receiving promotions is rising, and an outsized percentage of women are being promoted.

White officers received 56 percent of all promotions between 2011 and 2015, but there was a distinct downward trend in the percentage of promotions awarded to White officers. During this same period, there are noticeable increases in the percentages of promotions awarded to Asian and Hispanic officers, while the percentage of promotions awarded to Black officers showed no discernable trend.

¹⁴⁴ For context, according to a July 2014 estimate by the US Census Bureau, the population of San Francisco is 41.2 percent White, 34.9 percent Asian, 15.3 percent Hispanic, 5.8 percent Black, and 2.8 percent Other. U.S. Census Bureau, QuickFacts San Francisco, California, http://www.census.gov/quickfacts/table/PST045214/0667000.06075.

¹⁴⁵ Because of budget constraints, a total of only 29 officers passed field training during 2011-2012, a period of time during which the SFPD faced a net outflow of 184 officers. The department began hiring in greater numbers in 2013-2015, adding an average of 125 officers per year, making this timeframe the most appropriate period for comparison.

Promotions by Race



The percentage of women receiving promotions is higher than their percentage of the department as a whole. Women, who represent 15.2 percent of the department, received 20.0 percent of the promotions in the department between 2011 and 2015.

Recommendations

To combat existing, perceived, and potential bias in the SFPD's hiring and promotions process, the SFPD should make changes in three main areas: (1) further familiarizing young people in the community with the SFPD and its hiring requirements, (2) increasing transparency in the Background Investigation Unit, and (3) instituting policies and procedures designed to curb actual or perceived favoritism in the SFPD's hiring and promotions processes.

1. The SFPD should rededicate itself to recruiting and hiring more officers of color, especially from San Francisco.

Many witnesses stated emphatically that the SFPD was becoming a more diverse department. The SFPD's own data paints a different story. Cognizant of this data, the SFPD should rededicate itself to recruiting and hiring from communities of color.

More officers of color—ideally from the communities where they patrol—are also needed to help address actual or perceived bias in SFPD stops, searches, and arrests. The San Francisco NAACP Three-Point Plan recommends aggressive recruiting of Black personnel. The department's Not On My Watch campaign is a move in the right direction, and efforts to recruit and hire more officers of color should continue.

2. The SFPD should continue and expand its efforts to build relationships with young people in the community.

The SFPD has made headway by creating cadet and intern programs aimed at building relationships with young people in the city. It should retain and extend these programs, possibly in conjunction or partnership with elementary and high schools throughout the Bay Area. The SFPD should also regularly evaluate these programs to assess whether they are building trust and to see if participants apply to the department and become an officer.

3. The SFPD should increase transparency in the selection of background investigators.

Interviewees noted that, in their experience, the background investigation job was often handed out as a retirement perk to the Chief's friends. Whether or not this perception is accurate, it nonetheless appears to be widespread, and it has a negative impact on the department's reputation. The SFPD should work to combat that perception by hiring more background investigators from outside the SFPD, hiring non-officer investigators, and/or publishing the qualifications and requirements necessary to become a background investigator. Furthermore, while the SFPD should establish criteria for the hiring of background investigators, the actual hiring of such personnel should be conducted by the Department of Human Resources.

4. The SFPD should mandate regular implicit-bias training for background investigators.

Many interviewees commented on the secrecy that surrounds the Background Investigation Unit, and the simultaneous importance of this unit. Regular training on subjects like implicit bias will help ensure that background investigators understand—and work to counteract—any biases.

5. Background investigators should sign a standardized form stating that there is no prior relationship with the applicant for each assigned case.

Instituting a formal practice requiring background investigators to disclose relationships will guard against actual and perceived favoritism. Further, requiring these written statements ensures there is a written record if the investigator is ever challenged, which is essential to instituting accountability. Compliance with this policy should be audited.

6. The SFPD should institute a high-level hiring committee to sign off on the Chief of Police's final hiring decisions, including deviations from the standard hiring and training process.

Favoritism—real and perceived—will be curbed if the SFPD institutes a more democratic process for determining who should be offered a position in the Police Academy. The SFPD should institute a committee of three people—including the Police Chief, one civilian employee, and a community member—to review the screening committee's list of eligible candidates and make the final decision for each candidate on a consensus basis. Similarly, there would be less public and interdepartmental discord if decisions to depart from the standard hiring and training processes were made by consensus.

7. The Police Commission should create and implement transparent hiring and promotions processes and criteria, including a requirement that every candidate's disciplinary history and secondary criteria be considered.

While providing discretion to the decision maker may serve a useful purpose in any organizational structure, establishing transparent and clearly defined criteria and procedures—including requiring the consideration of every candidate's disciplinary history and secondary criteria—will better protect against potential discrimination or other biases during the hiring and promotions process and help ensure that the SFPD's management ranks both embody and further the department's commitment to diversity and inclusion.

Chapter 3: Use of Force and Officer-Involved Shootings

Background

This chapter evaluates the SFPD's policies and practices in officer-involved shootings and other uses of force and identifies areas for improvement to ensure that the SFPD polices in a fair and unbiased manner. The Panel found that the SFPD's use-of-force policy is out of date and should be revised. The SFPD also should improve its use-of-force data collection efforts—so that it and the public can assess whether force is used in a biased manner—and its process for investigating officer-involved shootings.

Uses of force by police officers, and in particular officer-involved shootings, have sparked calls for reform both nationally and locally. In 2014, President Obama established the President's Task Force on 21st Century Policing in response to "recent events that have exposed rifts in the relationships between local police and the communities they protect and serve." Those events included the officer-involved shooting and death of Michael Brown in Ferguson, Missouri, on August 9, 2014, and the July 17, 2014, death of Eric Garner in Staten Island after a New York Police Department officer applied a chokehold to him.

Likewise, San Francisco has been struggling to address "rifts" between the SFPD and the communities it serves with regard to uses of force. The SFPD has been heavily scrutinized for the officer-involved shootings that killed Alejandro "Alex" Nieto on March 21, 2014; Amilcar Perez-Lopez on February 26, 2015; Mario Woods on December 2, 2015; Luis Gongora on April 8, 2016; and Jessica Williams on May 19, 2016. The public reaction, both nationally and locally, to each of these incidents emphasized the urgent need for all police departments, and the SFPD in particular, to evaluate the issues of use of force and officer-involved shootings. To fail to do so would risk losing the public's trust in the SFPD's ability to protect and serve its community. As the American Civil Liberties Union of Northern California wrote early this year to United States Attorney General Loretta Lynch, these deaths brought to the surface a number of "festering problems" all culminating in a "crisis of confidence" in the SFPD.¹⁴⁸

¹⁴⁶ The Panel was not tasked with investigating any particular incident. This report makes no findings or recommendations regarding specific police officers or subjects of use of force.

¹⁴⁷ Office of the Press Sec'y, White House, Executive Order – Establishment of the President's Task Force on 21st Century Policing (2014), https://www.whitehouse.gov/the-press-office/2014/12/18/executive-order-establishment-presidents-task-force-21st-century-policin; Office of the Press Sec'y, White House, President Obama Announces Task Force on 21st Century Policing (2014), https://www.whitehouse.gov/the-press-office/2014/12/18/president-obama-announces-task-force-21st-century-policing ("In light of the recent events in Ferguson, Staten Island, Cleveland, and around the country, the Administration announced new steps to strengthen the relationships between local police and the communities they are supposed to protect and serve."); see also Sean Smoot, Presentation at Southern Illinois University School of Law: President's Task Force on 21st Century Policing (Apr. 28, 2015), https://www.law.siu.edu/news/2015/04-28-2015.html.

¹⁴⁸ Jeremy Lybarger, ACLU Calls for Federal Investigation into SFPD's Pattern of Civil Rights Violations, S.F. Weekly (Jan. 29. 2016), http://www.sfweekly.com/thesnitch/2016/01/29/aclu-calls-for-federal-investigation-into-sfpds-pattern-of-civil-rights-violations.

Incidents like the Nieto, Woods, Perez-Lopez, and Gongora shootings have prompted strong community responses, including protests and calls for outside review of the SFPD and its use-of-force policy, which has not been updated in more than 20 years. The city's response to these high-profile incidents was criticized by many as tone-deaf and insensitive to community perceptions surrounding police use of force. For example, the SFPD's immediate declaration that the officers in the Mario Woods and Luis Gongora cases were justified angered many in the community. Further, Public Defender Jeff Adachi described the tension-filled town hall meeting following the Mario Woods shooting as being "poorly run" and failing to sensitively address community concerns. High-profile incidents that are not handled carefully can damage trust with the community and undermine the ability of a department to effectively carry out its duties.

Community response to SFPD policies expressed at public meetings illustrates concerns related to biased policing and the inappropriate use of force.

150 It is increasingly clear that many community leaders perceive the SFPD as biased in its application of force, and that the force used is often excessive or unnecessary.

151 Community leaders feel that improper considerations, such as race, sexual orientation, and homelessness, influence the department's use of force.

San Francisco Supervisor John Avalos proposed a resolution criticizing the SFPD as being biased against people of color in its application of use of force, and for its improper response to the Nieto shooting.

Avalos' ultimately unsuccessful resolution cited an SFPD Internal Affairs report noting that 69 percent of all people killed by law enforcement in San Francisco since 1985 were people of color, and 40 percent were Black.

In the wake of the Mario Woods shooting, Supervisor Malia Cohen told *Time Magazine* that the shooting demonstrated how powerful institutions in the city viewed and treated disenfranchised communities.

Cohen also called for greater transparency and accountability for the SFPD.

In the wake of the shooting death of Mario Woods, San Francisco Mayor Lee urged the Police Commission to take swift action in reforming use-of-force policies and training within the SFPD.¹⁵⁶ More recently, Mayor Lee announced a boost in funding for violence prevention and de-escalation training for the SFPD.¹⁵⁷ Meanwhile, the Justice Department's COPS office also announced that it would conduct a voluntary and collaborative assessment of the SFPD.¹⁵⁸ In response, the SFPD has proposed revisions to its existing DGOs ("Draft Revised Policies") and has invited the Panel to provide feedback on the revisions as

¹⁴⁹ Heather Knight, Protests of Mario Woods' Killing Test Mayor's Resolve, S.F. Chronicle (Jan. 22, 2016), http://www.sfchronicle.com/bayarea/article/Protests-of-Mario-Woods-killing-test-Mayor-s-6778744.ph; see also Janet O, Hundreds March in SF to Protest SFPD's Fatal Shooting of Mario Woods, ABC7News (Jan. 30, 2016), http://abc7news.com/news/lan. 30, 2016), http://abc7news.com/news/frisco-five Calling-for-city-wide-protest-against-sfpd-killings/1329415/ (discussing the recent "Frisco Five" hunger strikers who have come to the forefront of the protest movement); Group Holds Protest at SF City Hall Over Police Brutality, KTVU (May 9, 2016), https://www.ktvu.com/news/139089226-story.

¹⁵⁰ See, e.g., Emotion Runs High at SFPD Town Hall Discussing Mario Woods' Shooting Death, KTVU (Dec. 4, 2015), http://www.ktvu.com/news/55893237-story (showing video of protests at Mario Woods town hall meeting); Tempers Flare at Community Meeting About SFPD Reforms, KTVU (Feb. 24, 2016), http://www.ktvu.com/news/96856036-story (showing video of public comment at the Department of Justice COPS listening session).

¹⁵¹ This feeling of biased use of force has been echoed by many members of the community at public hearings of this Panel as well as those of the Department of Justice COPS Collaborative Review Team.

¹⁵² S.F. Bd. of Supervisors Res. No. 30-16, File. No. 160039 (2016), http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions16/r0030-16.pdf.

¹⁵³ *Id.*; see also Bay City News, Supes Vote Down Police Brutality Resolution, S.F. Appeal (Dec. 17, 2014), http://sfappeal.com/2014/12/supes-vote-down-police-brutality-resolution/.

¹⁵⁴ Katy Steinmetz, The Shooting of Mario Woods Brings Ferguson to San Francisco, Activists Say, Time (Dec. 16, 2015), http://time.com/4151979/mario-woods-shooting-san-francisco/.

¹⁵⁵ Id.

¹⁵⁶ Vivian Ho, S.F. Mayor Ed Lee Outlines Reforms in Wake of Mario Woods Shooting, SFGate (Jan. 6, 2016), http://www.sfgate.com/crime/article/Mayor-Lee-outlines-reform-push-in-wake-of-Mario-6741707.php.

¹⁵⁷ Emily Green, Lee Proposes \$17.5 Million Boost to SFPD for Violence Prevention, SFGate (May 10, 2016), http://www.sfgate.com/politics/article/Lee-proposes-17-5-million-boost-to-SFPD-for-7454057.php.

¹⁵⁸ Mark Berman, Justice Department Launches Investigation into San Francisco Police Force, Wash. Post (Feb. 1, 2016), https://www.washingtonpost.com/news/post-nation/wp/2016/02/01/justice-department-to-investigate-san-francisco-police-force/.

part of ongoing meetings with local stakeholders.¹⁵⁹ These revisions have been submitted for review to the San Francisco Police Commission; as of the date of publication of this report, the Commission has voted to adopt a new Use of Force General Order that reflects input and feedback from the Panel.¹⁶⁰ The city is now in negotiations with the POA over the final language and implementation of the order.

Beyond these most recent high-profile officer involved–shooting deaths, many in the community have had a long-standing concern that race, gender, and sexual orientation bias infects the application of the use of force by the SFPD. Lawsuits have been filed regarding the arrests and use of force against people of color that have gained widespread community attention. ¹⁶¹ The ACLU of Northern California summarized community sentiment: "[C]oncerns about the gross racial disparities in arrests of Black people have plagued SFPD for years and have yet to be abated." ¹⁶² Despite promises of reforms from the SFPD, community perceptions of biased policing remain. ¹⁶³

The Panel evaluated use of force in four major topic areas: (1) the SFPD's use-of-force policies, (2) the SFPD's training practices regarding uses of force, (3) data collection regarding uses of force by the SFPD, and (4) implementation of body-worn cameras.

Policies Governing Appropriate Use of Force

The relevant DGOs for use of force and officer-involved shootings are DGO 5.01 and 5.02. DGO 5.01, last updated on October 4, 1995, broadly governs when an officer may resort to force, as well as reporting and investigation protocols. DGO 5.02, last updated on March 16, 2011, governs the appropriate uses of firearms. They describe the appropriate types of force that may be used, when uses of force must be reported and by whom, and the standards guiding the use of force, such as DGO 5.01 stating that "officers are permitted to use whatever force is reasonable and necessary to protect others or themselves, but no more." As DGO 5.01 notes, the policies are "to provide general guidelines under which force may be used."

In December 2015, seen in part as a response to the shooting death of Mario Woods, the SFPD added a departmental bulletin that amended the DGOs and elevated drawing and pointing a firearm at a person as a reportable act.¹⁶⁴ This DB explicitly states that it "amends DGO 5.01 & 5.02," and thus appears to be a specific *amendment* to SFPD's policies.¹⁶⁵ In contrast, DB 15-106 (adopted April 27, 2015), titled "Avoiding the 'Lawful but Awful' Use of Force," does not appear to be anything more than a reminder by former Chief Suhr to SFPD officers to consider alternatives before implementing uses of force, but also acknowledging that "there are times when using quick, decisive force options are necessary." ¹⁶⁶ Relevant Departmental Bulletins also include DB 15-255 (Dec. 11, 2015), DB 14-014 (January 7, 2014), DB 14-015 (January 7, 2014), DB 14-111 (April 14, 2014), DB 15-051 (March 5, 2015), DB 15-106 (April 27, 2015), DB 15-155 (July 16, 2015), and DB 15-128 (May 26, 2015). ¹⁶⁷

- 159 See Stakeholder E-mails, http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission050416-Stakeholdersubmissionsasof050216.pdf (comments from stakeholders during the revision process, including the Panel); SFPD Department General Order 5.01 (Stakeholder Revisions to Draft Revised Policies), http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission050416-UseofForceandCEDpolicies withupdatedstakeholderscomments.pdf (Panel and other stakeholders' redline to the most recent Draft policies); see also Use of Force Documents, S.F. Police Dep't, http://sanfranciscopolice.org/use-force-documents (SFPD webpage dedicated to collecting public comment, expert feedback, and the various versions of the Draft Policies).
- 160 The version of the Draft Revised Policy approved by the Police Commission on June 22, 2016, is available at http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission062216-ApprovedDG0501.pdf.
- 161 Alex Emslie, Lawsuit Alleges SFPD Racial Bias, Excessive Force in April Arrest, KQED News (Sept. 9, 2015), http://ww2.kqed.org/news/2015/09/09/lawsuit-alleges-sfpd-racial-bias-excessive-force-in-april-arrest.
- 162 Hall v. City & Cnty. of S.F., No. 3:15-cv-04092-CRB (N.D. Cal.).
- 163 Jaeah Lee & AJ Vicens, The Racially Charged San Francisco Police Shooting You Don't Know About But Should, Mother Jones (Dec. 4, 2015), http://www.motherjones.com/politics/2015/12/police-shot-and-killed-man-san-francisco-week-heres-what-you-should-know.
- 164 S.F. Police Dep't Bulletin No. 15-255.
- 165 See also S.F. Police Dep't Bulletin No. 15-128, Officer-Involved Shooting and Discharge Investigations, Revision to Definitions in DGO 8.11.
- 166 See Introduction at page 17 for the Panel's recommendations regarding DBs and DGOs.
- 167 The bulletins and DGOs are also supplemented by Field Operations Bureau ("FOB") Orders. The Panel has received one FOB Order, FOB DGO 04-03—Officer Involved Shootings, and has an outstanding request to receive any other FOB orders that deal with use of force. Any other FOB orders dealing with use of force have not yet been produced and do not appear to be publically available.

Training on Use of Force

Perhaps even more important than the DGOs are the training programs that the SFPD conducts to teach academy cadets and officers how to implement the guidelines contained in the formal policies. For example, even though DGO 5.01 governs the permissible use of force and identifies permissible techniques for officers to use, an officer would presumably look to the SFPD training materials for guidance on when and how to apply those techniques.

Training on use of force begins with Basic Academy training for cadets at the SFPD Regional Training Center. As a program certified by the California POST, Basic Academy must provide a minimum of 664 hours of instruction on 42 topics. The SFPD Academy's website states that Basic Academy includes courses on physical training and defensive tactics, impact weapons, chemical agents, semi-automatic pistol, shotgun, and extended range impact weapons. Pasic Academy, cadets are introduced to simulations of POST and SFPD-constructed scenarios involving the use of force, ethics, disputes, and domestic violence. In some simulations, cadets are presented with "[f]orce [o]ption" video scenarios and "[s]cenario [d]emonstration sessions."

At the completion of the formal physical training program, cadets must undertake the POST Work Sample Battery examination, which consists of five events "simulating actual physical situations a police officer could encounter on duty." Basic Academy culminates with field training simulation exercises and field tactics courses in which cadets participate in "dry fire" simulation scenarios. After successfully completing Basic Academy, recruit officers will receive an additional 17 weeks of field training under three different field training officers. Thereafter, officers may have access to ongoing professional development training.

Other than the above descriptions from the SFPD Academy's website, however, the Panel received almost no information regarding the content of trainings—including use-of-force training course materials or training videos—despite requests for them. ¹⁷⁷ To date, the Panel has received only three documents relating to use-of-force trainings:

- The San Francisco Law Enforcement Regional Training Center's Basic Course Arrest & Control Manual: The manual provides instructions on how to implement certain "techniques available to deal with subjects during arrest and detention." However, the manual does not provide guidance on determining when to use any particular technique.
- The AO/CPT Curriculum for 2010–2015: The curriculum references courses regarding crisis intervention, racial profiling, cultural competency, and bias-based policing. However, the curriculum provides no detail on the content of the courses or the attendance of the courses.

¹⁶⁸ Basic Academy description, S.F. Police Dep't, http://sanfranciscopolice.org/basic-academy.

¹⁶⁹ POST Regular Basic Course, S.F. Police Dep't, https://post.ca.gov/regular-basic-course.aspx.

¹⁷⁰ Basic Academy description, S.F. Police Dep't, http://sanfranciscopolice.org/basic-academy.

¹⁷¹ Id.

¹⁷² Id.

¹⁷³ Id.

¹⁷⁴ Id

¹⁷⁵ Field Training Office, S.F. Police Dep't, http://sanfranciscopolice.org/field-training-office-0.

¹⁷⁶ Professional Development Unit, S.F. Police Dep't, http://sanfranciscopolice.org/professional-development-unit.

¹⁷⁷ See Introduction at page 10 for more on the Panel's Public Records Act ("PRA") request to the SFPD.

Files including PowerPoint presentations used to train officers and supervisors on how to respond to
a scene after an officer-involved shooting, and to demystify the ensuing investigation, psychological
ramifications, and media attention. However, these materials provided almost no information on the
guidance actually provided to officers on how to deal with a potential use-of-force situation before it
escalated to actual use.¹⁷⁸

Notably, none of the documents provided to the Panel indicates whether the SFPD has any procedures for evaluating the effectiveness of its use-of-force training.

Data Collection and Uses of Force

Data collection regarding how the SFPD engages in uses of force is critical to understanding whether its policies are being followed fairly and properly. DGO 5.01 contains policies regarding how an SFPD officer must report an instance of use of force. Under DGO 5.01, not every action constituting a use of force must be reported. Instead, only the following instances qualify as reportable uses of force.

- · Physical control, when the person is injured or claims to be injured
- Liquid chemical agent, when sprayed on or at the person
- · Department-issued baton, when the person is struck or jabbed
- When the officer finds it necessary to strike a suspect with his/her fist, a flashlight, or any other object
- · Any use of carotid restraint
- · Any discharge of firearm

As mentioned above, shortly after the shooting death of Mario Woods, in December 2015, the SFPD issued a DB amending DGO 5.01 to elevate drawing and pointing a firearm at a person (even without discharge) as a reportable instance of use of force. This policy revision is long overdue, as the Ninth Circuit Court has defined the pointing of a gun at someone as a use of force since 2010. The SFPD's previous policy was thus contrary to the law until this current amendment.

When a reportable use of force occurs, DGO 5.01 requires the officer to inform his or her supervisor and prepare (or assist in preparing) an "incident report" that includes the type of force used, the reason for the force, and information about the supervisor. DGO 5.01 does not require that the incident report include demographic information. DGO 5.01 also does not require that information from the incident reports be tracked electronically.¹⁸¹

- 179 See Vivian Ho, S.F. Police Change Gun Policy in Wake of Mario Woods Shooting, SFGate (Dec. 16, 2015), http://www.sfgate.com/news/article/SF-police-change-gun-policy-in-wake-of-Mario-6700907.php.
- 180 See Espinosa v. City & Cnty. of S.F., 598 F.3d 528, 537-38 (9th Cir. 2010).
- 181 The newly approved draft of DGO 5.01 does require electronic data collection; this version of the draft policy must now go through the POA negotiation process.

¹⁷⁸ The files provided did include a PowerPoint presentation that reviews SFPD use-of-force DGOs and case law on the standard for reasonableness in use-of-force situations. The presentation also makes reference to "The Four Cs": contain, control, communicate and coordinate. The slide states that "[i]f the situation *does not* require Immediate Action/Rapid Deployment, thinking should shift from apprehension to containment" to be achieved by use of the Four Cs: "Contain—Get cover, establish a perimeter, and keep the suspect therein. Control—Identify the Incident Commander and inform units of mission. Communicate—Establish communication with units on scene ... and notify other resources. Coordinate—Set up a command post, prevent self-deployment, locate units, and identify on-scene capabilities/needs." This information in itself is insufficient to determine how the SFPD instructs its officers when to use force, but does show that the officers in this situation are instructed first to approach the situation with a state of mind seeking apprehension and not containment.

The files provided by the SFPD also included videos and documents entitled "homework." These documents posited hypothetical situations that officers could encounter and were demonstrated by clips that played out the scenario. For example, in one scenario officers are asked to imagine that they have arrived at the scene of a crime where the suspect is still clutching at a gun and is unresponsive. The homework asks the officer what they would do in this situation, and how their actions would change if a police officer were lying down at the scene with a gunshot wound. Unfortunately, none of these assignments provided information as to what the SFPD instructs its officers is correct way to act in any of the posited scenarios. Likewise, there are slides in a PowerPoint presentation with headings that read "Shoot/Don't Shoot?" and an image that appears to be a screenshot of a video clip, but again, no information was actually provided to the Panel as to when the SFPD instructs its officers to use force.

Starting this year, however, the SFPD must also comply with additional data tracking requirements for certain reportable incidents under Assembly Bill No. 71 (AB 71):

- any incident involving the shooting of a civilian by a peace officer or the shooting of a peace officer by a civilian, or
- any incident in which the use of force by a peace officer against a civilian or the use of force by a civilian against a peace officer results in serious bodily injury or death.

In some respects, AB 71 is narrower than DG 5.01 because it only requires reporting for uses of force that result in a shooting or "serious" bodily injury or death. For those reportable incidents, however, AB 71 requires the SFPD to provide an annual report to the California Department of Justice. Beginning with the first report in 2017, the SFPD's annual reports must include detailed information about the individuals involved and the circumstances of the use of force, including the following.

- 1. Gender, race, and age of each individual who was shot, injured, or killed
- 2. Date, time, and location of the incident
- 3. Whether the civilian was armed, and, if so, the type of weapon
- 4. Type of force used against the officer, the civilian, or both, including the types of weapons used
- 5. Number of officers involved in the incident
- 6. Number of civilians involved in the incident
- 7. Brief description regarding the circumstances surrounding the incident, which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders

In addition to AB 71, the SFPD must also begin compliance this year with new local reporting requirements under San Francisco Ordinance 166-15. Among other things, Ordinance 166-15 requires the SFPD to begin collecting demographic information regarding stops and detentions and contains specific requirements for incidences involving use of force. Beginning June 30, 2016, the SFPD must provide quarterly reports to Board of Supervisors, the Police Commission, and the Human Rights Commission on the following information.

- Total number of uses of force
- · Total number of uses of force that resulted in death to the person on whom an officer used force
- Total number of uses of force broken down by race or ethnicity, age, and sex of persons on whom force was used

Thereafter, beginning in June 30, 2017, the SFPD must also provide quarterly reporting on broader statistics regarding stops and detentions.

Implementing Body-Worn Cameras

In the wake of high-profile officer-involved shootings, the use of body-worn cameras by police officers has come to the forefront of the national debate on police use of force. Body-worn cameras are attractive because of their potential to improve transparency into police interactions with the public, and thereby improve accountability. This accountability may lead to a decrease in excessive use of force by police. For example, a 2015 report from San Diego's policy department noted that after the adoption of body-worn

¹⁸² Jay Stanley, Police Body-Mounted Cameras: With Right Policies in Place, a Win for All, ACLU (Mar. 24, 2015), https://www.aclu.org/police-body-mounted-cameras-right-policies-place-win-all.

¹⁸³ Leadership Conference on Civil and Human Rights & Upturn, Police Body Worn Cameras: A Policy Scorecard (2015), https://www.bwcscorecard.org/. But see Timothy Williams, James Thomas, Samuel Jacoby, and Damien Cave, Police Body Cameras: What Do You See?, N.Y. Times (Apr. 1, 2016), https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action="https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action="https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&action=top-news&r=1">https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?hp&

cameras, "complaints about officers fell 40.5 percent and use of 'personal body' force by officers dropped by 46.5 percent." The SFPD does not currently employ body-worn cameras. As discussed below, however, the SFPD is implementing new policies to begin deploying body-worn cameras to a subset of officers. 185

Findings

The SFPD's use-of-force policies are contrary to best practices and should be revised.

The SFPD's current policies governing the use of force and officer-involved shootings are outdated, confusing, and do not reflect best practices for modern police departments. Several key areas can be improved and specific recommendations regarding revisions to the policies are presented below. By clarifying the appropriate uses of force, the SFPD can work to ensure that its policies on use of force will be applied in a more transparent and fairer manner.

In February 2016, following the officer-involved shooting of Mario Woods, the SFPD initiated its own efforts to revise its policies on the use of force by issuing draft revised policies and soliciting input from various stakeholders, including the Panel. At the start of the drafting and revision process, the draft policies consisted of three separate DGOs and a Special Operations Bureau Order on Conducted Energy Devices. Based on comments raised by the stakeholders and the U.S. Department of Justice, the latest drafts consolidate the draft DGOs into the following.

- DGO 5.01: Use of Force
- Special Operations Bureau Order Conducted Energy Devices¹⁸⁶

The content of the revised draft DGO 5.01 roughly correlates with and consolidates the current DGOs, covering use of force, use-of-force reporting, and use of lethal force in a single DGO. During the stakeholders' meetings and at subsequent public hearings of the Police Commission, the Panel made several recommendations to the draft revised policies. The Panel's recommendations and those of the other stakeholders were then submitted to the Police Commission for discussion. Part The Commission discussed the recommendations and sought additional input from the U.S. Department of Justice and from members of the public. Based on this feedback, on June 1, 2016, the Commission released two possible versions of the new DGO 5.01 Based on this feedback, on June 1, 2016, the Commission released two possible versions of the new DGO 5.01 for public comment.

Representatives from the Panel and community stakeholders then collaborated to produce an additional version of DGO 5.01 that better reflected standards of 21st century community policing. After

¹⁸⁴ Williams, Police Body Cameras: What Do You See?, supra note 182.

¹⁸⁵ See Chapter 1: Stops, Searches, and Arrests for more detail on the SFPD's body-worn camera policies.

Tasers, to approximately 100 officers; it also specifies the circumstances when officers may deploy CEDs and other regulations regarding their use. The Panel recommended delaying the consideration of this order until it could properly and comprehensively analyze the possible benefits and risks of CED use to develop a final recommendation. Based on studies conducted to date, experts disagree on the potential impact of CED deployment, including the risk of CED-related injuries. Consequently, the Panel suggested the Commission allow itself additional time to fully consider whether and how to deploy CEDs. Given the already expansive scope of the use-of-force revision process, the Panel suggested considering CED deployment separately at some point after the DGO revision process was complete. As a result, the Panel declined to provide specific recommendations on the language of the CED Bureau Order. Based on feedback from the Panel and community stakeholders, the Police Commission decided to consider CEDs at a later date.

¹⁸⁷ Minutes of S.F. Police Comm'n Meeting, S.F. Police Dep't (May 4, 2016), http://sanfranciscopolice.org/meeting/police-commission-may-4-2016-agenda.

¹⁸⁸ The preliminary Department of Justice comments on the Revised Policies are available at http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/AgendaDocuments/
http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/AgendaDocuments/PoliceCommission-DoJ-Subject-Matter-Experts-Comments-of-Use-of-Force-Policies.pdf; the notes from the public comment sessions are available under the Community Input Session, found at http://sanfranciscopolice.org/use-force-documents.

¹⁸⁹ These versions of the Draft Revised Policies are available at http://sanfranciscopolice.org/meeting/police-commission-june-1-2016-supporting-documents.

this version was presented to the Commission, community stakeholders worked with the POA to develop a "consensus" version, which reconciled most of the differences between the competing drafts of DGO 5.01.¹⁹⁰ On June 22, 2016, this "consensus" version was unanimously adopted by the Commission.¹⁹¹

Now that it is approved by the Commission, the DGO will enter the statutorily required meet-and-confer process, during which a city negotiator will conduct additional negotiations with the SFPD's designated bargaining unit—the POA. ¹⁹² Based on public statements by the POA, the negotiation will focus on areas of disagreement not settled by the adopted consensus version and should not result in substantial changes to areas of agreement. ¹⁹³ After the meet-and-confer process is complete, a final draft (reflecting changes made by the city negotiator and the POA) will be presented to the Police Commission for either final approval and adoption, rejection and further negotiations, or arbitration with the POA.

2. The SFPD did not provide sufficient information to evaluate its use-of-force training.

The SFPD has not provided the Panel with sufficient information to evaluate whether its current use-of-force training programs sufficiently train officers on the fair and unbiased application of the use of force. As part of its investigation, the Panel submitted public records requests for specific materials regarding use-of-force training materials as noted below.

- All documents from 2010 to 2015 related to any training that police officers receive, including how often police officers are required to attend such training, pertaining to:
 - a.any form of bias;
 - b. community policing, relationship-based policing, interaction with community members, interaction with minority community members, language and cultural competency, community sensitivity, and related issues;
 - c. use of force, de-escalation, and conflict resolution;
 - d.use of firearms;
 - e.interactions with youth and interactions with people with mental health issues; and
 - f. procedural justice.
- All documents from 2010 to 2015 related to any training that police officers receive at the academy, including instruction syllabi, pertaining to the subjects identified above.

The Panel has not received complete responses to any of these requests. The Panel also requested, but has not received, a copy of the academy training manual.¹⁹⁴

In addition to seeking training materials, the Panel also attempted to interview witnesses who were familiar with the SFPD's training programs on use of force, but was impeded by the POA.¹⁹⁵

Without access to training materials or knowledgeable witnesses, the Panel is unable to evaluate the SFPD's use-of-force training. For example, former Chief Suhr repeatedly mentioned his commitment though DBs to "time and distance and de-escalation." According to former Chief Suhr, the bulletins make it clear

¹⁹⁰ For more details on the specific language of the draft DGOs and the Panel's role in contributing to the use-of-force revision process, the Panel representatives' written and oral statements before the Commission are available on the San Francisco Police Commission's website at http://sanfranciscopolice.org/meetings/19.

¹⁹¹ See Vivian Ho, "New Use-of-Force Policy for Police Gets Panel's OK; SF Police Use-of-Force Policy Gets Commission OK," San Francisco Chronicle (June. 23, 2016).

¹⁹² This information is up to date as of the publication date of the report; negotiations are ongoing and details are subject to change.

¹⁹³ Representatives of the Panel will continue to advocate for its recommendations as the POA negotiation process progresses.

¹⁹⁴ See Introduction at page 10 for more on the Panel's PRA request to the SFPD.

¹⁹⁵ For more detail, see Introduction at page 7 related to the Panel's interactions with the POA.

¹⁹⁶ See, e.g., Alex Emslie, "Time and Distance" Central to Controversy Over San Francisco's Latest Fatal Police Shooting, KQED News (Apr. 14, 2016), http://ww2.kqed.org/news/2016/04/14/time-and-distance-central-to-controversy-over-san-franciscos-latest-fatal-police-shooting.

to officers that they should not discharge a firearm and maintain a safe distance when a subject is a threat only to themselves. While the relevant department bulletin is public, without the relevant training materials it is impossible to know how this mandate is being implemented and if officers are being consistently trained to comply with this mandate.

3. The SFPD does not collect data sufficient to evaluate whether people of color are disproportionately the subject of police use of force.

Before this year, the SFPD was not required to and did not track demographic information about individuals who are subject to use of force by an officer. Other than any information that may be contained within individual incident reports, the only way that the SFPD tracked instances of use was force was to maintain a paper "log." As discussed below, however, its use-of-force logs contain very little information about the reported incidents and no demographic information. Indeed, the only demographic information received by the Panel during the investigation was from the San Francisco District Attorney's office, whose records of officer-involved shootings indicate that more than half of the subjects of such shootings are people of color.

In particular, the DA provided a spreadsheet with demographic information regarding the subjects of 69 officer-involved shootings reported from January 23, 2010 to July 30, 2015. ¹⁹⁷ In total, 58 percent of subjects were reported as people of color (Black, Hispanic, Asian, Filipino, or Pacific Islander), 16 percent of subjects were reported as White, and 26 percent of subjects did not have any reported race or ethnicity. Without additional information, such as the location of where the officer-involved shooting took place, the demographics of those areas as well as the demographics of detentions made in those areas, ¹⁹⁸ and other data, it is not possible to conclude whether SFPD officer involved–shooting statistics reflect racial bias in shootings, or to conclude with any reliable certainty that officer-involved shootings disproportionately affect certain groups. Nonetheless, even without complete data, it is apparent that officer-involved shootings impact communities of color:

Officer-Involved Shootings (January 23, 2010–July 30, 2015)

• Race reported: 51 (74 percent)

Black: 20Hispanic: 16White: 11Asian: 2Filipino: 1

Pacific Islander: 1

Race not reported: 18 (26 percent)

In addition to the spreadsheet of officer-involved shootings received from the DA, the Panel also received 970 pages of partial use-of-force logs from the SFPD. The use-of-force logs consist of paper forms with 14 columns. The first four columns call for case identifying information, including date, case number, and the names of the reporting officers and the reviewing officer. The next six columns list various types of force (e.g., physical control, chemical agent, firearm, etc.) to be check-marked if used. The next three columns inquire about whether the officer or suspect was injured during the encounter (or complained of injury), requiring the person reporting the incident to circle "yes" or "no." There is one final column for miscellaneous comments. These logs are submitted bi-monthly, to be reviewed and signed by the Commanding Officer.

¹⁹⁷ The spreadsheet also contained some information regarding prior officer-involved shootings dating back to 1997. For those prior officer-involved shootings, however, the spreadsheet did not contain complete demographic information. For this reason, the prior officer-involved shootings were not included in the analysis.

¹⁹⁸ Some experts disagree with the use of community demographics to evaluate whether uses of force are disproportionately directed at minority populations, and believe the best comparison is against the demographics of individuals who are involved in violent crime. However, in some cases that type of demographic information is not readily available.

Notably, the logs do not call for the reporting officer to report the subject's gender, race, or age. In fact, the logs do not call for the reporting officer to list any information about the subject whatsoever, aside from marking whether the subject was injured or complained of injury. The logs also do not call for the reporting officer to indicate whether the subject was armed, or the number of officers involved in the incident.

In general, the logs are difficult to read, inconsistent, and often incomplete. Although the use-of-force logs received generally covered the years 2013–2015, the Panel received no logs for November-December 2014 or November-December 2015. Moreover, within the logs that the Panel did receive, many pages contained illegible text or text that did not conform to the appropriate format (e.g., case numbers with too many digits). For example, the "date" column was cut off entirely on some pages whereas other pages contained dates that did not exist (e.g., February 30). At some point during 2013, certain columns also disappear (e.g., "strike by fist/object" and the "carotid restraint" appear in earlier forms, but no longer appear as columns in later forms). In approximately half of the entries, the person reporting the incident declined to fill out the comments section. Some of the entries that do include comments reference use-of-force techniques not addressed in the SFPD's DGOs (e.g., "arm bar"). Finally, many of the entries do not identify the officer involved, whereas others identified multiple officers without specifying which officer was responsible for which use of force. This inconsistent incomplete reporting may be indicative of management complacency, and suggests the need for regular, independent audits from the City Services Auditor.

Notwithstanding these constraints in the data, the Panel endeavored to compile a digitized dataset from these paper logs to gain a better overall understanding of current use-of-force practices. Based on data extracted from the logs, the SFPD reported on average 50-70 cases a month involving at least one use-of-force incident. In more than half of those cases, the reporting officer(s) identified at least one suspect as being injured (although a smaller percentage of cases involved the suspect complaining of injury).

Panel Analysis of SFPD Use-of-Force Logs by Case

	2013	2014 (Jan-Oct)	2015 (Jan-Oct)
Number of unique cases	775	671	503
Number of unique cases with at least one suspect identified as injured	430	417	293
	(47 unknown)	(60 unknown)	(51 unknown)
Number of unique cases with at least one suspect complaint of injury	361	350	244
	(41 unknown)	(20 unknown)	(8 unknown

Looking at the data from the perspective of officers, rather than cases, an average of 30-50 officers reported at least one incidence of use of force in any month. Less than half of the officers who reported any use-of-force incident during the course of the year also reported at least one injury.

Panel Analysis of SFPD Use-of-Force Logs by Officer

	2013	2014 (Jan-Oct)	2015 (Jan-Oct)
Total number of officers involved in at least one reported case	492	383	371
Number of reported instances in which an officer was injured	211	166	98

Among the reported uses of force, the most common was physical control, followed by strike by fist or object and strike or jab of the baton.

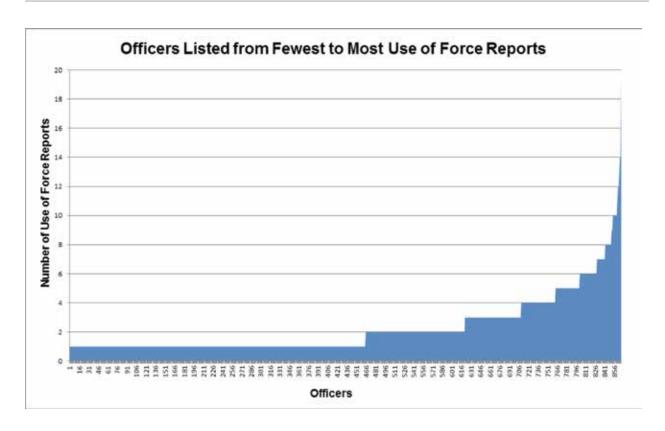
Panel Analysis of SFPD Use-of-Force Logs by Type of Force

	2013	2014 (Jan-Oct)	2015 (Jan-Oct)
Number of reported uses of physical control	565	485	353
Number of reported uses of strike by fist or object	418	304	180
Number of reported uses of baton strike or jab	181	105	81
Number of reported uses of chemical agent	126	75	67
Number of uses of carotid restraint	46	40	20
Number of uses of firearm	8	11	4
Number of uses categorized as other use of force	7	0	0

As reflected above, the total number of officers involved in at least one reported case in each year was lower than the total number of unique cases reported that year. This holds true even though each reported case may involve multiple officers. In other words, subject to the numerous limitations to the data noted above, the information extracted from the use-of-force logs suggests that some officers must be involved in multiple reported instances of use of force.

Indeed, analyzing across all available data, the Panel finds that a small number of officers accounted for a large number of all reported instances of uses of force. ¹⁹⁹ To visualize the distribution, below is a chart ranking the number of incidents for each officer who reported any use-of-force incident during the relevant period. As reflected below, the majority of officers who reported any instances of use of force during these years only reported one or two instances in total. The remaining minority of officers (under 30 percent), however, accounted for a majority of the total reports (60 percent of all reported instances of use of force).

¹⁹⁹ This assessment is not inconsistent with results in other police departments. See, e.g., Police Exec. Research Forum ("PERF"), Critical Issues in Policing Series: Civil Rights Investigations of Local Police: Lessons Learned 16-18 (2013) ("Research has long suggested that a small percent of police officers account for a high percentage of use-of-force incidents. There are a number of possible explanations for this, some of them benign. For example, officers in high-activity assignments may be exposed to considerably more high-risk encounters. However, frequent uses of force may also be an indication that an officer needs additional monitoring, supervision, training, or discipline.") (emphasis added).



As reflected above, only one use of force was reported per officer for more than 450 officers during the entire period of 2013, January–October 2014, and January–October 2015. Of course, the above distribution only tracks officers who reported at least one use-of-force incident during the relevant period and potentially omits large numbers of active officers who reported no use-of-force incidents at all. On the other hand, the distribution also does not reflect any uses of force that were not required to be reported (e.g., uses of force that did not result in any injury or complaint of injury).

Based on this preliminary analysis, it certainly appears that use of force is not employed uniformly by all officers. Without more information about these officers and cases, the Panel cannot draw any conclusions as to why certain officers are applying use of force with much higher frequency than other officers.

4. The SFPD's implementation of a body-worn camera policy is a positive development, but the final adopted policy reduces accountability benefits.²⁰⁰

The SFPD is in the midst of preparing for the rollout of body-worn cameras for 1,800 officers, which may increase accountability by providing evidence for use in use-of-force investigations, and has the potential to improve officer training and dramatically decrease the use of force. Former Oakland Police Chief Sean Whent, for example, credits body cameras—in addition to updated training, more restrictive policies, and an effective review process—for the city's 72 percent reduction in use-of-force incidents. The potential accountability benefits of the SFPD's new body-worn camera policy are compromised, however, by a liberal officer review policy, which requires officers to make only a brief initial statement "summariz[ing] the actions that the officer was engaged in, the actions that required the use of force, and the officer's response" before review of the footage. Formal interviews, under the newly adopted policy, would occur after review of the footage with the officer's representative or attorney.

²⁰⁰ For more on the SFPD's body-worn cameras and policies, please see Chapter 1: Stops, Searches, and Arrests.

²⁰¹ Vivian Ho, S.F. Panel Votes on Body Camera Policy, SFGate (Dec. 3, 2015), http://www.sfgate.com/crime/article/S-F-Panel-votes-on-body-camera-policy-6672070.php.

5. Officer-involved shooting investigations conducted by the District Attorney's Office suffer from a lack of independence and an outdated notification system.

The DA's office conducts its own investigations of officer-involved shootings and in-custody deaths in parallel to the SFPD's internal investigations. The White Collar Crime Division's Special Prosecutions Unit (SPU) in the DA's office is responsible for these investigations and responds to officer-involved shooting scenes alongside the SFPD. Although the SPU's investigations are important to ensuring accountability within the SFPD, they are often limited by (1) lack of prompt notification from the SFPD to correct personnel at SPU, and (2) difficulties the SPU faces in its efforts to conduct a truly independent investigation.

Current procedures obligate the SFPD to notify the DA's office of each officer-involved shooting so that the SPU can respond to the scene. Often, however, the SFPD fails to reach the relevant "on-call" representative, and/or notifications are quite delayed, with 45 minutes to one hour lapsing before the SFPD reaches the correct contact within the DA's office. In one instance, for example, the body of the shooting victim had already been moved by the time that SPU investigators arrived on the scene. However, the SFPD has historically resisted requests to provide earlier notification in order to allow earlier response to officer-involved shooting scenes; the SFPD cites the long list of individuals in SFPD leadership who are contacted first as the cause of the delay.

Second, it is often difficult for the SPU to conduct an investigation that is truly independent from the SFPD's. In any officer-involved shooting, the SFPD is the lead agency and has the power to control the scene. Under current procedures, the SPU attends interviews of officers involved in officer-involved shootings alongside the SFPD. However, in any interview, the SFPD always asks its questions of the officers first. While interview techniques vary from investigator to investigator, the SFPD investigators often ask leading questions that do not advance an objective investigation. These questions may taint the interviews and reduce their utility in the SPU's independent investigation.

In light of these concerns, the DA's office recently developed a draft memorandum of understanding to be negotiated with the SFPD that seeks to improve the independence and utility of the DA's investigations. Under the draft memorandum of understanding, the DA's office would be notified of all officer-involved shootings within 10 minutes of notification to the SFPD's communications department. In addition, the DA's office would be the lead agency on the scene of any officer-involved shooting. Likewise, the DA's office would lead any non-compelled interviews of officers following the officer-involved shooting and decide, in its discretion, whether to invite SFPD investigators to participate in these interviews. Finally, the memorandum of understanding contemplates that the DA's investigations would be conducted by a newly established Criminal Justice Integrity Team of the DA.

If implemented, the memorandum of understanding would help mitigate the problems identified above.

Recommendations

1. The SFPD should regularly update, review, and revise its use-of-force policies.

The SFPD's primary use of force policy, DGO 5.01, was last updated in 1995. Use-of-force best practices for police departments have developed substantially in the past 20 years. The current efforts to revise DGO 5.01 are not only necessary, but long overdue. Policies should be reviewed and revised regularly, at a minimum, and also as specific circumstances dictate. The SFPD must remain vigilant in monitoring its high-risk policies, including policies regarding the use of force, and update them as necessary. Furthermore, the SFPD should take steps to ensure it is documenting its efforts to review and revise its policies whenever

²⁰² See Appendix I: Draft Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings, In-Custody Deaths, and Use of Force Incidents 4 (2016 draft).

²⁰³ Id. at 5.

²⁰⁴ Id. at 2.

such analyses and revisions take place. Such review could include an audit by an independent agency such as the City Services Auditor.

The policy need not be rewritten each time it is reviewed. But having a regular schedule for review and revision would give the SFPD the opportunity to evaluate the policies and any needed improvements or clarifications, and also give the public more confidence that the policies were regularly being evaluated. The SFPD should also ensure it has appropriate command staff responsible for determining when high-risk policies should be updated in response to important developments. As stated above, the SFPD should cease its practice of amending the DGOs through department bulletins, which is confusing and inefficient.²⁰⁵ For example, DB 13-067, issued in 2013, purports to amend DGO 5.01 to supplement the types of incidents requiring reporting of a use of force to include instances where a person complains of "pain that persists beyond the use of the physical control hold." That same language appears in the current draft revised policy.²⁰⁶ DGO 5.01 should have been updated with this language when DB 13-067 was released instead of having the amendment contained in a department bulletin; instead, it is only now being incorporated into the actual policy.

As noted above, at the request of the Police Chief and the Mayor, the San Francisco Police Commission has approved updated use-of-force policies and is in the process of negotiating with the POA ahead of final adoption and implementation. The Panel's working group participated in the stakeholders' meetings, providing feedback at the Police Commission discussion on the topic, and will continue to provide feedback to the Police Commission during this process.

2. The SFPD's use-of-force policy should clearly and concisely state guiding principles and expectations.

Currently, DGO 5.01 is quite long, at 11 pages. The SFPD's revised use-of-force policy should clearly and succinctly state the guiding principles on use of force and its expectations on how use of force will be documented, reported, and investigated. This policy should then be supplemented by more extensive training materials like manuals on specific issues or techniques, and "scenario-based" training.²⁰⁷

Having a shorter policy with more extensive training materials has several benefits. First, a short, succinct policy will be clearer and more digestible, and therefore officers may be more likely to abide by it. Second, training manuals can be refreshed and updated with greater ease based on the latest research and field data, while changes to the underlying policies require more time and process development. This ability to adapt to match modern best practices will become critical as advancements in data collection and societal changes alter current trends in law enforcement.

The SFPD could consult the International Association of Chiefs of Police (IACP) as a helpful resource on how to implement a short and succinct policy. The IACP Model Use-of-Force Policy is only three pages long, but is accompanied by a training manual with pictures and video that provides details on topics like baton training, strike zones, etc.

During the use-of-force policies revision process, the Panel recommended wherever possible the consolidation of language and the streamlining of the general orders. The current consolidation of multiple DGOs into a single (albeit longer) DGO 5.01 is a positive step toward a more streamlined policy on use of force. The Panel supports the efforts to clarify the use-of-force policy.

However, as a result of the revisions process, it appears that certain initial "policy" statements from the current DGO 5.01 were removed from the draft revised policy. The "policy" statements in the current DGO 5.01 reflect the SFPD's commitment to use only the "minimal" amount of force that is "reasonable" and "necessary" under the circumstances. The proposed removal of these policy statements from the draft

²⁰⁵ See Introduction at page 16 for more on the relationship between DGOs and DBs.

²⁰⁶ Draft Use-of-Force Policies and Stakeholder Comments, supra note 189.

²⁰⁷ As noted above, the Panel was not able to assess the current training materials of the SFPD.

revised policy has created substantial confusion and concern among stakeholders. In particular, the Panel and other stakeholders are concerned that the draft revised policy could be interpreted to no longer require officers to use the minimal reasonable and necessary force. Therefore, the Panel has and does strongly advocate for the draft revised policy to retain the current guiding principal that officers should only use the "minimal" amount of force "reasonable" and "necessary" under the circumstances.

3. The SFPD should limit the circumstances where the carotid restraint is an acceptable useof-force technique and delineate those circumstances in the written policies.

DGO 5.01 currently includes the carotid restraint as an acceptable use-of-force technique. This technique is disfavored under modern police philosophy. Properly applying the carotid restraint can be extremely difficult, especially under circumstances where the subject is resisting the officer. Because misapplying the carotid restraint can have a very severe outcome (i.e., severe injury or even death), most police departments have decided to prohibit the use of this technique.

The carotid restraint is a contested area of draft DGO 5.01 that the Commission and the POA are currently negotiating. As approved by the Commission on June 22, 2016, the draft policy removes the carotid restraint as a permissible use-of-force technique. The POA has indicated that it wishes to allow the use of techniques that apply pressure to a subject's trachea or arteries, which would include the carotid restraint, in situations where lethal force would otherwise be justified. The POA also suggested language that lists precautions officers should take when deploying the carotid restraint, and imposes a mandatory medical assessment requirement when it is deployed.

Either change would bring the policy more in line with current best practices regarding the use of force. If the final policy does permit use of the carotid restraint, officers must be appropriately trained and held accountable for misuse.

4. The SFPD should eliminate its "escalating scale" of permissible uses of force in its use-offorce policy and include a focus on "de-escalation."

DGO 5.01's "escalating scale" ²⁰⁸ of permissible uses of force is outdated and impractical. ²⁰⁹ An "escalating scale" describes an escalating series of actions that an officer may take to resolve a situation. This continuum has many levels of increasing severity, beginning with verbal persuasion and physical control and ending with the use of a firearm. Officers are instructed not to move up the scale unless the officer is unable to obtain compliance with a lower level of force, or it is determined that a lower level of force would not be adequate.

The "escalating scale" is not the best structure for a use-of-force policy and many departments abandoned escalation scales more than 10 years ago. It is impractical to ask an officer to go through the relatively slow-paced decision-making process that the "escalating scale" requires when faced with exigent circumstances. Use-of-force policy provisions that are impractical undermine the policy's legitimacy and are likely to contribute to decreased officer compliance overall.

Instead, the policy should present all the permissible techniques, and officers should be instructed to select the most reasonable and least forceful method that would be effective under the circumstances. This would give the officers the flexibility to use their best judgment to respond effectively, rather than deciding what step on a "scale" of options they should be applying. It is possible that the specific techniques are listed elsewhere in training materials that were not provided to the Panel. If that is the case, DGO 5.01 should specifically state where such information is contained, and that DGO 5.01 only applies to the explicitly permitted techniques identified in that source.

²⁰⁸ Also sometimes called "continuum."

²⁰⁹ Draft Revised Policy 5.01 appropriately eliminates the escalating scale.

²¹⁰ This is sometimes called the "toolbox," "wheel," "circle," or "grab-bag" method.

DGO 5.01 currently lacks any discussion of "de-escalation." The SFPD should follow current trends in law enforcement by having a use-of-force policy that advocates for the use of de-escalation techniques, where practical. A policy with a de-escalation focus may eliminate the need for use of force in some instances. For example, former Chief Whent of the Oakland Police cites the Oakland Police Department's focus on de-escalation in both policy and training as contributing to its significant reduction in uses of force by police.²¹¹

A significant improvement in Draft Revised Policy 5.01 emphasizes the SFPD's commitment to using de-escalation principles and describes various de-escalation techniques to be used where practical. Community members repeatedly suggested including de-escalation during the Panel's investigation. An explicit policy addressing de-escalation would help address the public's concerns.

The stakeholders disagree, however, on whether the language in the draft policy should require officers to "consider" principles of de-escalation, or to "apply" principles of de-escalation when faced with a dangerous situation. One version of the draft policy, labeled as "version 2" at the June 1, 2016, Police Commission meeting, demonstrates a much stronger commitment to the principles of de-escalation, and uses mandatory language requiring officers to apply these principles. This version is most consistent with the principles expressed in this report and by the other independent stakeholders in the community. In contrast, the alternative "version 1" uses discretionary language throughout and substantially limits the officer's obligation to apply de-escalation principles. During the use-of-force policies revision process, the Panel has consistently supported removing the escalating scale of options, and continues to support the mandatory language requiring officers to "apply" principles of de-escalation. Ultimately, the "consensus" version adopted by the Commission uses the mandatory "apply" language. The Panel will continue to support the use of the mandatory language as DGO 5.01's final language is negotiated with the POA.

5. The SFPD should articulate all permissible types of chemical agents, impact weapons, and extended-range impact weapons in its use-of-force policy.

Currently, DGO 5.01 does not list all permissible types of chemical agents, impact weapons, and extended-range impact weapons. All permissible types of chemical agents, impact weapons, and extended-range impact weapons should be articulated in DGO 5.01 to achieve greater policy clarity and public transparency. It may be that the specific types of chemical agents, impact weapons, and extended-range impact weapons are articulated in the training materials; however, they should be identified in the actual policies themselves, which are public documents, if the training materials are not made publicly available.

Moreover, in response to a recommendation in Officer-Involved Shootings: A Five-Year Study by San Francisco Police Department (2010), then-Chief George Gascón directed the SFPD's Direct Training Division to explore the use of less lethal options currently not available to department members. Whether this directive was effectively implemented, however, is unclear because the DGO 5.01 does not currently list all permissible non-lethal options.

During the use-of-force policies revision process, the Panel recommended the inclusion of all permissible types of force options. The revised policy as adopted, however, includes a non-exclusive list of potential uses of force.

6. SFPD supervisors should be required to evaluate the reasonableness of force after all useof-force incidents.

A commanding officer and/or member of SFPD management, and not the immediate supervisor of the officer involved in the use-of-force incident, should be required to conduct an evaluation of the reasonableness of force after all use-of-force incidents.²¹² Each officer who is involved in a use of force and

²¹¹ According to one media source, in Oakland, use-of-force complaints have dipped more than 40 percent from 2013-2014 and officer-involved shootings have decreased more than 60 percent from the prior decade's average. Joaquin Palomino, Sharp Downturn in Use of Force at Oakland Police Department, S.F. Chronicle (Sept. 2, 2015), http://www.sfchronicle.com/bayarea/article/Sharp-downturn-in-use-of-force-at-Oakland-Police-6481637.php?t=d32a02fc88&cmpid=twitter-premium.

²¹² Training Commanding Officers and SFPD Management to evaluate reasonableness should also be implemented as part of this recommendation.

all witness officers should also prepare a statement, and the officer's commanding officer or a member of SFPD management should adjudicate the investigation and make a determination whether the use of force was reasonable. If the commanding officer or member of SFPD management determines that the use-offorce investigation indicates the use of force was unreasonable, it should be referred to Internal Affairs for a mandatory personnel investigation. DGO 5.01 and Draft Revised Policy 5.01 only require supervisorial evaluation when the supervisor was notified of use of force. The purpose of this recommendation is to eliminate any perceived discretion as to what types of excessive force allegations merit supervisorial evaluation. The officer's supervisor should perform the investigation regarding the use of force, such as ensuring "photographs of the subject, including any injuries, are taken and all other evidence is booked." DGO 5.01 and Draft Revised Policy 5.01 only require that photographs be taken of injuries; the Panel recommends photographs be taken even if there are no visible injuries.

Draft Revised Policy 5.01 should be amended to further clarify and emphasize the division of responsibilities between the supervisor investigating the use of force and the commanding officer and/ or member of SFPD management who is adjudicating the use of force. The policy should specify that the person adjudicating the use-of-force incident should hold at least the rank of captain. The language is currently unclear and could be interpreted as allowing the same superior officer to both investigate and adjudicate a use-of-force incident, which the Panel considers to be inappropriate.

7. The SFPD's use-of-force policy should include a provision emphasizing the SFPD's duty to conduct fair and unbiased policing.

The Panel consistently recommended that Draft Revised Policy 5.01 include a provision emphasizing the SFPD's duty to conduct fair and unbiased policing. An officer has a duty to conduct his or her job in a fair and unbiased manner, and this duty must be codified in the policy.²¹⁵ The consensus version as adopted does include such a provision, and Panel representatives will continue to advocate for this provision as negotiations continue.

8. The SFPD should adopt the "guardian" mentality in its use-of-force training.

SFPD should emphasize a guardian mindset in its training to build community trust and strengthen community engagement. The President's Task Force on 21st Century Policing recommends that "[I] aw enforcement culture should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy within agencies and with the public." When a law enforcement agency is viewed as an occupying force, rather than a community protector, it cannot build community trust. A former high-level SFPD officer observed that the SFPD presently has both guardian and warrior officers. One expert described "warrior" officer mindsets as being created from as early as the cadet training, where academies were modeled on "military boot camps" that employed "aggressive and adversarial" methods. This training can contribute to officers "subconsciously" learning that they should exert force with their authority. Also, when cadets are trained in environments where they are constantly being attacked, escalation and the use of force can become the officer's first instinct. In describing the distinction between the guardian and warrior approaches to policing, a member of the President's Task Force wrote:

In 2012, we began asking the question, "Why are we training police officers like soldiers?" Although police officers wear uniforms and carry weapons, the similarity ends there. The missions and rules of engagement are completely different. The soldier's mission is that of a warrior: to conquer. The rules of engagement are decided before the battle. The police officer's mission is that of a guardian: to protect. The rules of engagement evolve as the

²¹³ Draft DGO 5.01 uses the terms supervisor, superior officer, and commanding officer, but does not define or specify what is meant by the respective terms.

²¹⁴ SFPD Department General Order 5.01.

²¹⁵ The Panel has submitted this recommendation to the SFPD through its participation in stakeholder meetings on revising use-of-force policies.

²¹⁶ President's Task Force on 21st Century Policing, Final Report of the President's Task Force on 21st Century Policing 1 (2015), http://www.cops.usdoj.gov/pdf/taskforce/taskforce-finalreport.pdf.

incident unfolds. Soldiers must follow orders. Police officers must make independent decisions. Soldiers come into communities as an outside, occupying force. Guardians are members of the community, protecting from within."²¹⁷

Rebuilding public confidence through the guardian mindset would not merely improve the SFPD's legitimacy. Police officers who adopt the guardian mentality are embraced as part of their communities, and members of the public work with guardian officers to make their neighborhoods safer. Making these connections and engaging the community would improve public safety and increase the effectiveness of crime fighting.

Although it is important that the SFPD work to instill a guardian mindset in its training, the President's Task Force Report notes the significance of department culture in the ultimate success of guardian-centric training policies. "The values and ethics of the agency will guide officers in their decision-making process; they cannot simply rely on rules and policy to act in encounters with the public. Good policing is more than just complying with the law." Guardian training should therefore be viewed as both practical procedural justice training, and a tool of cultural evolution. Both components are critical to building public confidence and legitimacy.

Indeed, the SFPD has publicly endorsed the guardian mindset in its response to the President's Task Force Report.²¹⁹ In support of the guardian mindset, the SFPD cited to its leadership training "Blue Courage: Heart and Mind of a Guardian," a program which "inspires officers to embody the noblest of character and unquestioned devotion to the principles that guide the law enforcement profession and develops the guardian mindset through education in the nobility of policing, foundations, respect, and practical wisdom modules."²²⁰ As noted above, however, the Panel received very little training information and is unable to independently evaluate whether the SFPD incorporates the guardian mindset into its regular training—the Blue Courage training program is not available to all cadets or officers.

In addition, public trust that the SFPD is adopting and implementing a guardian mindset is eroded when highly publicized and troubling incidents of use of force continue to develop, such as the cases of Mario Woods, Alex Nieto, Amilcar Lopez-Perez, Luis Gongora, and Jennifer Williams. Therefore, the SFPD should conduct a comprehensive review of its training programs—from basic training to leadership training—to ensure that it is instilling the guardian mindset in all officers. In particular, as discussed below, the SFPD should expand its proposed de-escalation training and implicit-bias training. In the weeks preceding the release of this report, the SFPD announced a framework for rolling out new training on both subjects. Going forward, the SFPD must embrace the guardian mentality in developing and expanding these trainings. Moreover, the SFPD should ensure that its training procedures be subject to independent auditing efforts.

9. The SFPD should expand its training on de-escalation and proportionality.

The SFPD should implement mandatory de-escalation training. Broadly speaking, de-escalation training encourages officers to slow down, resist contributing to the exigency of an incident, and select the best proportionate response before resorting to force.²²¹

²¹⁷ Id. at 11.

²¹⁸ Sue Rahr & Stephen K. Rice, Nat'l Inst. of Justice, From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals 12 (2015), http://www.hks.harvard.edu/content/download/76023/1708385/ version/1/file/WarriorstoGuardians.pdf.

²¹⁹ S.F. Police Dep't, Review and Response of the Final Report of The President's Task Force on 21st Century Policing (2015), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27535-SFPD%20Response_21st%20Century%20Policing_Final%202015_09_22.pdf.

²²⁰ Id.

²²¹ On the related issue of crisis intervention, the Police Commission adopted a 2010 resolution that created the Crisis Intervention Team (CIT) Panel, which provides detailed trainings on how an officer should handle different situations, including how they should respond to a scene involving a mentally ill person. Although the SFPD offers incentives for officers to take CIT training, including taking it into account for officer promotions, and recommends a mandatory 40-hour CIT training for all SFPD first responders and field supervisors, Police Commissioner Sonia Melara has commented that less than a third of the Department, or about 380 officers, have actually taken the training. Currently, CIT training has yet to be turned into a DGO and remains voluntary deescalation in mental health situations. The Panel supports the expansion of CIT training to all officers.

In contrast, the current DGO 5.01 instructing officers provides an "escalating" scale of force, ranking the techniques of force on a scale of least forceful to most forceful. By ranking the techniques in this manner, it appears that officers should move "up" the scale if one technique is not effective. As Police Commissioner Victor Hwang noted in a recent op-ed, the policy "fail[s] to address the larger question of what officers should do" before using force at all.²²² Rather, "the policy calls for escalation, even if the person does not understand English, is under the influence, or in mental health crisis."

While the current policy may not specifically instruct officers to escalate on the scale, it does suggest that when a lower level of force is not effective in achieving compliance, the officer should move "up" the scale and increase the level of force. The SFPD should ensure, either in its policy or training materials, that its officers understand that escalating force may not be appropriate or effective, especially in circumstances where mental health or language barrier issues may be implicated and should consider those issues before simply deciding to increase the level of force used.

As discussed above, the SFPD has taken steps in proposing the Draft Revised Policy 5.01 to replace the "escalating scale" with an alternate "wheel" approach to use of force. In addition, the SFPD and the Police Commission have announced reforms to police training with an emphasis on de-escalation.²²⁴ The policy, while not yet final, "emphasizes the sanctity of human life, de-escalation and proportionate response."²²⁵ Under the new policy, officers are expected to establish a "buffer zone ('reaction gap')" around the suspect to reduce the likelihood that force will be needed.²²⁶ The policy also calls for officers to use verbal skills to engage the suspect, prohibits shooting at vehicles, and bans the chokehold (and vascular neck restraints).²²⁷

Again, to ensure that the revised policies are properly implemented, the SFPD should implement scenario-based training that emphasizes the sanctity of human life, and what are reasonable situations for an officer to use force against an individual. De-escalation training, if implemented appropriately, gives officers the tools they need to avoid unnecessary use of force, and particularly deadly force. Most officer-involved shootings occur soon after officers arrive on scene and are usually at close range. According to former Chief Suhr and Police Commission President Suzy Loftus, "[b]etter officer training, use of force protocols and equipment particularly in situations involving suspects armed with weapons other than firearms could reduce such shootings by up to 80 percent. Assuming de-escalation does not currently play a substantial role in officer training, enhanced de-escalation training would be an important shift.

The draft revised policies are also an important step toward creating a culture that embraces proportionality.²³¹ The draft revised policies define proportionality as a principle that an officer's level of force be proportional to the severity of the threat posed to human life or the offense committed. It is crucial that the SFPD follow through on the implementation of new training protocols emphasizing de-escalation and proportionality.

²²² Victor Hwang, Call for New Policing in San Francisco: Guardians Not Warriors, S.F. Chronicle (Feb. 8, 2016), http://www.sfchronicle.com/opinion/openforum/article/Call-for-new-policing-in-San-Francisco-6815656.php.

²²³ Id.

²²⁴ SF Mayor, Police Chief Announce Reforms to Reduce Officer-Involved Shootings; Rebuild Trust, KTVU (Feb. 22, 2016), http://www.ktvu.com/news/95129617-story.

²²⁵ Id.

²²⁶ Id.

²²⁷ Id.

²²⁸ Police Exec. Research Forum, Critical Issues in Policing Series: Re-Engineering Training on Police Use of Force (2015), http://www.policeforum.org/assets/reengineeringtraining1.pdf.

²²⁹ SF Mayor, Police Chief Announce Reforms to Reduce Officer-Involved Shootings; Rebuild Trust, supra note 224.

²³⁰ ld.

²³¹ The concept of proportionality came up often during public comment at the Panel's hearings. Creating a culture that embraces proportionality is important in regaining the public's trust and addressing the public's concerns about excessive force.

During the use-of-force revision process, there was substantial debate between the stakeholders on the language governing officers' use of proportionality and de-escalation, and whether officers "should when feasible" (more permissive language) or "shall, when feasible" (more mandatory language) de-escalate and use principles of proportionality.²³² Similarly there was debate on whether officers were limited to "reasonable" force (more permissive) or "necessary" force (more mandatory). The Panel consistently supports the use of the mandatory language to highlight the department's strong commitment to these principles, and to provide to officers the clearest guidelines on how to deploy uses of force.

10. The SFPD should expand implicit-bias training, including use-of-force scenario training and community involvement.

The SFPD should implement mandatory bias training, including implicit-bias training. Implicit bias refers to the "automatic association people make between groups of people and stereotypes about those groups."²³³ These implicit associations can influence behavior, and reducing its influence can strengthen the relationship between law enforcement agencies and communities.²³⁴ It is important to distinguish implicit bias from "traditional racism." Data has shown that implicit bias can cause institutions and individuals to act on prejudices, "even in spite of good intentions and nondiscriminatory policies or standards."²³⁵ Implicit-bias training works to reduce these influences, including in areas such as the use of force. Multiple policy experts have suggested that implicit-bias training could have a substantial effect on the reality and perception of unbiased policing in the department, particularly in the context of use of force. Instructing the SFPD on the type of implicit-bias training is outside the scope of this report.

The SFPD appears to have started the process of incorporating bias training into its officer training curriculum. Former Chief Suhr announced that the entire command staff has undergone implicit bias training, and that the SFPD is pursuing a contract that would give all officers and staff implicit-bias and procedural training every other year. At a recent public hearing, former Chief Suhr attested that department-wide implicit-bias training would be implemented by the end of 2016. According to former Chief Suhr, this training would include cultural competency training provided by members of the community. Former Chief Suhr also informed the Panel that he was restarting a class addressing racial profiling that had been discontinued several years ago.

The SFPD should implement implicit-bias training both at the academy level for new cadets and as a regular component of ongoing training for officers. The SFPD should also consider implementing bias training for civilian employees. As to the substance of the training, the SFPD should ensure that its mandatory bias training is interactive, compelling, and includes scenario-based training for use-of-force situations. For example, implicit-bias training should simulate real world scenarios and decide whether to use force against certain suspects from different demographic groups. Multiple witnesses also stressed the importance of developing a training program that is interactive and interesting to participants, otherwise the training risks becoming a formality with little positive effect.

The SFPD should invite members of the community to participate in and observe the training. Conducting the training in conjunction with the community can be beneficial to both the department and the community at large. At a minimum, the SFPD should consider ways to incorporate bias training as part of its community policing and firearms training in Community Police Academy.²³⁶ Community members would be able to gain insight into difficult choices officers have to make, and would also see that the

²³² During the revision process, the language in the proportionality section was changed without explanation or comment, from initial drafts requiring more mandatory language deleted from later drafts and replaced with more permissive language. The Panel believes that the mandatory language of the initial drafts is most consistent with the principles of 21st century policing that are becoming best practices at departments around the country.

²³³ Nat'l Initiative for Bldg. Cmty. Trust & Justice, Implicit Bias, http://trustandjustice.org/resources/intervention/implicit-bias.

²³⁴ Id.

²³⁵ Id

²³⁶ See Community Police Academy Schedule, S.F. Police Dep't, http://sanfranciscopolice.org/community-police-academy-schedule.

department is taking claims of biased policing seriously. Additionally, police officers would better connect with the community if community members were present at the training. Policy experts strongly endorse community involvement components in implicit-bias training, and have firsthand experience of its success. One expert recently witnessed officer implicit-bias training in St. Louis that included the community, and reported that it was very successful, with a collaborative and positive environment. If well-implemented, therefore, implicit-bias training may not only enhance fairness in the application of use of force but also strengthen the community's confidence in the SFPD.

11. The SFPD should expand the definition of what constitutes a reportable use of force.

To update its data collection policies, the SFPD should explicitly expand the definition of what constitutes a reportable use of force. DGO 5.01 currently only requires that an officer report the use of physical control "when the person is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold." Officers should also report use of force *any time* physical force is used to "overcome resistance," not just when there is an injury. The provision as it stands leaves too much room for officer discretion to determine when a person is "injured." This type of discretion does not mandate accurate reporting of the use of force by SFPD officers.

The SFPD should classify the intentional pointing of a firearm at a person as a reportable use of force in DGO 5.01. This recommendation was made during the revision process and the current language of the revised DGO 5.01 reflects this recommendation. The official use-of-force policy should be easily locatable by the officers as well as the public. Those looking to understand the policy should not have to read the DGOs as well as locate extraneous ad-hoc bulletins. As stated above, amendments to the policies must be reflected in the actual DGOs, and not contained exclusively in a department bulletin.

This expansion of reporting requirements is not a new recommendation issued to the department. In fact, Officer-Involved Shootings: A Five-Year Study by San Francisco Police Department (2010) included a recommendation that "[The SFPD create] a use of force form to be completed by *each member employing force during the performance of their duties*." This recommendation was described in the Five-Year Study as an "implemented change," meaning that "upon reading a draft of [the] study, Chief Gascón directed the implementation [of the] recommendation." But as discussed above, it is not currently the SFPD's policy to require completion of the form whenever force is used.

At the very least, the policy should be internally consistent on the subject of when an officer must report the use of physical control. The current drafts of DGO 5.01 contain slightly inconsistent language defining the term "reportable force." Draft Revised Policy 5.01 section II (F) defines reportable force in part as "any use of force which is required to overcome subject resistance to gain compliance that results in death, injury, complaint of injury in the presence of an officer, or complaint of pain that persists beyond the use of a physical control hold." As discussed above, it also classifies the pointing of conducted energy devices and firearms as a reportable use of force.

However, later in Draft Revised Policy 5.01, in section VII (A), a reportable use force is defined differently, removing the reference to overcoming resistance. This inconsistency in the definition of reportable use of force could result in officer confusion. Therefore, the Panel recommends that the definitions in these sections be consistent, with both definitions encompassing instances where use of force is used to overcome resistance. The Panel will continue to advocate for these changes as the policy enters the negotiations phase.

²³⁷ George Gascón, S.F. Police Dep't, Officer Involved Shootings: A Five-Year Study, 35 (2010), http://files.policemag.com/design-elements/sfpd-oisreport.pdf (emphasis added). This recommendation was based, in part, upon recommendations previously made by PERF that "the SFPD should design a new... Use of Force Report to be completed by all members of the department any time force is used." Id.

12. For reportable uses of force, the SFPD should expand the types of information that it collects and reports for each instance, including demographic information about each subject.

The SFPD should expand the information that it collects and reports regarding any reportable instance of use of force. DGO 5.01 currently does not require officers reporting use of force to gather nearly enough information or in enough circumstances to determine whether policing is being conducted in a fair and unbiased matter. The implementation of AB 71 and Ordinance 166-15 will also require the SFPD to capture a variety of data points regarding use-of-force incidents as well as officer-involved shootings. The same data points should be collected for *all* reportable uses of force, in addition to the following data points.

- 1. Gender, race, and age of the subject
- 2. Subject's action necessitating the use of force, including threat presented by the subject
- 3. Efforts to de-escalate prior to the use of force
- 4. Any warning given and if not, why not
- 5. Type of force used against the officer, the civilian, or both, including the types of weapons used
- 6. Injury sustained by the subject
- 7. Injury sustained by the officer(s)
- 8. Supervisor's name, rank, star number, and the time notified; if applicable, the supervisor's reason for not responding to the scene should also be included
- 9. Date, time, and location of the incident
- 10. Whether the person the force was used on was armed, and, if so, the type of weapon
- 11. Number of officers involved in the incident
- 12. Number of civilians involved in the incident
- 13. Brief description regarding the circumstances surrounding the incident, which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders

The SFPD's draft revised policies are a step in the right direction, requiring the collection of some of the information described above. But additional information—including, most importantly, the gender, race, age, and any perceived mental disorder of the subject—must be collected to determine whether the SFPD is applying use of force fairly and without bias. The Panel recommended the inclusion of gender, race, and age to the SFPD during the Stakeholders' meeting and suggests that the SFPD also consider the additional points above as it continues to refine its draft revised policies. As discussed below, information from incident reports should be automatically captured in the use-of-force reports. These recommendations, however, are not reflected in the current draft revised policies.

13. The SFPD should clarify who is responsible for reporting use-of-force information.

The SFPD should clarify who is responsible for recording information about uses of force. The current DGO 5.01 is unclear about whose duty it is to report a use-of-force incident. Both options of the Draft Revised Policy 5.01 clarify that the officer using force shall provide the required information either directly in an incident report or through a supplemental report (if the incident report is being prepared by another officer). The adopted version of DGO 5.01 clarifies that, absent exceptional circumstances, the officer using force should complete the report.

14. The SFPD should collect use-of-force reports in an electronic format.

The SFPD should collect electronic data on use-of-force incidents—this is perhaps the most critical of the recommendations regarding data collection of use-of-force incidents. Specific and exclusive methods for tracking use-of-force incidents should be used that are separate and apart from the preparing of incident

reports. Without adequate data, the SFPD will never be able to fully understand how use-of-force incidents occur, nor will it ever be able to assess whether there is evidence that use of force is being administered in a manner that is inconsistent with fair and unbiased policing.

Moreover, by recording use-of-force incidents in hard copy, by hand, in logs that are physically maintained, the SFPD increases the risk of losing critical data. Officers may forget to record required use-of-force incidents on the log if they must obtain a central "copy" of the log to track the information. Moreover, depending on how much time passes between the use-of-force incident and the actual logging, the officer may forget critical details about the encounter. Finally, maintaining a single, hard-copy file of the logs exposes the SFPD to the possibility that sections of the data could be lost without backup data. Based on the information received from the SFPD, for example, it appears that different stations (or even different officers within the same station) may have different approaches in how they use and maintain the logs.

Policy experts were stunned to learn that a police department as large as the SFPD maintained use-of-force data in hard-copy logs. One expert advised that there are specific software programs that allow law enforcement agencies to easily input and track use-of-force incidents. Using this software also gives management opportunities to perform data analytics; for example, tracking how many incidents of a certain type of use-of-force technique is used, or even whether a single officer is involved in multiple instances of use of force over a short period of time. The SFPD cannot evaluate whether its officers are applying use of force fairly and without bias if they are also not collecting demographic information about the individuals who are involved in use-of-force incidents with SFPD officers. The use of electronic data collection and software would vastly improve the SFPD's ability to track use-of-force incidents and to evaluate and corroborate that its use-of-force policies are being applied fairly. As noted above, using software to track use-of-force incidents appears to be relatively routine for several law enforcement agencies of all sizes.

The report Officer-Involved Shootings: A Five-Year Study by San Francisco Police Department (2010) also specifically recommended that use-of-force data be collected in a way that makes electronic storage and analysis easy: "[The SFPD should create] a use of force form ... designed ... to allow for a format that can be electronically scanned for the purpose of extracting information in an automated format for analysis and accounting purposes." This recommendation was also described in the report as an "implemented change," meaning that then-Chief Gascón directed that the recommendation be implemented. The Panel is unaware of the status of these efforts; what is clear is that the use-of-force logs are currently nowhere close to a format that would allow for easy automated analysis.

Once the SFPD has adopted electronic data collection regarding uses of force, the department should adopt regular procedures for evaluating the data to ensure that use-of-force policies are being implemented appropriately and that data collection of reportable uses of force is occurring consistently—and to identify potentially problematic trends early based on the data. While collection of data is the first step in improving the SFPD's current policies, such a step is meaningless without actual analysis of the collected data by both internal and external sources. The SFPD should also provide annual reports of its use-of-force data to supplement the reports that it is already required to submit under AB 71.

The SFPD should ensure that it implements an automated system that integrates use-of-force reports into its Early Intervention System (EIS).²³⁸ The EIS is an internal point system intended to track different officer conduct, including reportable uses of force. Once an officer reaches a certain level of points within the system, the EIS should trigger a warning and prompt a review or other intervention by a supervisor, the EIS Unit, or a member of the command staff. The Panel did not receive documentation necessary to ascertain whether the SFPD currently incorporates information from the paper use-of-force logs into the point system within the EIS. With automated systems, the SFPD would be able to identify and address potential trends with greater accuracy and thereby improve the efficacy of its EIS.

²³⁸ See Chapter 4: Internal Discipline and Chapter 5: External Oversight for more on the Early Intervention System.

During the use-of-force policies revision process, the Panel recommended that the SFPD require robust data collection, analysis, and distribution to the public—critical to transparent, accountable, and effective community policing. The consensus version adopted by the Commission does include clearer electronic data collection requirements.

15. The SFPD should evaluate how body-worn camera footage can improve scenario-based training.²³⁹

As the SFPD rolls out its body-worn cameras, it should evaluate how body camera footage might be useful in its training programs, particularly in de-escalation training. Former Chief Whent of the Oakland Police noted that body cameras have provided good evidence in internal affairs and criminal investigations, because the police department now has video footage of almost every complaint that comes into the department. The SFPD could take this one step further, and analyze body camera footage to get a comprehensive view of how officers are implementing their training and identify candidates for remedial training. The SFPD policy mentions the use of footage to review police procedures and tactics, although it does not contemplate how this would work in practice.²⁴⁰ The SFPD should therefore develop a process by which it will incorporate the review and use of body-worn camera footage in its training programs.

²³⁹ See Chapter 1: Stops, Searches, and Arrests for more on body-worn cameras.

²⁴⁰ S.F. Police Comm'n, Body Worn Cameras Policy: Recommended Draft (2015), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27676-Body%20Worn%20Camera%20120215%20draft%20for%20meet%20and%20confer.pdf.

Chapter 4: Internal Discipline

Background

This chapter focuses on the internal discipline process within the SFPD when an officer is alleged to have committed misconduct. The Panel analyzed the process that ensues when a complaint arises internally within the SFPD, as well as the steps that the SFPD takes after it receives a complaint that has been sustained by the Office of Citizen Complaints. The Panel found that the internal discipline process is opaque, and the SFPD does not publish information on officer discipline in any meaningful way. The Early Intervention System is seldom used and what constitutes an intervention is unclear.²⁴¹

Individuals and Groups Involved in Officer Discipline

A number of different groups or individuals play a role in officer discipline. Many are discussed in detail in other sections of this report (for example, Chapter 5: External Oversight has an extensive discussion of the OCC). For the purpose of providing context to the internal discipline process, each actor is described below.

IAD: The Internal Affairs Division of the SFPD—formerly known as the Management Control Division—has primary responsibility for internal discipline. IAD is broken into the Administrative Division and the Criminal Division. The administrative side of IAD investigates complaints raised internally to the SFPD by other officers and allegations concerning officers' off-duty conduct even where initiated by citizens. The criminal side of IAD investigates officers' possible violations of the law.

OCC: The San Francisco Office of Citizen Complaints' primary role is to investigate complaints filed by members of the public regarding alleged misconduct by on-duty SFPD personnel. As part of this role, the OCC makes recommendations regarding the discipline of officers where its investigation reveals misconduct.

POA: The San Francisco Police Officers' Association is the union designated to bargain on behalf of SFPD officers with the city. Membership in the POA is optional; however, currently all but 14 of more than 2,000 officers are members. One of the roles played by the POA is to provide representation for officers in disciplinary interviews and hearings. It does so by providing either defense representatives—active duty officers who are trained to review pending complaints against officers, help protect an officer's rights under the state's Peace Officer's Bill of Rights, and otherwise advocate for the officer in the disciplinary process—or attorneys. When an officer elects to be represented by an attorney, the POA recommends counsel from a POA-selected panel, and, where the conduct falls within the course and scope of an officer's duty, pays for counsel. Decisions on counsel are made by the director of the POA Legal Defense Fund, Paul Chignell, and the POA Legal Defense Fund board of trustees.

²⁴¹ This report does not address criminal investigations of officers, except to note where that work has an impact on non-criminal disciplinary investigations.

Chief and Deputy Chiefs: The Chief is responsible for most disciplinary decisions. He or she has the authority to impose discipline of up to 10 days' suspension, and can recommend further discipline, including termination, to the Police Commission. Through the Deputy Chiefs, the Chief conducts hearings for all disciplinary matters brought by IAD for discipline of up to 10 days' suspension. The Chief, through resource decisions and staffing decisions, also has a significant influence on the makeup of IAD and on how aggressively disciplinary matters are pursued.

Police Commission: The Police Commission sets policy for the department and hears all disciplinary cases, whether arising through the OCC or IAD, in which an officer faces a potential punishment of either termination or a suspension of longer than 10 days. It also hears appeals from cases adjudicated by the Chief.

IAD Structure

IAD is part of the Risk Management Office, which includes IAD Legal, IAD Criminal, IAD Admin., and the Early Intervention System ("EIS"). The IAD Administrative Division is housed at the new Public Safety Building, and its offices are separate from the IAD Criminal Division.

The Captain of Risk Management is the commanding officer of IAD. Below him, two lieutenants serve as officers in charge of IAD Administrative (Admin) and IAD Criminal, respectively. IAD Admin is then divided into three teams of sergeants responsible for conducting investigations. Officer-Involved Shootings (OIS) is a four-member team that investigates all officer-involved shootings and officer weapon discharges. Equal Employment Opportunity (EEO) is a single-member team that liaises with the City Attorney concerning any allegations of violation of equal employment policies. The remaining team—referred to generally as "Admin"—handles investigations of all other non-criminal complaints against officers that arise internally.

IAD Legal consists of two attorneys who are responsible for "prosecuting" all IAD Admin cases that go to a Chief's hearing or a Police Commission hearing.

IAD Case Assignment and Investigation

When a complaint is raised against an officer by a fellow officer or superior, that complaint will make its way through the chain of command and ultimately to IAD Admin for assignment to an investigator. The Lieutenant in charge of IAD Admin makes case assignments based on the nature of the complaint, investigators' experience, investigators' workloads, and potential conflicts where the investigator may know the officer under investigation.²⁴² This process for receiving and assigning complaints can occur very quickly, if necessary, based on the severity of the case.

In parallel with the above-described process for receiving and assigning complaints, IAD Legal is also notified of complaints and begins any paperwork necessary to place an officer on paid administrative leave or to disarm the officer. If the case could potentially lead to termination of the officer, IAD Legal will also process the paperwork to move the officer out of the station, give him or her a non-public-contact assignment, and begin preparing Police Commission charges that may follow completion of the IAD Criminal investigation. An officer can be placed on paid administrative leave for 30 days, and within that time, the officer is entitled to a return-to-duty hearing. If the officer is not going to be charged criminally, then it is possible he or she will be assigned to a position where the officer's interactions with the public are limited. Whether the officer is assigned to such a position depends on the level of the accused misconduct.

Witnesses indicated that IAD Admin generally prefers the following investigation process: the complainant is interviewed first, eyewitnesses are interviewed next, and the named officer is interviewed last. There are two investigators at each interview. Officers are required to be interviewed while on duty. IAD

²⁴² For some more minor administrative infractions, such as failing to go to the firing range, the investigation may be handled by someone in the officer's chain of command instead. The IAD Admin Lieutenant determines whether a particular case is appropriate for assignment back to the chain of command.

Admin has the authority to compel an officer to appear for an interview and respond to questions. During the interview process, the officer has protections under the Public Safety Officers Procedural Bill of Rights (POBR), including the right to a certain amount of notice and the right to a representative of his or her choice at the interview. At interviews, officers are often represented by a POA defense representative.

Officers are sometimes represented by an attorney instead of a POA defense representative. The POA, generally through the Fund Administrator, recommends to the officer whether it is appropriate to take a defense representative or an attorney. If an attorney is selected, the trustees and the Fund Administrator generally suggest a specific attorney based on the nature of the complaint; for example, some attorneys are particularly well-versed in the department's general orders and one is an appellate specialist, and so those attorneys would be recommended in cases involving their specialties. In most instances, the officer accepts the recommendation of the POA. This results in nine or 10 of the 24 attorneys on the panel doing the majority of the work.

Throughout the investigation, the investigator may choose to communicate with IAD Legal, and IAD Legal may provide thoughts on evidence that should be gathered or questions asked of witnesses.

Witnesses reported that as part of the investigation, the named officer's history of prior complaints (sustained and not sustained by IAD and sustained only by the OCC) is considered. IAD receives PDFs of all complaints filed with the OCC, but has no effective mechanism for review and tracking of OCC complaints that are not sustained.

Certain routine cases are not investigated by IAD, but are sent to an officer's station for investigation with a request to investigate and revert in 14 to 30 days. These cases generally involve minor violations such as failure to re-qualify at the shooting range.

Investigation Reporting

Witnesses reported that the investigator assembles a case file upon completion of the investigation. The case file will contain attachments and exhibits, such as the original complaint and the evidence gathered. The investigator will also prepare an investigative summary describing how the investigation was conducted and the import of the various attachments to the report. In the summary, the investigator makes a finding about what DGO or DB has been violated and/or explains why the conduct was improper.

The investigator's report is reviewed by the IAD Administrative Lieutenant who will then write an abridged version of the investigation, summarizing the evidence chronologically. He or she will also say whether he/she concurs with the investigator's finding of whether there has or has not been a violation of a DGO or DB. The lieutenant may also, at this time, suggest that further work should be done by the investigator. If he feels that the investigation is sufficient, he will also make a recommendation on discipline. Once this is done, the case file is passed to IAD Legal. Witnesses described that while in the past IAD Legal would review the investigative file and give a recommendation on discipline, the role of the IAD attorney in the investigative process and discipline decision has recently been curtailed.

The file then goes up the chain of command to the Captain and the Deputy Chief. Through this process, each person in the chain of command reviews the findings, states whether he or she concurs with them, and notes agreement or adjustments to the recommended discipline. People higher up the chain of command may ask investigative questions, such as whether an investigator considered a particular avenue of investigation and, while it is infrequent, they can send the investigator out to conduct further investigation.

Following this process, the Lieutenant will present the case to the Chief during a standing weekly meeting. The Chief then chooses to sustain or not sustain the complaint, and the level of discipline to impose.

At various points in the investigatory process, the POA defense representative may make a request to the investigator, IAD Administrative Lieutenant, or the Chief to conduct further investigation. The POA

defense representative may also offer information or evidence that he or she believes is relevant to the officer's case.

Hearings

Following a sustained complaint, witnesses reported that IAD Legal will prepare a hearing notice that includes the recommended discipline to be imposed on the officer. The officer may choose at that time to accept the findings and recommended discipline or seek a hearing. The recommended discipline stated in the hearing notice becomes the maximum level of discipline that can be imposed on the officer, binding the Chief or Police Commission.

The Chief's hearings, which are known elsewhere as *Skelly* hearings, have been delegated to Deputy Chiefs.²⁴³ They are generally informal and often approached as an opportunity to find a mutually acceptable resolution to the matter. IAD Legal presents the case to the Deputy Chief. The officer and the officer's defense representative or attorney are present and may present additional information. The hearings are recorded.

Following the Chief's hearing, the Deputy Chief and IAD Legal will discuss the officer's responses and candor. IAD Legal will then draft a summary of the recommended discipline (if any) based on the hearing. That summary then goes to the Deputy Chief and then to the Chief who decides whether to concur with the recommendation. Once the Chief signs off, IAD Legal writes the final disciplinary notice detailing what discipline (if any) will be imposed. This hearing process is followed for all cases involving recommended discipline of 10 working days of suspension or less (the maximum authority of the Chief).

Where the discipline recommended is termination or a suspension of more than 10 working days, the hearing is conducted by the Police Commission, which is the only body with the authority to impose this higher level of punishment. The Police Commission also hears appeals from officers for lower levels of discipline imposed directly by the Chief.²⁴⁴

A series of laws govern the discipline of officers, notably California's POBR,²⁴⁵ which contains a one-year statute of limitations from the time a lieutenant, or officer of higher rank, receives notice of a violation to when the accused officer is formally served with discipline. If this process takes more than one year, the case will be time-barred. Disciplinary hearings before the Chief and before the Commission are confidential under the California Supreme Court's decision in *Copley Press*,²⁴⁶ interpreting POBR. This law also contains various procedural protections for the officers, such as notice requirements and the right to a representative.

Actions Initiated by the OCC

In addition to its responsibilities in investigating and recommending officer discipline for internal complaints, IAD also plays a role in connection with complaints investigated by the OCC. Witnesses stated that an IAD Lieutenant reviews sustained OCC complaints and has the authority to further investigate them before reporting a recommendation to the Chief regarding discipline for those complaints. Sustained OCC complaints then proceed through the disciplinary hearing process in the same manner as IAD complaints with the Chief setting the level of discipline an officer receives. The Chief may agree or disagree with the OCC's decision to sustain a complaint.

²⁴³ Skelly v. State Personnel Bd., 15 Cal. 3d 194 (1975).

²⁴⁴ These processes are discussed in detail in Chapter 5: External Oversight.

²⁴⁵ Cal. Gov't Code § 3300 et seq.

²⁴⁶ Copley Press, Inc. v. Superior Court, 39 Cal. 4th 1272 (2006).

The Early Intervention System

DGO 3.19 requires the SFPD to utilize an EIS to identify officers who may be on a path to regular or significant misconduct.²⁴⁷ The system uses data on officer conduct ranging from minor to significant conduct (such as use of force) to assign points to an officer, with a certain number of points triggering a warning in the system. That warning is then supposed to prompt review and intervention by a supervisor, the EIS Unit, or a member of the command staff. According to a recent presentation provided to the Police Commission by the SFPD, "EIS is *not* about warning supervisors about problem officers, but rather a way to help officers before problems occur."

Based on a 2014 quarterly report of EIS results and the department's 2015 presentation to the Police Commission, ²⁴⁸ officer conduct is grouped into ten key performance indicators: use of force, officer-involved shootings, officer-involved firearm discharge, citizen complaints to OCC, IAD complaints, EEO complaints, civilian suits, tort claims, on-duty collisions, and vehicle pursuits. There are six different thresholds that may trigger an EIS alert. For example, one instance of an officer-involved shooting, or three OCC complaints against an officer within six months, would each trigger an alert. There are additionally 14 associated factors (which include department commendations and awards, number of arrests made, and training history), that are also entered into the EIS system.

The EIS system uses this information to generate officer-specific alerts that are then reviewed by the EIS Sergeant. That sergeant determines if supervisory review is warranted. If it is, the officer's supervisors are notified of the alert. They must then evaluate whether a pattern of at-risk behavior exists and decide whether intervention is appropriate. Thus, the decision to intervene is made at two points: first by the EIS sergeant, and second by the officer's supervisor.

Findings

1. The SFPD's internal discipline process is opaque.

The above description of the IAD disciplinary process was compiled primarily through interviews with IAD employees. There is very little public written material that describes the internal discipline process or how IAD functions. The Panel's findings and recommendations are impacted by these limitations, as it was dependent on the information obtained through witness interviews, with little opportunity to verify that information with process or policy documentation.

DGO 2.07 sets out a portion of the disciplinary system described above, but it does not explain investigative procedures and has not been updated since July 1994. This DGO defines the types of discipline available (admonishment, written reprimand, suspension, etc.), and explains the notification, hearing, and appeal processes, but not in the depth of detail presented above. It does not set out how IAD is notified of or investigates complaints.

The lack of transparency into the internal discipline process—IAD processes and actions are not tracked and/or recorded in any publicly available way—is a systemic problem. Unlike the OCC, IAD publishes no statistics about the number and types of cases it investigates, the percentage of complaints that are sustained, or any factual summaries of the complaints it investigates. When the Panel requested that the SFPD provide it with the number of bias complaints investigated or sustained over the last five years, the SFPD could not respond to the request because it did not track this data. This lack of general transparency is inherently detrimental to fair and effective officer discipline, both because it hinders external oversight (formal or informal) and because it suggests a lack of self-evaluation through robust and regular audit or statistical analysis, which is essential to a police department's effective discipline of its officers.

²⁴⁷ See Chapter 5: External Oversight for more on the Early Intervention System.

²⁴⁸ The 2014 EIS Reports were obtained through a Public Records Act request to the Police Commission and were not readily available on the SFPD's website.

2. It is unclear whether the Chief's disciplinary authority is appropriate.

Disciplinary Guidelines exist to help IAD, the Chief, and Police Commission impose consistent discipline, which is critical for ensuring fairness and accountability. The SFPD's Disciplinary Guidelines—last published in 1994—are outdated. Witnesses stated that they were viewed by IAD only as loosely informative of the appropriate discipline for a given case.

It is unclear whether the disciplinary guidelines are consistently and fairly applied by the Chief in imposing discipline up to 10 days' suspension. While the SFPD publishes the disciplinary outcome of cases sustained by the Chief on the Police Commission's website, it does not publish any of the facts underlying the violation (something that the OCC does on a monthly basis). This makes it impossible for the public to determine whether the Chief is imposing appropriate and effective punishment.

Stakeholders hold differing viewpoints as to whether the Chief should be given the authority to impose discipline greater than 10 working days' suspension. One view is that the Chief, as the head of the SFPD, should be able to discipline his officers, including terminating them, without restriction, and assume the corresponding accountability for the conduct of his police force. The opposing view, however, largely focuses on the specific individual who may hold the position of Chief and the associated risk—different Chiefs may impose discipline more or less fairly, and the current limitation on the Chief's authority protects against such variation where the punishment is more severe.

Without information concerning guidelines used by the Chief to impose discipline and whether it is imposed consistently, and recognizing that there currently are limited external oversight mechanisms in place to ensure fair and consistent application of discipline by the Chief, the Panel does not have the information it needs in order to make a recommendation as to whether the scope of the Chief's authority is appropriate.

3. The SFPD does not track or evaluate discipline data in a robust manner.

The department does not use a comprehensive system for collecting data related to either the discipline process itself (e.g., investigatory timelines, interviews conducted, etc.) or the outcomes of disciplinary proceedings originating through IAD.

IAD uses the AIM (short for Administrative Investigations Management) system to track complaints, investigations, and outcomes. Each investigation is tracked in the database by its case number. For each case, the following data are entered into AIM: case number, the named officer, the allegation, the date the allegation was reported, where the case is in the process (for example what notices have been sent), and what the timeline of the case will be going forward. Importantly, for purposes of complying with the one-year statute of limitations, the date used in the system is the date that complaint was first raised to a supervisor. However, there is no formalized training in the use of AIM and, thus, understanding and competency in using AIM may vary across IAD Admin and the SFPD.

The current Lieutenant for IAD Admin asserted that he reviews the AIM system every couple of months to see if there are any cases approaching the statute of limitations.²⁴⁹ No audit is conducted by the SFPD or the City Controller of this system.

Each investigator is also responsible for updating a spreadsheet on a shared desktop with his or her investigation's progress. The IAD Admin Lieutenant also stated that he reviews that spreadsheet regularly and, for pressing cases, reports progress to the Chief.

Notations in AIM contain the specific allegations and the outcome of each complaint. The system allows for a search for similar prior cases (which the Lieutenant may do in order to make a disciplinary recommendation that takes prior similar cases into consideration).

²⁴⁹ Referring to the one-year statute of limitations for imposing discipline on an officer found in the Peace Officer's Bill of Rights at section 3304 of the Government Code.

Through AIM, it is also possible to see when some officers are repeat offenders or "frequent fliers." The AIM system contains write-ups of each case and in each case are one to two sentences summarizing each prior case against an officer. However, AIM does not include data regarding OCC complaints that are not sustained. Moreover, AIM is not well-designed for statistical analysis and reporting which may further limit its utility in identifying and tracking repeat offenders.

IAD Legal has its own tracking systems, which track the officers who have been disarmed, officers who have been reassigned, and officers who have been suspended. It also tracks the Police Commission cases, showing what steps have happened already and what needs to happen next. Finally, the department keeps track of admonishments, training directives, and notices of reprimand.

Separately, the POA maintains information about complaints against officers in a spreadsheet and files for each officer who received a complaint. Witnesses indicated that this record keeping is not systematic or available to the SFPD or public.

Despite these various methods of tracking the cases through IAD Admin, there are certain gaps in the tracking of disciplinary cases by the SFPD. The various tracking systems are not uniform or openly shared. It does not appear that the information contained in EIS feeds into AIM or is otherwise accessible to IAD Admin as part of the investigative process. There are limits in AIM's functionality and in its ability to provide statistical analysis. The effective use of these systems appears to depend substantially on those officers who have significant institutional knowledge obtained through years spent working in IAD. Such institutional knowledge—for example, recall of a similar case—is not transferable. The tracking tools are, therefore, less effective than they should be in helping ensure long-term consistency and fairness in discipline.

4. The process from the filing of a complaint to resolution is too slow and can be subject to strategic manipulation.

In connection with both internal and external officer discipline, witnesses' general assessment was that the process from the filing of a complaint to resolution is too slow and can be subject to strategic manipulation by officers seeking to delay the imposition of discipline. There is a risk that cases, including those arising from the texting scandal, have languished and not been investigated, ultimately exceeding the one-year statute of limitations to investigate allegations against an officer set forth in the POBR and preventing the possibility of discipline for serious officer misconduct, although according to the Lieutenant for IAD Admin, only three cases have gone past the statute of limitations period in the past five years. With no external audit or known repercussions for IAD, the current timeliness of investigations is dependent on the practices and management of the lieutenant in charge.

A recent article revealed that during former Chief Suhr's tenure, 16 sustained cases—outside of those involving the texting scandal—resulted in no discipline because the statute of limitations lapsed.²⁵⁰ This raises further questions regarding the accuracy and veracity of the information that the SFPD provided to the Panel—the department's response to a direct query about the number of cases that had resulted in no discipline because the statute of limitations had lapsed was three cases.²⁵¹

Separately, as explained in Chapter 5: External Oversight, OCC-initiated complaints are investigated too slowly. The result is that insufficient time may remain for IAD to review the OCC findings and for those findings to be considered and accepted or rejected at the Chief or Police Commission level before the statute of limitations has run out.

²⁵⁰ Jonah Owen Lamb, SFPD Allowed Statute of Limitations to Lapse on More Disciplinary Cases, S.F. Examiner (June 24, 2016), http://www.sfexaminer.com/sfpd-allowed-statute-limitations-lapse-disciplinary-cases/.

²⁵¹ In the article, the department attests that only three of 16 cases would have resulted in written discipline. This does not clarify why the Panel was not informed about the existence of the 13 additional cases where discipline could not be imposed because of the statute of limitations lapsing. The explanation that the statute of limitations was "allowed to lapse" on these cases reads as a justification benefited by hindsight and does not absolve the department of the obligation to complete and make a determination on all investigations within the statute of limitations, regardless of seriousness of misconduct. See Lamb, SFPD Allowed Statute of Limitations to Lapse on More Disciplinary Cases, supra note 250.

One witness described timeliness issues resulting in IAD investigators interviewing accused officers without sufficient notice or an opportunity for the officers to have a chosen representative present. This statement, however, was denied by another officer currently working within IAD. To the extent that such interviews have occurred, it again suggests a lack of systemic accountability on timeliness and process.

There have also been instances where officers (through their representative or counsel) have sought to delay their hearing date until they reach retirement, as a way to obtain a preferred negotiated settlement. Or, if they are already eligible to retire, they can delay a hearing for a sufficient time to increase their years of service and consequently increase their pension.

It is unclear to what extent officers can benefit from this sort of delay. Witnesses reported that IAD generally continues investigating a retired or resigned officer and pursuing disciplinary actions against the officer that may impact his or her retirement benefits, including the ability to continue to carry a concealed weapon. In addition, the disciplinary notation in such an officer's file will also be seen by any agency to which the officer may apply to for subsequent employment because officers will generally sign a waiver to allow other state or federal agencies to see their personnel files as part of the job application process. Despite these reports, at least some officers facing discipline appear to believe they will benefit from delaying their hearing until retirement, which witnesses reported sometimes happens.

Although witnesses relayed that it is IAD Admin's practice to continue to investigate an officer even after he or she resigns, recent high-profile allegations made by Officer Patricia Burley claim the opposite. Burley had reported embezzlement by a fellow officer to IAD. IAD investigated the complaint and the officer involved repaid the money he had embezzled and resigned. Burley alleges that once the officer resigned, no further investigation of his conduct occurred.²⁵² The Panel was not able to independently verify Burley's allegations.

5. Protections for whistleblowers do not appear to be an area of emphasis.

The IAD investigation system depends on officers reporting misconduct of fellow officers and then cooperating with IAD investigators. If officers fear retaliation for doing so, then they might be reluctant to come forward. Section 4.115 of the Campaign and Governmental Conduct Code, which applies to all city employees, including SFPD officers and employees, creates some protections for whistleblowers, but it is unclear if it extends to those who report all types of SFPD policy violations. The ordinance provides that "[n]o City officer or employee may terminate, demote, suspend or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith (i) filed a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department . . ." but only for certain violations, including "local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules." While violating a DGO or DB is grounds for discipline, it is not clear whether all DGOs or DBs would be encompassed within the ordinance's scope. There is no DGO that applies the broad protections that the City affords to whistleblowers to officers who report violations of SFPD policy to IAD.²⁵³

The recent high-profile example of Officer Burley suggests that retaliation might occur. According to Officer Burley, she was dismayed that the SFPD did not continue to investigate the officer whom she reported. Frustrated by the unwillingness to pursue the investigation, Burley decided to tell her story anonymously to the media. According to Burely, IAD Admin then began investigating her. She alleges that this investigation was ordered by former Chief Suhr and was in retaliation for taking the story to the media, ²⁵⁴ although, again, the Panel was unable to verify this allegation.

²⁵² Jonah Owen Lamb, SFPD Whistleblower Claims Chief Suhr Forced Her to Retire, S.F. Examiner (May 18, 2016), http://www.sfexaminer.com/whistleblower-claims-chief-suhr-forced-retire/.

²⁵³ DGO 11.07 prohibits retaliation against officers who report discrimination, harassment, or other retaliation, but not more generally.

²⁵⁴ Officer Burley's administrative complaint can be found at Former SFPD Officer Alleges Retaliation for Whistleblowing, Files Suit, KTVU (May 18, 2016), http://www.ktvu.com/news/142775743-story.

6. IAD positions have traditionally been viewed as a relatively low-status position within SFPD, although there is some evidence that is changing.

In the past, a position within IAD was not considered by an officer to be a good career move. While improvements to the status of IAD officers within the SFPD have been made, it is unclear today if time spent within IAD will advance an officer's career. Officers working within IAD are generally asked to do so by the Chief.

Interviewees further expressed a sense that, in the past, a stint in IAD was viewed as a hindrance to their careers, and that IAD officers faced scorn from other officers, who referred to IAD as "headhunters." This resulted in a lack of motivation within IAD to complete comprehensive investigations and efforts by officers to leave IAD as quickly as possible. Interviewees also noted that IAD has been viewed as an administrative job, whereas higher level officers generally seek field work.

The department has made some improvements in the status of an IAD position. Now, all IAD investigators are sergeants, and the IAD Admin Lieutenant stated that he currently has his pick of officers who all want to join IAD (which include officers applying for the position and those identified by the Chief or IAD Admin Lieutenant). One current IAD member noted that, while he does not view the position as a bad career move, a certain stigma still attaches to the job among some groups of officers.

7. SFPD leadership sets a highly influential tone regarding discipline and accountability.

The Chief, Deputy Chiefs, and Captains can greatly influence whether line officers follow the rules and whether discipline is enforced. This level of influence, while necessary and desirable, also raised concerns about disciplinary consistency and accountability within the department.

As an example, during the administration of SFPD Chief Heather Fong (Chief from 2004 to 2009), large numbers of officers did not go to the shooting range, as required. When she began imposing discipline for failure to comply with firearms qualification requirements, officers responded by going to the range more regularly. Similarly, there was a time when certain captains who did not agree with disciplinary complaints would simply not serve them on the officers. The sustained complaints would sit on their desks, not served, until discipline was time-barred by POBR. When Chief Fong made clear that complaints against officers had to be served timely by captains, they were usually served, and more captains got on board with fulfilling their role in the disciplinary process. Conversely, a former SFPD employee stated that when chiefs made it clear that OCC or IAD interviews were not important or that discipline cases would not be tracked or followed-up, officers routinely skipped interviews and held less respect for the disciplinary process.

Personnel choices matter in this process; when IAD has a strong lieutenant, cases have been handled in a more thorough and efficient way, they are tracked, and the lieutenant ensures that they are properly followed up on. When people who advocate for proper discipline are terminated summarily, or sent to seemingly punitive assignments on graveyard shifts far from their home station, that can send an opposite message. It is essential that the right personnel are in place within IAD and it is equally if not more essential that command staff be held accountable for properly supporting and following the disciplinary process.

8. The POA plays a role in the SFPD's disciplinary process.

The POA plays several critical roles in the IAD disciplinary process. First, it provides accused officers with representation in the form of defense representatives (active duty officers trained to represent officers at disciplinary interviews) or attorneys. These representatives can bring more evidence to a case and advocate on behalf officers in hearings.

Second, members of the POA leadership also occasionally request that people within IAD or within the Chief's office further review a complaint, even after it has been sustained. To the extent this involves the submission of additional or overlooked evidence, or a reasoned basis for suggesting that a more thorough investigation needs to be done, it appears to be helpful and can appropriately fill out the investigatory files.

The Panel did not learn of any situation where the POA attempted to improperly influence the outcome of a case through provision of evidence or exercising pressure on IAD to conduct the investigation in any particular way.

Finally, the SFPD has an obligation to meet and confer with the POA before finalizing any changes in the disciplinary process. One such change might include updating the disciplinary guidelines. One witness indicated that the disciplinary guidelines have not been updated since 1994, at least in part, because of a reluctance by the SFPD to engage in the process with the POA.

9. The SFPD rarely intervenes when Early Intervention System warnings are triggered.

Instances of intervention based on EIS warnings are low, and what constitutes an "intervention" is unclear. The recent report to the Police Commission indicates that in 2015, 156 officers had alerts in EIS. Two officers each had eight or more alerts and 15 officers had five or more alerts each. Despite this, only nine officers received an intervention. Three of these nine interventions appeared to be aimed at curing an officer's repeated failure to appear in court. A 2014 quarterly report indicates that from 2009 (when SFPD began using EIS) through October 2014, there were 42 interventions arising from 2,081 EIS alerts (with 79 alerts still pending review).

Recommendations

1. The SFPD should publish and adhere to updated disciplinary guidelines.

The SFPD's Disciplinary Guidelines date from 1994 and have not been updated since that time. Although these guidelines address the imposition of different levels of discipline in connection with different violations of rules or bad conduct, they are not used or adhered to in any consistent manner. Rather, it appears that officers reviewing disciplinary reports are more likely to apply their own assessments of the appropriate discipline based on their own experience. Updated and clear guidelines used by all of the parties involved in officer discipline will improve the fairness, consistency, and transparency of the process in at least the following ways.

- Allow the Department to communicate its stance on different types of violations to officers and the public
- · Help ensure uniformity in discipline
- Encourage an efficient settlement process that will not only move disciplinary matters to completion quickly, but also will allow all parties to find the right disciplinary result with full information
- Set a base from which the Commission and Chief can depart based on specific facts, wherein they
 would be expected to articulate their rationale to do so in a given instance, similar to how federal
 District Court judges depart from the United States Sentencing Guidelines
- Paired with robust tracking and public reporting of disciplinary actions, increase transparency and allow members of the public and interested groups to participate knowledgeably in the ongoing improvement of officer discipline

2. The SFPD should implement a single, department-wide system to track discipline and regularly report data to the public.

Essential to improving the internal disciplinary system is the comprehensive tracking of data from all points in the disciplinary process. Although the SFPD currently has tracking systems, they are not comprehensive and thus not as effective as they could and should be. Any new system should include archived disciplinary information, including information contained in EIS. It should be dynamic enough to create reports on all aspects of discipline including time from complaint to hearing, findings, and disciplinary measures imposed. It should allow for collection and reporting of this data, both in connection with specific officers

and on a statistical basis that can be shared publicly within the requirements of the state's POBR. Finally, this system should be accessible (with necessary privacy protections built in) by IAD, OCC, the Chief, and the Commission. This would allow, for example, IAD to see and search complaints filed with the OCC that are not sustained, which it currently cannot do efficiently. An internal disciplinary system may further be utilized in connection with proper tracking and reporting under *Brady*.

At a minimum, any comprehensive tracking system should document the following information regarding an IAD disciplinary proceeding.

- 1. Origin of the case (e.g., from the OCC)
- 2. When the case came into IAD and/or OCC
- 3. Officer named in the complaint
- 4. When the officer received notice of the allegation
- 5. When the section 3304 deadline (statute of limitations) elapses
- 6. Which investigator the case was assigned to and date assigned
- 7. When the investigator issued the report
- 8. Recommendation made on the original complaint
- 9. Other complaints added in the course of investigation
- 10. Previous complaints, if any, that were reviewed in the course of the investigation
- 11. Recommendation made on the added complaints
- 12. When the IAD Lieutenant received the investigator's report
- 13. Recommendation of the IAD Lieutenant
- 14. When the case was reviewed with the Chief
- 15. Chief's recommendation
- 16. When the hearing notice was generated to serve on the officer
- 17. When the hearing notice was served on the officer
- 18. When the Chief's hearing or Police Commission hearing took place
- 19. Ultimate outcome and disciplinary sentence and when reached
- 20. Whether the case went beyond the statute of limitations
- 21. Whether the discipline occurred and dates of completion or imposition

This information, except the officer's identity, which must be withheld under California law, should be made public through regular detailed reports or other statistical reporting similar to that provided by OCC. This way, the public can know what is being investigated by IAD and any delays or bottlenecks cropping up can be spotted and addressed.

The need for more transparency was underscored by the Panel's attempts to gather information on IAD cases. Because the department does not publish such information and refused to produce documents that might shed light on officer discipline outcomes, the Panel was forced to rely on witness testimony, including testimony from the Lieutenant in charge of IAD Admin. As noted above, the Lieutenant's testimony regarding the number of disciplinary cases where the statute of limitations lapsed is at odds with a recent media report. ²⁵⁵ This type of basic information should be readily available to the public.

²⁵⁵ Lamb, SFPD Allowed Statute of Limitations to Lapse on More Disciplinary Cases, supra note 250.

3. The SFPD should document and audit its internal discipline process.

A significant challenge to the Panel's review and analysis of internal discipline was the lack of comprehensive documentation of the disciplinary investigation process. Both the public and officers should have access to a single clear document that sets forth the discipline process from complaint initiation through hearing and appeal. Such a document would be a training tool for investigators, a resource for officers faced with an investigation, and informative to the public or other oversight bodies where process questions are raised. While DGO 2.07 sets out certain aspects of the process described in this report, the Panel had to rely on witness interviews to fill in the many gaps in the DGO, which has not been updated since July 1994. The lack of clear documentation hinders the transparency and legitimacy of that process unnecessarily.

As recommended above, IAD investigators should be required to use the tracking system and statistics regarding the timeliness of investigations should be made public. A formalized requirement should be instated for the IAD Admin Lieutenant to regularly audit AIM to ensure that pending statute of limitations deadlines continue to be met. An external audit process on an annual basis may also be appropriate.

The department should consider implementing appropriate employment penalties against an investigator or, where warranted, IAD commanding officers, for investigations that are not completed within the statute of limitations. In turn, guidelines to aid the OCC in completing its investigations within sufficient time to allow IAD and the Chief to complete the review process prior to the expiration of the statute of limitation should be discussed and implemented.²⁵⁶

4. Early Intervention System alerts should be reviewed by captains or command staff.

When an alert is triggered in the EIS system, that alert and the underlying conduct that gave rise to it should be reviewed and evaluated by captains or command staff within the department who are not the officer's direct supervisors. The reviewing officer must evaluate any patterns of at-risk behaviors or involvement in a disproportionate number of unwarranted high-risk incidents, for example uses of force, complaints, or litigation. If the reviewing officer concludes that the officer has a pattern of unwarranted high-risk activities, the reviewing officer should meet with the officer's superiors and implement a plan of action to address the at-risk behaviors and provide increased support, mentoring, training, and supervision as needed. The review, findings, and plan of action should be documented. The reviewing officer should further be required to re-evaluate the officer at some appropriate time period after the intervention plan has been implemented to assess whether it has been effective.

5. SFPD leadership should implement a culture of respect for the Internal Affairs Division.

The Chief, command staff, and other senior officers must be incentivized to promote a culture of respect for the IAD process. Simply having a culture that recognizes the importance of IAD and respects it can reduce resistance and speed up and make more efficient the disciplinary process. Incentives can include both negative pressure and repercussions where disciplinary processes are not adhered to and positive reinforcement, such as rewarding proper handling of disciplinary matters as part of more senior officers' reviews and promotion evaluations. The current IAD Admin Lieutenant attested that strides have been made to increase the respect given to IAD, but ongoing sensitivity to this issue is important.

6. The SFPD should highlight the City's existing whistleblower protections and apply them to people who report all types of SFPD policy violations.

By city ordinance, no retaliatory action can be taken against an employee for filing certain kinds of complaints with his or her department. There is no SFPD policy that either emphasizes this city ordinance and makes clear that whistleblower protection is a priority for the department, or extends the protections of the ordinance to reporters of all types of violations of SFPD policy. Officers have begun taking the "Not

²⁵⁶ Other pertinent findings and recommendations related to OCC are found in the section on External Oversight.

On My Watch" pledge, where they promise to report inappropriate behavior that they see on their shifts. As a further step, the SFPD should emphasize the protections for whistleblowers that city law already affords and ensure that any officer who reports any violation of department policy is protected and supported. This would help ensure that officers or employees who report wrongdoing are protected against retaliation and feel confident that they would be so protected. Supporting such protection should be a noncontroversial policy measure that will emphasize that effective officer discipline is a priority of the Chief, command staff, and the department as a whole.

7. The SFPD should implement a strong policy of disciplining any cover-ups of misconduct.

Cover-ups of misconduct by SFPD officers or staff must be dealt with appropriately. To the extent an officer covers up inappropriate behavior of themselves or a fellow officer, an IAD investigator covers up actions taken by fellow officers, or a chief takes action to minimize or conceal certain conduct, these actions should be documented, addressed, and subject to discipline by either the SFPD or the Commission, depending on the person accused and recommended discipline. A strong policy of avoiding and addressing cover-ups would set the mandate to avoid such behavior in the future. This tone can be set through the publication of specific guidelines with significant penalties for misconduct that interferes with the disciplinary process. As with protection for whistleblowers, a policy of punishing those who interfere with disciplinary investigations, though not arising from specific instances of such conduct, is an important part of signaling the department's renewed commitment to effective officer discipline.

8. The SFPD should employ careful review of prior complaints against the same officer.

All prior complaints against an officer for similar conduct for at least the prior five years should be reviewed as a matter of course in an investigation. This is a common practice in officer discipline. It is important that both sustained and not-sustained complaints be reviewed to identify patters or escalating behavior. Currently, repeated and sustained complaints are reportedly considered and generally known to the IAD investigators and lawyers who have served in those positions for extended period of time. However, the consideration of prior allegations and conduct and the weight they are given do not appear to be formalized.

IAD should consider assigning the same investigator to look into repeat offenses by an officer. Having the same investigator reviewing the officer can give the investigator a chance to see potentially problematic behavioral patterns or escalation of problematic behavior. This may necessitate special training focused on teaching investigators how to identify patterns or more typical signs of escalating behavior. These investigators should be regularly evaluated to ensure that officers' problematic behavior is appropriately identified. At a minimum, the investigator of prior complaints should review the report of a later investigation of the same officer in an effort to discern any patterns.

The EIS and the recommended comprehensive tracking system should also be utilized by IAD to track and evaluate the officer's full record for patterns or escalation. It should also be considered in the recommended punishment where prior disciplinary measures have been shown to be ineffective.

9. The SFPD should implement civilian direction/management of the Internal Affairs Division.

Ideally, the implementation of the recommendations set forth above would effectively reintroduce transparency and balance to the disciplinary process. These recommendations would most effectively be implemented by a civilian overseer of IAD.

An appropriate civilian head of officer disciplinary investigations, would be more removed from the influence of officers or other interest groups that might impact fair and consistent disciplinary policies and procedures, and would be a first step to regaining both effectiveness and public trust in the process. A civilian head of officer discipline was implemented indirectly during a period where a civilian was in charge of Risk Management, which oversaw IAD, while IAD lacked its own head. Ideally, the civilian in charge

should have prior police or relevant officer discipline experience. Such prior experience could be relevant to his or her credibility within the department and to understanding the role of an officer, the pressures and problems faced by officers on the job, and the way that officers communicate.

Civilian oversight of IAD may reduce the appearance of improper influence from inside the department or the POA, may bring about a greater level of self-evaluation and commitment to transparency in the process, and could help earn public trust in the officer discipline process.

Chapter 5: External Oversight

Background

This chapter discusses external oversight of the SFPD. The Panel found that while the provisions for oversight of the SFPD—particularly the Police Commission and the Office of Citizen Complaints—are unique and substantial improvements have been made in recent years, the system is also in need of meaningful improvement and reform, especially in certain key areas. Among other things, no external body regularly audits the effectiveness of the SFPD's policies and procedures or even whether its officers comply with them. The policymaking process for the SFPD is generally reactive and often hamstrung by a lack of resources. The OCC investigates complaints too slowly and, when it does sustain a complaint, the discipline imposed is almost always mild. External oversight bodies and the SFPD must make officer discipline more transparent.

Existing Oversight Structure

San Francisco has a structure for external oversight of the SFPD that is, in many ways, unique. There are two entities outside of the SFPD that play important roles in overseeing the department: the Police Commission and the OCC. In addition, a third entity external to the SFPD—the Controller's Office—has authority to audit the SFPD, although it rarely does so.

The Police Commission is the body that has ultimate authority over the SFPD in all areas, including oversight, policymaking, and officer discipline. The Chief of Police reports to the Police Commission, which has the power to fire the Chief. There are seven commissioners, four of whom are appointed by the Mayor and three of whom are appointed by the Board of Supervisors. The commissioners are all civilians and serve four-year terms of service.

The Police Commission's current functions fall into two broad categories: discipline and policymaking. The Police Commission is the ultimate arbiter of all major disciplinary matters involving police personnel. These matters may originate either with the OCC (which, as discussed below, investigates complaints lodged by civilians against officers) or with the Internal Affairs Division of the SFPD. In disciplinary matters, the greatest discipline the Chief may impose on his own is a suspension of up to 10 days. For all cases involving greater discipline—that is, involving the possibility of a suspension of more than 10 days up to termination—the Chief may make a recommendation, but only the Police Commission may impose such discipline. The Chief, the OCC, or an officer appealing the Chief's decision, may file a complaint to obtain a disciplinary determination from the Police Commission. The Police Commission also bears the responsibility for setting policies governing all aspects of the SFPD's duties, as reflected most recently in the Police Commission's adoption of a new body-worn camera policy.

The OCC is the entity tasked with investigating complaints filed by members of the public against San Francisco police officers. The OCC Director reports to, and serves at the pleasure of, the Police Commission. The OCC is independent from the SFPD: it is staffed with individuals who are not connected to the SFPD, is housed in a separate physical location, and has a separate budget from the SFPD that is set by the Board of Supervisors. It is empowered by Section 4.127 of the city charter to "receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County.... The director may also request and the Chief of Police shall require the testimony or attendance of any member of the SFPD to carry out the responsibilities of the [OCC]." The OCC has the power to compel officer testimony and subpoena witnesses. After the OCC investigates a complaint, it will either sustain the complaint (in which case the complaint is referred either to the Chief or the Police Commission) or not sustain the complaint (in which case no further disciplinary action is taken). The OCC is also charged with making policy recommendations to the Police Commission.

The City Controller also has oversight power over the SFPD, although it historically has exercised that power only sporadically. The Controller's Office operates as a consultant and auditor to the City and City departments. Its broad purview includes enhancing the performance and efficiency of City departments. The Controller's Office also undertakes regular audits of various City departments, but not the SFPD.

Findings

1. San Francisco's police oversight structure is unique and, in some respects, effective.

San Francisco is one of only a handful of localities with a civilian Police Commission charged with overseeing its police department, and it has uniquely empowered its Commission with legal authority to enact binding policy for the SFPD and adjudicate officer discipline cases. In many respects, the Police Commission is functioning effectively. Each of the seven current commissioners has an impressive record of public service and a diverse array of experiences: they are prosecutors and public defenders, lawyers from private and public-interest spheres, a social worker, and a youth organization founder. The current Commission is also diverse in terms of its racial, ethnic, and gender composition. The group holds public meetings three times a month at a time and place convenient to the public. These meetings are streamed live, and uploaded and archived on the Internet. It also holds regular meetings in various police districts. As discussed in greater detail below, despite having very little support staff to assist in its work, the Police Commission exercises its legal authority to revise and enact SFPD policy, and to discipline officers who violate those policies.

The OCC has made improvements since its leadership changed in the wake of a scathing audit in 2007,²⁵⁷ although as detailed further below, more remains to be done. The 2007 audit found a number of troubling findings regarding inadequate case management, poor office morale, and nonexistent investigation procedures, among others. Under the leadership of Director Joyce Hicks, who was appointed to lead the agency after the audit was submitted, the OCC has taken a number of steps to improve its efficacy. It implemented an electronic case tracking system to track the progress of investigations and has developed a detailed procedures manual that covers all aspects of investigations and office procedures.

The OCC has made particularly strong progress in two areas. The first is reporting. The 2007 audit found that the OCC had not published a quarterly report since 2004 or an annual report since 2002. Its reporting practices were not only inadequate, but also violated City Charter § 4.127, which requires quarterly reports from the OCC, and Administrative Code § 2A.30, which requires annual reports from each City department.

²⁵⁷ See City and County of San Francisco, Office of the Controller – City Services Auditor, Office of Citizen Complaints: Weak Case Management and Organizational Issues Degrade OCC's Performance (Jan. 24, 2007), http://www.sfcontroller.org/ftp/uploadedfiles/controller/reports/OCC 012407.pdf.

Since then, OCC reporting has been robust and generally timely.²⁵⁸ The OCC publishes an impressive variety of statistics in these reports, which it posts to its website, allowing the public extensive insight into certain OCC results.

The second area in which the OCC has improved is in the use and quality of its mediation program. The audit found that the OCC could make much better use of its mediation program. The OCC mediated only 22 cases in 2005, or 3 percent of its total. The audit endorsed the mediation coordinator's suggestion that the OCC mediate 75-80 cases per year, or 9 percent of its total. The OCC's current internal goal is to mediate 60 cases per year, and from 2011 through 2014, the OCC mediated an average of 58 cases per year, or about 8 percent of its total cases. A voluntary exit survey of participants indicates that between 2011 and 2014, an average of 88 percent of participants who responded to the OCC's survey were either satisfied or very satisfied with their mediations (the response rate to this survey over this period of time was 56 percent). Witnesses attributed the success of the mediation program in large part to the OCC's mediation coordinator, Donna Salazar.259

2. No entity regularly audits SFPD operational effectiveness, high-risk activities, or compliance with policies.

None of San Francisco's police oversight bodies routinely audits the SFPD's operations for efficacy or compliance. Although the Police Commission is charged with primary responsibility for overseeing the SFPD, it does not audit the SFPD. The City Services Auditor within the Controller's Office, which also has authority to audit the SFPD, has not done so in years.²⁶⁰

Police commissioners described their primary responsibilities as making policy and disciplining officers. When asked how the Police Commission conducts oversight, commissioners generally indicated that they asked questions of the Chief during weekly meetings; spoke informally to the OCC, command staff, and officers; and analyzed various reports and information. For example, commissioners receive quarterly reports on officer-involved shootings, as well as regular reports on DGOs. Additionally, they have regular discussions regarding the status of disciplinary cases, including whether there are observable trends that might raise concerns. The Police Commission also has a representative on the Firearm Discharge Review Board. These types of oversight activities, however, do not appear to be a central focus of Commission activity. Commissioners generally described their purview as limited to officer discipline and policymaking, and do not view themselves as having an auditor-type oversight function. There is a sense among commissioners that they can only do so much as "volunteers."

Significantly, the Police Commission does not perform any systematic investigations or audits to measure the SFPD's operational effectiveness, review its high-risk activities, or assess the department's compliance with policies issued by the Commission. This is not due to a lack of authority; the City Charter broadly authorizes the Commission to "prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department."261 Indeed, several commissioners

²⁵⁸ Between 2008 and 2011, the OCC published its quarterly reports, on average, 28 days after the end of the quarter and its annual reports, on average, 72 days after the end of the year. Between 2012 and 2015, its quarterly reports were published, on average, 67 days after the end of the quarter and 111 days after the end of the year. When the new director took charge, it also published reports for years that the prior director had neglected.

²⁵⁹ Some witnesses raised concerns about the fact that once a complaint goes to mediation, the investigation into the complaint is closed and not reopened. There are several safeguards, however, that prevent officers from avoiding discipline through the mediation program. For a complaint to go to mediation (a) both the complainant and the officer have to agree to mediation—if either refuses, then the complaint is investigated; (b) the officer must be eligible for mediation—an officer is ineligible for mediation if she has had a sustained complaint in the past year, has mediated a complaint in the last six months, or has opted for mediation three times in the past two years; and (c) the complaint must be eligible for mediation—certain types of complaints, such as those involving serious violations, substantial injury, sexual or racial slurs, certain use of force allegations, or questions of law such as searches or seizures, are ineligible for mediation.

²⁶⁰ The OCC does not presently have the authority to conduct regular oversight or audits of the SFPD, nor does it have the resources to

²⁶¹ S.F. City Charter, art. VI, § 4.109.

acknowledged having the authority to conduct audits or otherwise measure the SFPD's compliance with policies. However, commissioners stated that they do not regularly initiate audits or investigations and could only recall three piecemeal audits of discrete issues within the department in the last six years.

The Commission also has not requested assistance in conducting audits or investigations of the SFPD from other city departments. The city has an existing, well-funded, and apparently well-functioning audit department in the City Services Auditor, a division of the City Controller's Office. The City Services Auditor's budget is set by City Charter at two-tenths of 1 percent of the entire City Budget, which is supplemented by a percentage of all bond issuances. The director of the City Services Auditor described her budget as "more than enough" to fulfill the auditor division's responsibilities. With 32 full-time, appropriately credentialed auditors, plus contractors for routine audits, the City Services Auditor conducts approximately 70 to 100 substantive audits each year. It develops an annual audit plan, which it modifies as issues arise throughout the year. Robust follow-up procedures, as well as the assistance of the Government Accountability Office subcommittee of the Board of Supervisors in securing department compliance with auditor recommendations, result in a recommendation closure rate of 96 percent.

The City Services Auditor has authority to audit the SFPD, either on the City Services Auditor's own initiative or at the request of the Commission or Chief. The City Services Auditor has not, however, initiated any audits of the SFPD in at least the last five years.²⁶² For instance, it did not audit the SFPD in the wake of the texting scandal. The Director of the City Services Auditor explained that it did not do so because the Police Commission is the entity charged with overseeing the SFPD. The Police Commission does not regularly interact with the City Services Auditor and has never requested an audit of the SFPD.

In addition to not undertaking general audits or investigations, the Police Commission generally does not take an active role in responding to reports and information it receives as an oversight body. For instance, the Commission appears not to take an active oversight role with respect to the SFPD's Early Intervention System.²⁶³ EIS was designed to identify officers whose performance exhibits at-risk behavior and to assist those officers in correcting those behaviors before disciplinary intervention becomes necessary. DGO 3.19 requires the SFPD to audit the EIS every six months, and to present the results of the audit to the Chief of Police, the OCC and the Police Commission. It also requires the EIS Unit to provide quarterly and annual statistical reports to the Police Commission. While commissioners were generally familiar with EIS, some had not seen reports from the system, and others stated the Commission had not evaluated the program since it was launched to see whether it is working. Some commissioners did report receiving and reviewing quarterly EIS reports, but they used the information primarily to inquire about particular officers and not, apparently, to evaluate broader trends.²⁶⁴

The EIS reports, however, reflect some trends that merit further inquiry. For instance, between 2009 and 2014, the SFPD has intervened in only 2 percent of the matters flagged by the system. In the most recent year for which the Panel secured EIS reports (2014), just two of 324 matters flagged by the system resulted in an intervention. Yet by the fourth quarter of that same year, 34 officers each had seven or more "key performance indicators" (KPIs)—which include factors such as use of force, officer-involved shootings,

²⁶² The most recent SFPD audit conducted by the City Services Auditor's Audit Branch occurred in May 2010, when the Audit branch evaluated the Department's handling of monetary and property evidence. See Office of the Controller – City Services Auditor, San Francisco Police Department: The Property Control Unit Can Account for the Monetary Evidence in Its Inventory but Needs to Improve Some of Its Controls (May 20, 2010), http://sfcontroller.org/sites/default/files/FileCenter/Documents/843-SFPD_%20 PCU.pdf.

²⁶³ See Chapter 4: Internal Discipline for more on the Early Intervention System.

²⁶⁴ The extent to which Commissioners have received the reports as required under DGO 3.19 is unclear. When the Panel requested EIS reports from the Police Commission, the Commission responded that it had no documents responsive to that request. Several weeks later, in response to a follow-up inquiry, the Commission confirmed that they did not have any EIS reports at the time of the initial request, but since then had obtained EIS reports from the SFPD. Those reports, which the Commission produced, include only the 2014 quarterly reports and an undated presentation from the SFPD describing EIS.

²⁶⁵ The available EIS reports do not indicate the type of intervention involved; notably an intervention can involve anything from coaching or counseling, to monitoring the officers, to a referral to a mental health professional, to a temporary or permanent transfer.

OCC and IAD complaints, and civil complaints. Similarly, the data show that while the vast majority of officers generate no or few KPIs, some stations, such as Mission, Bayview, and Southern, have several officers each year with six or more KPIs. The exceptionally low intervention rate raises questions as to whether the system is functioning effectively to provide assistance to officers who could benefit from an intervention or to prevent incidents that may harm the community. Given the important role that a wellfunctioning EIS could play in helping police officers and preventing problems before they arise, the system deserves more careful oversight.

3. In the wake of the texting scandal, no oversight body has undertaken any formal investigation or audit of the SFPD to determine whether there is systemic bias within the department.

Since the texting scandal was reported in early 2015, neither the Police Commission nor any other oversight body has conducted an investigation or audit of the SFPD to gauge whether the bias exhibited in 14 officers' text messages reflects a widespread or systemic problem within the department.

After media reports exposed racist and homophobic text messages involving San Francisco police officers, the Police Chief filed complaints regarding the texting officers with the Police Commission. Until the complaints were filed, the Police Commission did not have jurisdiction over the individual texting officers' disciplinary cases. Once the cases were before the Police Commission, the Commission acted quickly to begin the disciplinary review process for these individual officers, but the matters were promptly stayed at the Police Commission level while the officers litigated statute-of-limitations issues in court. After a judge ruled that the statute of limitations had lapsed, exempting the texting officers from discipline, the City Attorney appealed. Separate and apart from any investigation conducted in the individual discipline cases, however, the Police Commission did not conduct any investigation to determine whether the racist and homophobic text messages exchanged by the officers are a symptom of a widespread or systemic problem within the SFPD.

In April 2016, it came to light that new racist text messages had been exchanged between at least four SFPD officers who were not involved in the original texting scandal. At a Police Commission meeting on April 6, 2016, former Chief Suhr indicated that he filed charges against these officers with the Police Commission in fall 2015. Thus, Commissioners apparently were aware of the second round of racist text messages when they attested during interviews in December 2015 and January 2016 that they had not conducted a broader investigation or independent audit into systemic bias within the SFPD.

When asked why the Police Commission did not perform any broader investigation into potential bias at the SFPD in the wake of the texting scandal, commissioners offered varied responses. One commissioner indicated that after consulting with the Chief and with officers at various levels within the chain of command, he concluded that the sentiments expressed in the text messages were limited to a few officers and not a widespread problem. Other commissioners suggested that a more systematic review might be appropriate, but offered different reasons why such an investigation had not been performed. One commissioner stated that his conversations with community members indicated that there was an insufficient groundswell in public opinion to support a full investigation into whether bias was more widespread. The primary reason commissioners gave for not conducting a broader investigation, however, was that they wanted to preserve their neutrality in anticipation of adjudicating the texting officers' disciplinary cases. Commissioners explained that discipline of law enforcement must be pursued with due process and fundamental fairness and because commissioners serve as finders of fact in officer discipline cases, conducting an investigation into bias might create the appearance of having prejudged the individual officers' cases.

The commissioners' responses do not offer a coherent explanation for why the Police Commission conducted no investigation into potential bias at the SFPD, and the rationale offered most frequently by commissioners is not well supported. Decisions from the U.S. and California Supreme Courts reject the

contention that an administrative agency cannot adjudicate an issue it previously investigated.²⁶⁶ Absent the "probability of actual bias," such as where an "adjudicator has a pecuniary interest in the outcome" or "has been the target of personal abuse or criticism from the party before him," adjudicators are typically accorded "a presumption of honesty and integrity."²⁶⁷ Nothing resembling "actual bias" exists by virtue of the Commission investigating whether bias is widespread within the SFPD while also adjudicating whether individual officers should be disciplined for exchanging overtly racist and homophobic text messages. No law supports the notion that such an investigation would give rise to a viable due process objection in the individual discipline cases. Nor does any rule of ethics or any rule governing the Commission's conduct require commissioners to abstain from such an investigation.²⁶⁸ And, even if commissioners refrained from conducting an investigation out of an abundance of caution, that would not prevent the commissioners from asking someone else, such as the Controller's Office, to conduct the audit.

4. Time and resource constraints hamper the Police Commission's ability to fulfill its many responsibilities.

The voluntary nature of the Police Commissioner role and a lack of Commission staff constrain commissioners' abilities to fulfill their duties. Police Commissioners are volunteers who each maintain full-time jobs in addition to their Commission duties. They receive only a small stipend of \$100 per month for their Commission work. Many current and former commissioners reported that serving on the Police Commission could be a full-time job. Between preparation and attendance at regular meetings, discipline hearings outside of those meetings, and other community and SFPD events they attend, commissioners reported logging anywhere between 10 and 30 hours per week on Commission business. The President of the Police Commission may devote between 40 to 50 hours per week on Commission work.

The Police Commission has two staff members who perform mostly scheduling and clerical tasks. An active-duty San Francisco police officer is assigned to the Police Commission as its secretary; this person manages the Police Commission's agenda, among other tasks. The Commission also has an executive secretary who also performs administrative tasks. Additionally, two city attorneys are assigned to provide legal counsel to the Police Commission; one works on issues related to officer discipline, the other works on policy. The Police Commission does not have a staff person dedicated to policy drafting and analysis, and thus it lacks a counterpart to the OCC's policy analyst.

While the Commission appears to attract well-qualified commissioners, resource and time limitations constrain its ability to actively oversee the SFPD. Neither the commissioners nor the staff possess the necessary training, experience, or time to conduct meaningful audits or investigations of the SFPD. In some instances, these resource constraints have resulted in the Police Commission's failure to meaningfully analyze and interpret data given to it by the SFPD. For instance, a commissioner stated that the SFPD was unable to adequately explain racial profiling data in a report requested by the Police Commission in 2015, and the Police Commission was unable to analyze the data for itself because of a lack of resources and expertise. This commissioner also stated that Commission President Suzy Loftus has been asking the SFPD to hire academics and experts to assist the SFPD and Police Commission in interpreting this and other data because the commissioners and SFPD staff lack the necessary expertise to analyze it properly.

²⁶⁶ Burrell v. City of L.A., 209 Cal. App. 3d 568, 581-82 (1989) ("[A]llowing a single decisionmaker to undertake both the investigative and adjudicative functions in an administrative proceeding does not, by itself, constitute a denial of due process" (citing Griggs v. Board of Trustees, 61 Cal.2d 93, 98 (1964)); Withrow v. Larkin, 421 U.S. 35, 52 (1975) ("[0]ur cases...offer no support for the bald proposition...that agency members who participate in an investigation are disqualified from adjudicating."). "Nor is a decisionmaker disqualified simply because he has taken a position, even in public, on a policy issue related to the dispute...." Burrell, 209 Cal. App. 3d at 578 (quoting United States v. Morgan, 313 U.S. 409, 421 (1941)).

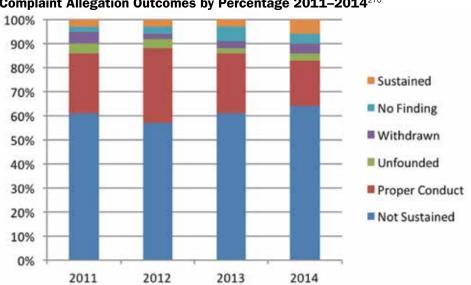
²⁶⁷ Withrow, 421 U.S. at 47.

²⁶⁸ The California Code of Judicial Ethics broadly provides that a judge "shall avoid impropriety and the appearance of impropriety," Cal. Code of Judicial Ethics, Canon 2 (2015), but the mere "appearance of bias" is insufficient to disqualify an administrative adjudicator under this standard. Andrews v. Agric. Labor Rel. Bd., 28 Cal.3d 781, 793-94 (1981) (en banc). The Advisory Committee Commentary suggests that the same standards applicable to disqualification determinations should guide a determination whether an appearance of impropriety arises under this rule. Cal. Code of Judicial Ethics, Canon 2, advisory cmte. cmt. (2015).

5. Complaints made to the Office of Citizen Complaints rarely result in disciplinary consequences, and when they do, the discipline imposed is almost always mild.

Statistics published by the Police Commission and the OCC reveal that officers are rarely disciplined as a result of OCC complaints, and, when they are, the severity of discipline imposed is generally mild.

The OCC sustains a small percentage—well under 10 percent—of complaints. The OCC applies a preponderance of the evidence standard when assessing whether to sustain a complaint. A review of OCC openness reports over the last three years indicates that the OCC sustains very few complaints in "he said/ she said" situations between complainants and officers. For most sustained complaints, there was either irrefutable documentary evidence of the violation (such as missing paperwork), testimony from multiple independent witnesses, or an admission by the officer that the complained-of conduct occurred. The OCC's annual reports indicate that the average rate of "not sustained" allegations was 61 percent between 2011 and 2014, making it "[b]y far the most frequent finding," followed by "proper conduct." ²⁶⁹



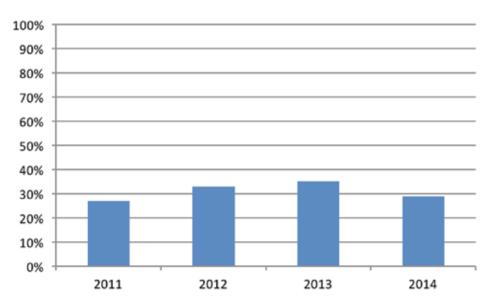
Complaint Allegation Outcomes by Percentage 2011–2014²⁷⁰

Also notable are the grounds on which OCC complaints are sustained. First, failure to collect traffic stop data accounts for an average of 30 percent of all sustained complaints between 2011 and 2014. These allegations are typically not raised by complainants, but rather are added by OCC investigators during the course of investigating a complaint alleging a separate act related to the traffic stop. While it is important that officers follow department policy and be held accountable for these failures (particularly given the importance of such data in evaluating potential bias in policing), including such cases in the same metric as complaints filed by citizens may create the misleading impression that the rate of sustained complaints made by citizens is higher than it actually is.

²⁶⁹ A finding of "proper conduct" means that the actions occurred, but were "justified, lawful, and proper." DGO 2.04(III)(A)(3)(c). "Proper conduct" is often a technical determination of whether the conduct alleged is permissible under the DGOs.

²⁷⁰ Source: OCC Annual Reports 2011-2014. The OCC reports two different sustained rates: the percentage of complaints where at least one allegation is sustained, and the percentage of all allegations that are sustained. Some complaints contain more than one allegation, so the number of allegations is higher than the number of complaints. The OCC only reports the dispositions in the graph on an allegation-by-allegation basis, not a complaint-by-complaint basis. The sustained complaint rates for the years covered by the graph are 7.0 percent in 2011, 6.0 percent in 2012, 6.0 percent in 2013, and 8.2 percent in 2014.

Failure to Collect Traffic Stop Data as a Percentage of All Sustained Complaints 2011–2014²⁷¹



Second, the OCC has not sustained a single complaint of biased policing in the last eight years, although more than 211 such complaints have been filed since 2012, when the OCC began reporting the number of such complaints in its annual report.²⁷² Witnesses gave several possible reasons for this. Many witnesses lamented that proving bias is very difficult unless there is tangible evidence that the officer involved explicitly cited race as a factor motivating his or her actions. Other witnesses noted that discipline investigations often narrowly focus on the facts of the individual case and ignore patterns of behavior. Information walls between agencies (as discussed further below) exacerbate this issue. The OCC is not unique in its failure to sustain bias complaints: the Inspector General of the LAPD found that out of the 1,356 biased policing allegations closed between 2012 and 2014, none were sustained.²⁷³

In the rare case that an OCC complaint is sustained, the discipline imposed is typically mild. As demonstrated by the graph below, the most common disciplinary outcome in sustained OCC cases—by far—is an admonishment. Admonishments have been handed out in approximately 60 percent to 80 percent of all sustained OCC cases over the last six years. An admonishment "does not constitute formal discipline. It is a warning only and not a punitive action."

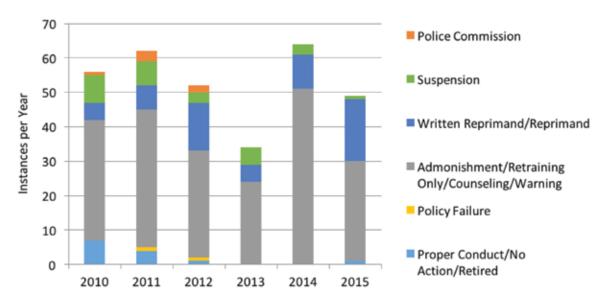
²⁷¹ Source: OCC Annual Reports 2011-2014.

²⁷² The OCC's 2011 annual report categorized complaint 416-10, sustained in May 2011, as one involving "racially biased policing," but that categorization appears erroneous. According to the OCC openness report from May 2011, the allegations of bias based on the driver's ethnicity were not sustained, and the OCC explicitly found that there was "insufficient evidence to prove or disprove that the officers' policing actions at the station were biased." See id. at 58, http://sfgov.org/occ/sites/default/files/Documents/Office_of_Citizen_Complaints/OCC_05_11_openness.pdf. The portion of the complaint that was sustained involved failure to follow San Francisco's "sanctuary city" policy. Id. at 59.

²⁷³ Office of the Inspector General, Los Angeles Police Commission, *Review of Biased Policing Complaints* (Dec. 15, 2015) at 4, http://media.wix.com/ugd/b2dd23_e0fc70608c994c46a0bf9233ae0175af.pdf.

²⁷⁴ SFPD Department General Order 2.07(I)(B)(1), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14813-DG02.07.pdf.

Disciplinary Outcomes 2010-2015 (OCC Only)²⁷⁵



It also bears special emphasis that neither the Chief nor the Director of the OCC has sent a discipline case that originated from a citizen's complaint to the Police Commission since 2012. All of the disciplinary cases that have been sent to the Police Commission from 2013 through 2015 originated in IAD. During this same period, only nine OCC complaints have resulted in a suspension by the Chief, and all such suspensions were for 10 days or fewer. That means that of the more than 1,920 OCC complaints closed and 147 OCC complaints where discipline was imposed over this time period, none were determined by the Chief or the OCC Director to raise issues that warranted serious discipline. While each individual case is unique and it is possible that there are reasonable explanations for why no OCC case has been referred to the Commission between 2012 and 2015, these statistics are troubling and raise questions about whether officers are being held accountable to the citizens they serve.

Over the past five years, the OCC has declined to exercise two of its powers that are designed to vindicate the rights of aggrieved citizens. First, the OCC is empowered by City Charter § 4.127 to file charges directly with the Police Commission if the Chief of Police disagrees with the OCC's determination that a complaint ought to be sustained, or if the OCC does not deem the punishment meted out by the Chief to be sufficient. The OCC never filed charges directly with the Police Commission during the time that Greg Suhr was Chief of Police. Former Chief Suhr only disagreed with the recommendation of the Director of the OCC in 5 percent of cases over the past five years. These facts, coupled with the extremely low incidence of sustained complaints recommended for serious discipline, resonate with statements of witnesses who view the OCC as taking a "conservative" approach to pursuing citizen complaints.

A second unused OCC mechanism is evidentiary hearings. Charter § 4.127 provides that the Director of the OCC "shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department" and the hearing would "facilitate the fact-finding process." The time when complainants and officers request hearings is currently after the OCC issues its determination letters, which is after the fact-finding process has run most of its course. While both complainants and officers have requested hearings, none have been granted since the current OCC Director took over.²⁷⁶

²⁷⁵ Source: Police Commission, see http://sanfranciscopolice.org/occ-decision-issued. The OCC began publishing similar information in narrative form in its annual and quarterly reports in 2012. The OCC's data persistently varies in small but noticeable wavs from the data published by the Commission. This report uses the Commission's data—which tends to understate the number of officers disciplined marginally-because it covers a longer time period. The Panel encourages the Police Commission and the OCC to work together to ensure that the data each agency publishes is uniform and accurate.

²⁷⁶ Complainants and officers may also request a "Case Review," where the investigator responsible for the complaint explains the basis for the OCC's determination in a confidential setting. These occur after the fact-finding process has run its course at the OCC.

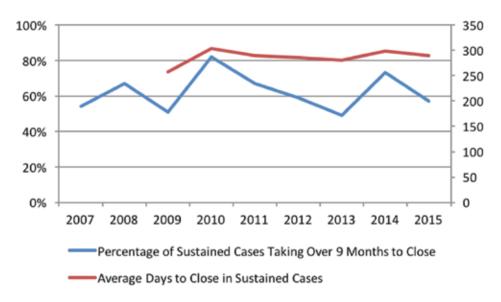
Witnesses stated that the reason that hearing requests usually are denied are because the requests do not sufficiently articulate the reasons for requesting a hearing, and because the OCC lacks the resources to conduct them. Because many OCC cases turn on credibility determinations, it seems likely that an evidentiary hearing would assist OCC's fact-finding process. The OCC's failure to use this process suggests the OCC is not completing investigations in the robust manner contemplated by the charter.

6. The OCC has failed to meet its own goals for completing timely investigations and suffers from a lack of resources.

The OCC was last audited in 2007. One of the principal findings of that audit was that the OCC was not investigating and closing cases in a timely manner. City Charter § 4.127 requires the OCC to "use its best efforts to conclude investigations . . . within nine (9) months of receipt." This provision exists to provide sufficient time for the Police Chief to evaluate sustained complaints and initiate discipline before the one year statute of limitations imposed by the Public Safety Officers Procedural Bill of Rights expires. The 2007 audit found that 152 of 286 cases sustained between 2003 and 2006, or 53 percent, took longer than nine months to close.

Further, in all but two of the last nine years, the percentage of sustained cases closed within nine months has been worse than 53 percent—sometimes dramatically so. As demonstrated by the below graph, the percentage of sustained cases that have taken more than nine months to close has ranged from 49 percent to 82 percent. The average days to close a sustained case over the last five years has been 286, which exceeds nine months. Despite performance deterioration in this critically important area, the OCC failed to meet the statute of limitations in only one case in the last five years.





^{*}Note: Average days to close in sustained cases were not available for 2007 and 2008.

Witnesses generally cited the OCC's resource constraints as the reason that investigations are not completed within nine months. As set by the Board of Supervisors, the city budgets for 2014/2015 and 2015/2016 provide the OCC \$5.1 million each year for 34.75 employees. The OCC has allocated 17 positions for line investigators and three for senior investigators. City Charter § 4.127 sets a floor on the number of OCC investigators at one investigator for every 150 sworn officers. In recent years, however, the

²⁷⁷ See Cal. Gov't Code § 3304(a).

²⁷⁸ Source: OCC Annual Reports 2008-2014; OCC First, Second, and Third Quarter Reports for 2015.

OCC has not filled all of its investigator slots. In 2014, for example, a "mandated vacancy factor and step adjustments" meant that the OCC had the budget to fill only 15 of its investigator positions. Line and senior investigators have taken extended leaves of absence (which the Director represented are permitted by civil service rules) in recent years, further crippling OCC staffing levels.

The OCC's reduced staffing levels have impaired its ability to meet the 2007 audit's recommendation of 16 cases per investigator. At the time of the audit, the average number of cases per investigator was 32. Last year, that number stood at 27, and in the last five years, the average caseload has been 23. Director Hicks stated that if the City were to bestow the OCC with additional resources, she would use them to increase the number of investigators on staff, which the OCC has consistently requested.²⁷⁹

The OCC's resource constraints impact its function beyond investigator staffing levels. The OCC has only one car that it makes available to its investigators. Much of the technology that the agency and investigators use is out of date, and many aspects of complaint files are not digitized. The OCC has only one information technology employee. As a result, certain portions of the OCC's website are not updated timely (most noticeably, the portion of the OCC's website that lists policy recommendations has not been updated since 2008). The OCC has also made some questionable decisions about how it uses its limited resources. For example, the OCC purchased iPods several years ago for recording purposes, but has not used any of them.

7. The Police Commission is currently managing its docket of disciplinary cases and imposing serious discipline, but the lack of available information makes it difficult to evaluate whether the Commission is acting consistently and appropriately in all instances.

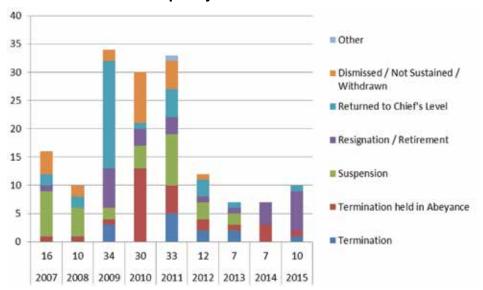
The current Police Commission is managing its docket of disciplinary cases efficiently and imposing serious discipline. The limited information that exists regarding Commission disciplinary matters raises some questions regarding the consistency and appropriateness of some of the Police Commission's disciplinary outcomes, and does not allow a definitive conclusion on those questions.

San Francisco vests its Police Commission with exclusive power to impose discipline involving a suspension of greater than 10 days. This means that the Police Commission, and not the Chief, has the sole authority to terminate officers. This discipline structure is unique among California's major metropolitan police departments, because most other departments give their police chief the exclusive authority to discipline officers.

The Commission's Veronese Reports show the DGO charges and disciplinary outcomes associated with each case of officer discipline resolved by the Commission every quarter. The number of cases resolved by the Commission between 2007 and 2015, as well as the disciplinary outcomes associated with the cases, is shown below.

²⁷⁹ On January 26, 2016, Supervisor Malia Cohen introduced a measure that would permit the OCC to investigate all officer-involved shootings, regardless of whether a complaint is filed. According to Director Hicks, citizen complaints have been filed in only eight of 35 officer-involved shootings in the past five years. See Michael Barba, Scrutiny of Officer-Involved Shootings May Increase, S.F. Examiner, Jan. 27, 2016. http://www.sfexaminer.com/scrutiny-officer-involved-shootings-may-increase. As investigations of officerinvolved shootings consume more resources than the average OCC case, it is unclear how the OCC would fulfill this duty without additional investigators.

Police Commission Disciplinary Outcomes²⁸⁰



Police Commissioners reported having an "overwhelming" backlog of disciplinary cases several years ago. Indeed, as the above graph shows, the Police Commission resolved 30 cases or more in each year between 2009 and 2011. Commissioners stated that, during this time period, scheduling hearings on motions and reading transcripts and case files consumed substantial amounts of time, leaving little time for policymaking and other Commission responsibilities. It is notable that, during the time when the Commission was trying to clear its backlog, significantly higher numbers of cases were dismissed/not sustained/withdrawn or were returned to the Chief compared with more recent years when the Commission has not been backlogged.

Current commissioners attested that the backlog of cases has been eliminated, and they now move cases along more quickly. The Police Commission adopted a resolution in 2007 governing the timing for the assignment of cases and conducting hearings. Commissioners report that they are generally adhering to the scheduling resolution. The Commission secretary also maintains an internal document tracking the status of each case. The Police Commission currently has a total of about 25 cases pending before it, with each Commissioner responsible for anywhere between one and seven cases each. None of the cases appear to have been filed prior to 2013. Current commissioners attributed delays in resolving pending cases to factors beyond their control, such as when a matter is stayed during the pendency of parallel criminal proceedings.

The data reflect that the Police Commission has imposed serious discipline, such as termination, suspension with termination held in abeyance, or suspension, in many cases. A significant number of cases also result in officer resignation or retirement, which may be interpreted as an indication that officers understand the likely alternative will be termination. Resignation or retirement accounted for four out of seven (or 57 percent) of all case dispositions in 2014, and seven out of 10 (or 70 percent) of all case dispositions in 2015. There was one officer termination between 2014 and 2015.

One notable outcome involves cases that are "returned to Chief's level." While the Veronese Report itself gives no indication what this designation means, commissioners reported that cases are returned to the Chief's level when the Commission determines that they merit 10 days of suspension or less. Almost half of the 34 cases that the Commission adjudicated in 2009 were returned to the Chief's level. This appears to have been an aberration: both before and after 2009, the number of cases returned to the

²⁸⁰ Source: Veronese Reports 2007-2015.

²⁸¹ A former Commissioner explained that "termination held in abeyance" means that the Police Commission can decide, as part of its discipline imposed, to terminate an officer if he or she does not follow certain terms during a specific time period.

Chief was much lower, with no cases returned to the Chief in 2014 and one of the 10 cases decided in 2015 returned. Because the Veronese Reports contain little detail about each case, it is difficult to judge whether these outcomes were appropriate.

Commissioners uniformly indicated that officers who lie, cheat, steal, or otherwise demonstrate moral turpitude suggesting they are unfit for the position will automatically be removed from the force. They also stated that allegations of bias are taken very seriously. Although the limited facts contained in the Veronese Reports make it difficult to test these assertions, the available information raises questions about whether the Police Commission has consistently followed its stated no-tolerance policy. For example, in a case resolved in 2012, an officer's case was "returned to Chief's level" where the officer was charged with "[b]eing untruthful in the course of an EEO investigation; being untruthful in the course of an IAD investigation."282 In two cases resolved by the Police Commission in 2011, officers charged with "harassment on the basis of an individual's or group's race, color, national origin, ethnicity" received 360day suspensions.²⁸³ In two cases resolved in 2010, officers charged with "harassment on the basis of an individual's or group's race, color, national origin, ethnicity" received termination held in abeyance for five years; 10-day suspension; and participation in the department's alcohol abuse program for five years.²⁸⁴ Although the Panel does not have the benefit of a full factual record (requests to the Commission for disciplinary files redacted of officer-identifying information were denied on the ground that the information was protected by existing law), these cases indicate that officers who were charged with lying or racial harassment have in some instances been permitted to remain on the force.

That is not to say that the Commission has failed to terminate officers who engaged in lying, cheating, stealing, or other similar behaviors. The Commission does visit serious disciplinary consequences upon officers charged with such misconduct. For instance, in 2014, an officer was terminated for "[m]aintaining an inappropriate relationship with a minor student while serving as coach" and "[f]ailing to be fully forthcoming in official interviews."285 Another was terminated in 2011 for, among other things, "writing of inaccurate report; misrepresentation of the truth."286 In two other cases, officers were terminated after being caught cheating ("[e]ngaging in a pattern of submitting improper court compensation requests" 287) or stealing ("committing acts of theft from Fry's Electronics" 288).

Unfortunately, the paucity of detail in the Veronese Reports makes it difficult to draw any firm conclusions about whether the Commission is consistently imposing appropriate disciplinary outcomes.

8. State law imposes significant restrictions on the transparency of officer discipline.

California law imposes significant restrictions on the public disclosure of information relating to officer discipline. Penal Code § 832.7 provides that all "[p]eace officer or custodial officer personnel records," as well as "records maintained by any state or local agency pursuant to Section 832.5, or information obtained from those records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code" (section 832.5 governs complaints by members of the public against law enforcement personnel).²⁸⁹ In Copley Press, Inc. v. Superior Court, 39 Cal. 4th 1272 (2006), the California Supreme Court interpreted these provisions to mean that civil service commission records (such as records of the San Francisco Police Commission) pertaining to disciplinary proceedings against peace officers are confidential and exempt from public disclosure.

²⁸² Source: Veronese Report, 3Q 2012, case no. IAD 2011-0110.

²⁸³ Source: Veronese Report, 1Q 2011, case nos. JCT C06-187; JCT C06-186.

²⁸⁴ Source: Veronese Report, 1Q 2010, case nos. JCT C06-184; JCT C06-185.

²⁸⁵ Source: Veronese Report, 1Q 2013, case no. JWA C11-194; IAD 2010-0210.

²⁸⁶ Source: Veronese Report, 1Q 2011, case no. IVF C09-143.

²⁸⁷ Source: Veronese Report, 2Q 2012, case no. ALW C11-211.

²⁸⁸ Source: Veronese Report, 4Q 2013, case no. ALW IAD 2012-0619.

²⁸⁹ These provisions of the Penal Code are separate from the Public Safety Officers Procedural Bill of Rights, Cal. Gov't Code § 3300 et seq., which provide additional procedural protections for police officers facing disciplinary action.

As a practical matter, these Penal Code provisions, as they have been interpreted, make it extremely difficult for the public to obtain details about specific pending police disciplinary matters. The law prevents disciplinary hearings from being open to the public; disciplinary hearings must instead be held in closed session unless the officer consents to a public hearing. Disciplinary reports also cannot disclose any officer name or identifying information, and files created during disciplinary proceedings are sealed and generally are exempt from public records requests. Even an individual whose complaint initiated a disciplinary process is not entitled under current law to obtain a copy of the OCC's final report and recommendation, which constitute personnel records within the meaning of the Penal Code.²⁹⁰

Existing law also imposes significant restrictions on the information that the OCC and Police Commission may publish. Although these civilian oversight bodies may (and to some extent do) publish aggregated statistics regarding the types and outcomes of complaints, as well as short case summaries, the Penal Code § 832.7, subd. (c) limits the OCC and the Police Commission to publishing "data regarding the number, type, or disposition of complaints...if that information is in a form which does not identify the individuals involved." This precludes any public effort to determine the number or type of complaints filed against specific named officers. For instance, the OCC has stated that it has received complaints related to the texting scandal and the Mario Woods shooting, but it cannot disclose any details to the public because of these legal restrictions. Although the OCC publishes certain limited information regarding the facts of the cases it investigates, it is impossible to determine whether any particular officer has had multiple complaints filed against him or her.

In February 2016, legislation was introduced in the California State Senate that would provide for greater public access to police disciplinary records in certain cases, and would also allow individuals who file complaints access to more detailed information regarding the outcome of disciplinary proceedings stemming from their complaints. This bill did not make it through the committee process.²⁹¹

9. San Francisco is not as transparent about officer discipline as existing confidentiality laws permit, or as its own rules require.

Notwithstanding these significant legal obstacles to transparency in officer discipline, existing law does permit some information about officer discipline to be disclosed to the public. While San Francisco provides a substantial amount of information to the public about OCC complaints, it falls far short of what the law permits with respect to the disciplinary process as a whole. In some cases, it also falls short of its own self-imposed requirements.

First, information about the disciplinary matters that come before the Police Commission is not available to the public to the full extent permitted by law. Unlike the OCC, the Police Commission publishes no aggregated or statistical information about the disciplinary matters it handles, which it could do. While the Police Commission creates Veronese Reports, which describe the charges, the underlying facts, and the ultimate disposition of officer discipline cases at the Police Commission without disclosing the officer's identity, these reports are not readily available even though California law expressly permits their public dissemination. The Veronese Reports, obtained through a Public Records Act request, are occasionally discussed during Police Commission meetings, but until mid-May 2016, they were not readily accessible to the public otherwise. While commissioners expressed that these reports should be available on the Police Commission's website, the Panel was unable to locate them on the website or elsewhere online until the Police Commission started posting them in mid-May 2016. Requests to the Police Commission for guidance on where to locate them publicly were not answered when made.

²⁹⁰ See Cal. Penal Code §§ 832.5(b); 832.7 (a), (c); S.F. Police Officers Ass'n v. Superior Court, 202 Cal.App.3d 183, 192 (1988); Office of the Attorney General, State of Cal., Op. No. 89-1103 (Apr. 5, 1990), 73 Ops. Cal. Atty. Gen. 90, 1990 WL 484763.

²⁹¹ Alexei Koseff, California Bills Fail to Advance on Police Records, Body Camera Funding, Sacramento Bee (May 27, 2016) http://www.sacbee.com/news/politics-government/capitol-alert/article80424702.html.

²⁹² Cal. Penal Code § 832.7(c).

Second, very little information is provided to the public about disciplinary matters originating with the SFPD's IAD, rather than in the OCC, even though the law does not impose a higher standard of confidentiality for IAD matters. The only information available for these matters is the discipline imposed by the Chief of Police for sustained IAD charges, which are given a code corresponding to the type of offense charged. No information about the facts underlying the allegations or charges in IAD-originating cases is published online. The law permits significantly more detail about IAD-originating matters to be disclosed to the public, including the number and types of charges investigated; the number and types of charges referred to the Chief for discipline; the number of days to close a case; and anonymized details of the facts, charges, and discipline in sustained IAD matters among other things. Because the vast majority of cases that get referred to the Police Commission for serious discipline originate with IAD, the lack of information about matters originating with IAD significantly limits insight into the disciplinary process as a whole. Thus, while the OCC statistics discussed above shed some light on the disciplinary process, they reveal only a small part of the overall picture.

Third, throughout the system, little or no information is published regarding complaints containing allegations of bias in particular. While the OCC already publishes (in a useful and readily accessible form) a substantial amount of information about the complaints it handles, information regarding complaints of bias is relatively opaque in OCC reports—and virtually non-existent with respect to disciplinary matters originating in the IAD. Complaints regarding bias are not specifically tracked and listed as a separate category in OCC reports. OCC tracks a separate category for complaints regarding racial slurs, but not all (or even most) allegations of bias involve racial slurs and other bias complaints are included in broad catch-all categories such as "conduct unbecoming of an officer." Recent OCC Annual Reports include a narrative discussion of the number of complaints alleging bias, but do not describe how "bias" is defined or otherwise explain how this statistic was derived.

Fourth, information from all of these sources (the Police Commission, the IAD, the Chief, and the OCC) is not presented to the public in a unified fashion or in a single, easily accessible place. It is not currently possible to track particular cases as they make their way up the disciplinary ladder from the OCC or IAD to the Chief to the Police Commission. While the factual allegations and charges for all sustained OCC complaints are available through OCC published reports, and the Chief's punishment imposed for sustained complaints originating in the OCC are available through the Police Commission's published reports, there is no report showing this information side-by-side, such that the public can compare the sustained findings against the discipline imposed. It is technically possible to link the factual allegations, charges, and OCC findings with the Chief's and/or Police Commission's ultimate disposition using the complaint filing date, but this can only be done through laborious effort and by comparing two or more separate reports. It is not realistic to expect members of the public to undertake this level of effort.

Finally, information about officer discipline is not published in a timely manner. In order to "maintain public confidence in the Department's accountability systems," the Chief is required to report monthly to the Police Commission on his decisions regarding all sustained OCC and IAD complaints, and to publish those reports on the SFPD's website within 10 days of issuance.²⁹³ At the beginning of the Panel's investigation in August 2015, the most recent Chief's report reflecting his decisions on sustained complaints referred to him by OCC was dated February 2014. As of April 2016, the SFPD website was still out of date: the most recent report on the Chief's decisions for sustained OCC complaints was dated November 2015, and the most recent report on the Chief's decisions for sustained IAD complaints was dated January 2012.²⁹⁴ Likewise, the OCC has not been timely in publishing its reports on the OCC's website, despite being required to do so within 10 days of each reports' issuance.295 At the beginning of

²⁹³ See Police Commission Resolution No. 97-04 (2004).

²⁹⁴ During the course of our investigation, the Police Commission published on its website reports on Chief's decisions for sustained IAD complaints through 2015. In February 2016, we were able to access and use these reports in our analysis of officer discipline. However, when we attempted to access the reports several weeks later in March 2016, the reports no longer appeared on the website. The reports reappeared on the website by May 2016.

²⁹⁵ Police Commission Resolution No. 97-04 (2004).

114

the investigation in August 2015, the most recent OCC report available on the OCC's website was the 2014 Annual Report. The OCC reports for the first and second quarter of 2015 had not been published. The most recent report available on the OCC's website as of April 2016 was the report for the third quarter of 2015.

10. Lack of transparency surrounding officer discipline makes it difficult to determine whether disciplinary outcomes are fair and appropriate.

A related problem to the above issues is that the lack of transparency makes it difficult to assess the soundness and consistency of disciplinary outcomes. Although the Police Commission's internal tracking document indicates, as discussed above, that the Police Commission is managing its current disciplinary case load in a reasonably timely fashion, it is impossible to discern from these reports or others whether the most serious discipline cases are being brought to the Police Commission.

There is no indication that the Police Commission undertakes any effort to determine whether the Chief is appropriately imposing discipline and referring cases to the Police Commission. Additionally, while Veronese Reports indicate that the Police Commission is imposing serious discipline in certain cases of officer misconduct, as discussed above, it is difficult to determine from publicly available documents whether the discipline is appropriate in light of the misconduct that occurred.

Moreover, the Police Commission does not rely on any formal, published guidelines or standards for imposing discipline. While written guidelines exist, the Police Commission does not maintain a copy. These guidelines are not published on the Police Commission's website and were not produced in response to a Public Records Act request to the Police Commission. Instead, the SFPD produced a copy of the guidelines in response to a Public Records Act request. These written guidelines appear not to have been updated since 1994.

Some commissioners were unaware that written guidelines for discipline existed. Other former and current commissioners were aware of the guidelines, but reported that the Police Commission does not follow these guidelines when making disciplinary decisions. The Police Commission relies instead on informal "rules" and "precedent" from prior cases to determine appropriate outcomes. Additionally, because of barriers the Panel faced in securing police officer interviews, ²⁹⁶ it was unable to gauge whether members of the SFPD have the same expectations for discipline as commissioners.

For these reasons, the Panel does not have a basis to assess whether San Francisco's unique system for officer discipline produces fair and appropriate disciplinary outcomes.²⁹⁷

11. Community members report that the lack of information about the outcomes of OCC complaints and officer disciplinary proceedings generates mistrust of the OCC and the SFPD, and a perception that the disciplinary process is ineffective.

During the investigatory process, the Panel met with numerous community leaders and residents. The prevailing view from community members interviewed is that the OCC, while well-intentioned, is not effective in resolving citizen complaints about the SFPD in a satisfactory way. There appear to be several reasons for this perception. Many people expressed frustration that the OCC's investigations take a long time to resolve—sometimes up to a year. Both OCC complainants and community members familiar with the OCC's investigatory process reported that complainants generally are not kept informed about the status of their complaint during the OCC's investigation, creating a perception of inaction and uncertainty. Moreover, even at the conclusion of an investigation, little information is provided to complainants: letters

²⁹⁶ See Introduction at page 7 for more detail.

²⁹⁷ One perceived benefit to the current system is that the power to terminate or seriously discipline police officers rests with civilian leaders who are outside of the SFPD and may be more likely to have community interests in mind. However, this system has been criticized for being too slow, and for undermining the authority and accountability of the Chief for his own Department. Some interviewees proposed giving the Chief more power to discipline officers, including the power to terminate. The Panel lacks sufficient information to evaluate whether such a proposal would be appropriate, especially absent robust audit procedures, which currently do not exist. See Chapter 4: Internal Discipline for further discussion.

sent to them simply say that the complaint has either been sustained or not been sustained, without any explanation. The letters do not provide the case summary that is later published in the OCC's openness reports. This lack of communication may prevent complainants from learning about how thoroughly the OCC investigates complaints. There also appears to be a widespread perception that the OCC is not truly independent of the SFPD, and that OCC investigators are not willing to question the credibility of SFPD witnesses.

12. The current Police Commission has adopted a collaborative and inclusive process for making and revising policy, but the inclusiveness of the policymaking process is limited by collective bargaining rules that give substantial power to the POA relative to other stakeholders.

Over the past few years, the Police Commission's policymaking strategy has evolved to build significant stakeholder input and community-engagement opportunities into the policymaking process. While the Commission has attempted to engage a variety of stakeholders, the POA continues to have power in the policymaking process that is disproportionate to that of other stakeholders. Under relevant MOUs and collective bargaining laws, the POA is entitled to a meet-and-confer process with regard to proposed changes to DGOs, and, if meet-and-confer efforts fail to produce a negotiated resolution, the POA may pursue arbitration. Because the arbitration process is not time-limited and can take months to run its course, these so-called "impasse procedures" give the POA significant bargaining power, especially in circumstances where there is a sense of urgency around making policy revisions.

The body-worn camera policy adopted by the Police Commission on June 1, 2016, provides a recent example of the POA's disproportionate bargaining power. When the Police Commission began the process of drafting a new department policy on BWCs, it created a working group comprising stakeholders from the District Attorneys' Office, the Public Defenders' Office, the OCC, the POA, the San Francisco Bar Association, and others, to draft the new policy and identify issues for the Police Commission to resolve. Once a draft was completed, the commissioners asked for additional input from the community. With extensive stakeholder and community member feedback in hand, the commissioners discussed and approved the draft policy. That policy reflected a compromise on a number of issues, the most heavily debated of which was the question of whether officers would have an opportunity to review footage from BWCs before writing their reports. The compromise adopted by the Commission was that, in cases of officer-involved shootings, in-custody deaths, or criminal matters, officers could preview such footage only at the discretion of the Police Chief.

After this compromise was reached, the Commission, through the city negotiator, then engaged in the required meet-and-confer process with the POA. The outcome of that process was a compromise different from the one struck by the various stakeholder groups: in cases of officer-involved shootings, in-custody deaths, or matters where an officer may be subject to criminal liability, the officer must provide an initial brief statement about the incident but then has an opportunity to review BWC footage with an attorney before being interviewed fully. The Police Commission approved this change to the policy, over dissent from two commissioners. The majority view, however, was that further delay to accommodate additional feedback or to arbitrate the issue, after over a year of negotiation, would be unacceptable.

The Police Commission is using a similar process to re-evaluate the SFPD's Use-of-Force Policy in the wake of the Mario Woods shooting.²⁹⁸ While this report was being drafted, the Police Commission held several community meetings to solicit feedback on the policy and invited multiple community groups including the ACLU Coalition on Homelessness—and the Panel's Use of Force and Officer-Involved Shootings Working Group to join the Commission's working group. As with the BWC policy, the POA is involved in ongoing stakeholder discussions about changes to the use-of-force policy, and has a right to the same meet-and-confer process.

²⁹⁸ Members of the Blue Ribbon Panel's Use of Force and Officer-Involved Shootings working groups are participating in the Commission's working group on the Use of Force Policy.

The current Commission has made meaningful efforts to involve relevant stakeholders in the policymaking process, within the context of the collective bargaining rights held by the POA. Commissioners expressed that early and ongoing feedback from relevant stakeholders and community members creates opportunities for constructive dialogue, contributes to consensus-building, and produces better decision making more likely to reflect best practices. Because policy changes may affect the working conditions of POA members, the POA is a necessary and important voice in this process. The ability to delay important policy changes through the meet-and-confer process and impasse procedures, however, gives the POA disproportionate leverage in the policymaking process relative to other stakeholders and has produced outcomes that depart from policy recommendations built through the Commission's community-engagement efforts. As one commissioner noted in connection with the BWC policy, such departures may differ too much from compromises reached with multiple stakeholders, chill future participation in the policymaking process, and ultimately diminish community and stakeholder buy-in for the resulting policy.

13. Policy priority-setting at the Police Commission is reactive and the ongoing process of revising existing policies can be slow.

Current and former commissioners described the process of identifying policies for revision or adoption as largely reactive and ad hoc. Most policy issues are not identified and initiated by commissioners; commissioners explained that their policy agenda is largely set for them by whatever is happening in the community. Although the OCC regularly submits policy recommendations in its quarterly, annual, and Sparks reports, commissioners indicated that the Police Commission has been unable to discuss these recommendations in any length because it has been busy addressing the BWC policy, the use-of-force policy, and other reportedly more pressing issues. The use-of-force DGO, for example, has remained unchanged since 1995 and only became a policy priority in the wake of the Mario Woods shooting. The BWC policy was created after Mayor Lee announced that the SFPD would be receiving body cameras; the Police Commission did not recommend body cameras to the Mayor.

The current Police Commission has acted fairly quickly in creating or revising certain policies, especially when there is a high-profile incident, such as the Mario Woods shooting, involved. In the past two years, the Police Commission has adopted or revised policies concerning domestic violence, bomb threats, children of arrested parents, police district boundaries, and body-worn cameras. However, the ongoing process of revising the SFPD's existing policies is generally slow. The majority of DGO's have not been revised since the mid-1990s. The Police Commission does not perform any systematic assessment of areas where department policies need revision or amendment. Nor does it have an annual plan for revising policies or a timeline for regularly placing policies on the Police Commission agenda for discussion or revision. The Police Commission identified and published on its website criteria for setting priorities in 2011, but commissioners indicate that these criteria are not followed.

14. Resource and informational constraints limit OCC's ability to contribute to the policymaking process.

The Police Commission has enlisted the OCC to assist with policymaking, but the OCC's resource constraints, its inability to access relevant information, and the lack of any policy-focused counterpart in the Police Commission or the SFPD limit the number of policy areas the OCC is able to impact.

City Charter § 4.127 requires the OCC to make quarterly policy recommendations to the Police Commission. The OCC fulfills this mandate and has presented between nine and 19 recommendations each year to the Police Commission or the SFPD. The OCC's ability to analyze policy recommendations or assist with and monitor their implementation is again limited by the OCC's resource constraints. One of the 3.75 attorney positions in the OCC is earmarked for a policy analyst, but that analyst is only able to spend an estimated 20 percent of her time working on policy. The remainder of her time is devoted to reviewing sustained complaints so that the OCC does not fail to meet the one-year statute of limitations. The OCC Director has indicated that the agency is in the final stages of hiring another attorney who will work on

policy, allowing the existing policy analyst to spend more of her time working on policy development and implementation.

The lack of a robust policy planning division within the SFPD hampers the OCC's policy function too. There is no single counterpart at the SFPD for the OCC's policy analyst to work with. As a result, the OCC policy analyst has to identify someone in the department who might want to take time to work with her on an issue-by-issue basis. The OCC policy analyst also spends an inordinate amount of time implementing the policy recommendations that the OCC helped develop. For example, the OCC has been working on SFPD policies and procedures surrounding various aspects of language access since at least 2009. Over that time, the OCC has helped develop roll-call trainings and a training video, helped draft department bulletins, and revised dispatch procedures, among other improvements. While it is laudable that the OCC remains as committed as it is to ensuring its recommendations are implemented, it is unfortunate and unsustainable that it has had to spend so much of its own limited time and resources on implementation and follow-up.

Other constraints limit the OCC's ability to impact policy as well. For example, the OCC does not have a statistician on staff. While the OCC collects and disseminates an impressive amount of data, it does not have the resources or expertise to analyze it. In addition, the OCC policy analyst does not have access to IAD complaint information or officer-level EIS information, and cannot take that information into account when considering what policy initiatives to pursue.

Despite these limitations, the OCC has recommended and implemented policy changes in a number of areas over the past five years on topics including children of arrested parents, communication with sexual assault victims as to the status of their cases, body-worn cameras, domestic violence, police-initiated driver incapacity proceedings, mental health crises, officer involved-shooting investigatory procedures, pursuits, and interactions with juveniles. The changes implemented range from amending DGOs and issuing department bulletins to developing and delivering training materials. As noted, the OCC's role does not typically stop at the recommendation phase, but persists through implementation. The OCC has not focused on any recommendations relating to biased policing in the last five years.

The pace of OCC-driven policy change varies significantly. At times, it can move relatively rapidly. DGO 7.04, which concerns children of arrested parents, was implemented the year after the OCC first proposed it, and revisions to DGO 6.09, which concerns domestic violence victims, was passed the same year that the OCC recommended changes. In other instances, however, the OCC's recommendations go unheeded for long stretches of time. For example, the OCC first suggested policy changes to the SFPD's pursuit policy in 2007, but it was not until 2013 that the Police Commission revised the DGO covering the topic (DGO 5.05). Further, many of the recommendations made each year to the Police Commission or SFPD are ignored entirely and are not pursued by the OCC, the Police Commission, or the SFPD. While it is not immediately clear why some recommendations are implemented and others languish, the fact that there only appears to be one person in San Francisco's entire police apparatus whose job is to focus (20 percent of her time) on policy is undoubtedly a highly salient factor.

Recommendations

1. An Office of Inspector General should be created that should regularly audit the SFPD and OCC for operational effectiveness and compliance with policy.

An oversight body's capacity to audit basic police operations holds "the greatest potential for enhancing police accountability." Audits are necessary to ensure that the SFPD is functioning effectively and complying with applicable policies, and also helpful to enhance transparency, accountability, and public trust in the SFPD. The subject matter of such audits should include the department's high-risk activities, including use-of-force investigations, internal-affairs investigations, detective operations, search warrants, property- and evidence-handling procedures, and training. To be effective, such audits should be conducted on a regular basis by an independent auditor who is knowledgeable about policing and dedicated to the SFPD. Such an auditor must possess full legal authority to interview SFPD and other city personnel, unfettered access to all SFPD files and documents, and a staff and budget to conduct effective audits. An auditor should also have full discretion to determine what and how to investigate or audit.

Because no entity currently conducts such audits in the City, an SFPD auditor function should be created. Based on an evaluation of existing city functions and the requirements of an effective auditor of a law enforcement agency, the Panel recommends creating an Office of Inspector General (OIG). This entity would exist and function independently from any other existing city entity, and report to the Police Commission or the Board of Supervisors. An independent OIG would mean that the OIG's funding is either earmarked by law (as with the Controllers' Office), or set by the Board of Supervisors subject to Police Commission input (as with the OCC), and that OIG leadership is hired and fired by a governing body outside of the SFPD. If dedicated to police oversight, an OIG can develop the expertise necessary to perform qualitative investigations into the culture and practices of a department. Police Commissioners do not have the time or expertise to conduct effective audits and, therefore, should not bear principal responsibility for regular audits. Adding an OIG would provide a much-needed boon to oversight of the SFPD without detracting from the limited Police Commission resources already dedicated to policymaking and disciplinary functions.

The OIG should also audit the OCC. The OCC was last audited in 2007, with a follow-up reviews in 2009 and 2012 to assess how OCC was implementing that audit's recommendations. It should be audited more regularly. The OIG staff should include attorneys and outreach specialists who can evaluate the outcomes of OCC investigations and the effectiveness of the OCC's community outreach. Audits should be followed by public reports that hold the staff of the OCC—up to and including the Director—accountable for the agency's performance.

To the extent that an OIG cannot be created or there is a delay in its creation, the City should devote resources from the City Services Auditor specifically to audit the SFPD. The City should take this step immediately. The City Services Auditor should hire auditors with police auditing expertise and develop audit teams to conduct regular and periodic audits of the SFPD's high-risk activities. Hiring dedicated staff or consultants with experience in performing law enforcement audits would enhance the City Services Auditor's ability to effectively audit the SFPD.

The Panel has identified a number of issues that can and should be audited, including the following.

Whether the bias exhibited by the officers involved in the texting scandal is limited to those officers
or is more widespread within the SFPD. The content, context, and quantity of racist and homophobic
text messages raise serious questions as to whether or not bias is widespread within the SFPD.
The Panel's analysis of stop, search, and arrest data, and anecdotal evidence gathered during the
course of this investigation (discussed in the Stops, Searches, and Arrests and Culture chapters of
this report) raise additional concerns. Also, the recent disclosure of additional racist and homophobic

text messages involving at least four other SFPD officers underscores the need for a deeper review. Although the Panel set out to investigate whether bias was endemic within the SFPD, it encountered many challenges³⁰⁰ that the Police Commission, the City Services Auditor, or another entity vested with investigatory powers or granted more cooperation301 could likely overcome. For example, the Police Commission and City Services Auditor have subpoena power and the authority to compel witnesses. They likewise can access records and personnel to which the Panel did not have access. Although commissioners have cited conflict of interest concerns, the Panel does not perceive an actual or potential conflict between initiating a review of the SFPD at large and adjudicating the merits of individual officers' cases. There is no reason why such a review could not be conducted while individual officers' disciplinary cases are pending.

- Whether disciplinary charges are brought within the applicable statute of limitations. There is no existing oversight process to ensure that disciplinary matters are investigated and charged within the one-year statute of limitations. Compliance with the statute of limitations can, and should, be audited routinely to ensure that disciplinary matters do not lapse. Additionally, IAD should be held to the same standard as the OCC and be required to report to the Commission and publicly on how long it takes to close the matters that are pending before it.
- Whether data is collected as required, and whether that data reveals any concerning patterns. As noted above and in Chapter 1: Stops, Searches, and Arrests, the SFPD collects a large amount of demographic data on stops, searches, and arrests. However, that data is not always collected as required, and can be audited to ensure that officers are complying with data collection requirements. The data can also be audited to identify whether there are patterns that may raise concerns regarding bias, such as disparities across station locations.
- The OCC should be subject to a regular and periodic audit. The 2007 audit revealed deep problems with OCC's then-existing management and investigation procedures (or lack thereof). Problems persist as evidenced by the extremely high percentage of sustained cases that take more than nine months to close and the fact that sustained complaints rarely result in serious discipline. The OCC should continue to be audited periodically to ensure that management is exercising effective leadership, that the OCC is making best use of available resources, that complaints of serious misconduct are thoroughly investigated, and that the policies and procedures in place are followed and effective. The audit should generate specific recommendations for improvement.

2. The investigative and policy capabilities of the OCC should be enhanced.

A necessary step to increasing the OCC's efficacy is increasing its budget (unless shown otherwise by an in-depth audit). Additional funding would permit the OCC to hire additional investigators. The OCC should have funding sufficient to lower its average caseload per investigator to 16, the level recommended by the 2007 audit (again, assuming a new audit does not recommend otherwise). Reducing investigator caseloads would permit the OCC to resolve investigations more quickly and devote more time to each investigation. More time spent on each investigation might result in more investigations coming to definitive conclusions and a reduction in "not sustained" resolutions where an investigator simply did not have time to gather additional facts that might have proven whether the alleged incident occurred or not. Increased resources would also permit OCC investigators to perform additional outreach and permit the OCC to hold investigative hearings.

Increased resources would also permit the OCC to upgrade its technology. The OCC currently has only one information technology employee who is responsible for day-to-day IT needs as well as the agency's

³⁰⁰ See Introduction at page 7 for more detail.

³⁰¹ The Panel welcomes the Department of Justice's Community Oriented Policing Services' (COPS) review of the SFPD and would recommend that they look at this issue, among other issues described in this report. However, COPS review is not sufficient to ensure oversight of the SFPD. It is essential for San Francisco to implement its own permanent structure for conducting regular audits, and not rely on outside groups or federal agencies to provide oversight.

data infrastructure and web presence. Additional IT resources would allow the OCC to keep its website more current, implement new technology more quickly, and make more aspects of investigations digital. Additional IT resources are imminently necessary if the OCC is to be able to fully utilize the high volume of body-worn camera footage that will be available to it soon.

The OCC's policy function would also benefit from additional resources. The OCC should be able to devote more than 20 percent of one person's time to policy. A truly full-time policy analyst could take on additional policy initiatives and ensure that more of the recommendations made to the Police Commission and SFPD are acted upon. The ability to implement policy would be greatly enhanced by a more robust policy division within the SFPD itself.

3. The Police Commission should have a dedicated policy analyst and access to a statistician.

The Police Commission should hire a dedicated policy analyst responsible for identifying the Police Commission's annual policymaking priorities; overseeing the ongoing policy revision process; liaising with the City Attorneys' Office, OCC, SFPD, and other stakeholders; and developing and drafting policy. This analyst should have access to all complaint, discipline, and EIS information that the Police Commission currently has, and should report to the Police Commission. The Police Commission was previously given a budget to hire an analyst, but was unable to fill the position. The budget given to the Police Commission for an analyst should be sufficient to attract and retain a well-qualified and experienced person for the role.

Whereas the Police Commission's current approach to policymaking is mostly reactive, a dedicated policy analyst would help the Police Commission become more proactive in identifying potential problems before they arise and more systematic in tackling policy initiatives. Such an analyst would also give the Police Commission its own policy-drafting resources, so that it no longer needs to rely on the OCC's policy analyst or the SFPD's Written Directives Unit to draft policies.

The Police Commission should also consider adding a statistician to its staff or finding another way to analyze the great amounts of data to which it has access, either by hiring a consultant or working with a local university. Data-driven policymaking could be more widely impactful than the current ad hoc approach.

A policy analyst and statistician within the Police Commission would have access to information about IAD complaints, EIS information, and other information within the SFPD to which the OCC's staff does not have access. It would also permit the Police Commission to devote more time to reviewing and analyzing data, information, and reports from the OCC and SFPD to determine whether policies are effective.

4. The Police Commission should develop clear guidelines allowing the use of body-worn camera footage in disciplinary proceedings.

As recommended in Chapter 1: Stops, Searches, and Arrests, it will be important for the Chief, IAD, OCC, and Police Commission to have clear rules on whether and under what circumstances BWC footage can be viewed and used in disciplinary proceedings. The Police Commission should carefully consider the implications of BWC footage on disciplinary cases, as well as the impact that cameras have had on officer discipline in other jurisdictions, and craft disciplinary policies accordingly.

5. Police oversight should be as transparent as the law allows.

As a guiding principle, police oversight in San Francisco should be as transparent as state law allows. Part of the public's dissatisfaction with police oversight in San Francisco is a sense that the process is opaque and it is difficult to know what is going on, particularly for complainants. As discussed above, current state law places significant restrictions on transparency, but even so, several steps could be taken even under current law.

- More thorough public reporting. It should be easier for members of the public to obtain information about disciplinary proceedings pending within the SFPD and in front of the Police Commission. Although the Penal Code does not permit information regarding disciplinary proceedings to be published in a manner that makes it possible to identify the officer(s) involved, current law is no obstacle to better and more accessible publication of data and other information stripped of all identifying details. The OCC already publishes such data in a thorough and accessible report posted on its website. The IAD, the Chief's office, and the Police Commission should seek to emulate these OCC reports, which appear to provide roughly as much information as current law permits, and are explicitly permitted by the principal MOU between the POA and the City. 302 Publication of a short summary of the facts of a complaint and the outcome of an investigation, stripped of identifying details, is consistent with existing law and would enhance public knowledge about the oversight process. Similarly, tracking and publication of the number of officers who are the subject of repeated complaints (stripped of officer-identifying information, as the law requires) would allow the public to know whether there are particular officers who may be a source of concern. All these reports should be made easily accessible to the public via the Internet.
- A single, integrated public source for information about disciplinary proceedings on the Internet. Perhaps an even more significant transparency-related problem with the current system is that there is no realistic way to track cases as they move between the OCC, the IAD, the Chief's office, and the Police Commission. Complainants and other members of the public are understandably frustrated by this disconnect, as it is reasonable for them to want to follow the progress of proceedings from start to end. To fix this problem, a single website should be established that combines reports from all entities involved in police oversight in San Francisco. Each case anywhere in the system should be assigned a unique identifying number that it retains throughout its life, so as to allow complainants and other members of the public to know the status of any particular case at any time.

The Los Angeles Police Department's reports of officer discipline can serve as a helpful model. The LAPD publishes a comprehensive report of officer discipline on its website. 303 In this report, the LAPD provides charts showing the factual allegations, charges, officer rank, and the penalty imposed for various complaints, identified by complaint number. This report allows the public to easily compare the sustained allegations against the punishment imposed.

Moreover, as part of this integration of reporting, OCC, IAD, and the Police Commission should adopt a uniform definition of "bias" and use it to track cases throughout the system involving allegations of bias against San Francisco police officers. The lack of a uniform definition of "bias" hampers current efforts to determine whether complaints alleging bias are being handled appropriately.

Consistent, publicly available standards for Police Commission discipline. Updating and publishing the SFPD and Police Commission's disciplinary guidelines will enhance transparency and consistency of officer discipline. The Police Commission and Chief should consider applying the guidelines in a manner similar to the U.S. Sentencing Guidelines, which specify the range of recommended punishment and require explanation for any deviation from the range. Additionally, the Police Commission might consider auditing a sample of the Chief's decisions to ensure that the Chief is exercising discretion in an appropriate manner. The publication of this information would allow the public to draw conclusions about the appropriateness of the outcomes of Police Commission disciplinary proceedings. Current publicly available information is insufficient to determine whether the Police Commission is reaching appropriate and effective outcomes.

³⁰² See Memorandum of Understanding Between City and County of San Francisco and San Francisco Police Officers' Association Units P-1 and P-2A, July 1, 2007-June 30, 2018, Per Amendment #5, ¶81, http://sfdhr.org/sites/default/files/FileCenter/ Documents/19312-POA%20MOU%20P1%20P2A%202007-2018%20A5.pdf.

³⁰³ See, e.g., Los Angeles Police Dep't, City of Los Angeles, Discipline Report for Quarter 4, 2013 (Mar. 12, 2013), http://assets. lapdonline.org/assets/pdf/4thQtr2013%20final.pdf.

- Better communication with OCC complainants. Current law does not prevent OCC complainants from being kept better informed about the status and outcomes of their investigations. At a minimum, when a complaint is sustained, complainants should be sent updates about the case as it progresses to the Chief's office and/or the Police Commission. Complainants should also be informed that they can track the progress of their cases via the website described above. When a complaint is resolved, the OCC should provide the complainant with the maximum amount of information permitted by law. Although the Penal Code precludes the OCC from providing a complainant with a full copy of the OCC's report and recommendation, no statute or case law appears to prohibit the OCC from providing complainants with a basic factual summary of the OCC's investigation, stripped of any identifying information, similar to what the OCC publishes in its monthly, quarterly, and annual reports.³⁰⁴ For instance, if a complaint is not sustained because of a "he said/she said" situation in which the complainant's account contradicted that of the officer and no additional credible witnesses or evidence could be located, the complainant should be informed of that fact.
- Timely reporting consistent with existing requirements. All reports regarding officer discipline should be made available to the public promptly, so that the information can serve its intended purpose of enabling effective civilian control of the SFPD. At a minimum, information should be published in a timely manner in compliance with existing legal requirements. The Chief is required to report monthly to the Police Commission on his decisions regarding all sustained OCC and IAD complaints, and to publish those reports on the SFPD's website within 10 days of issuance. The OCC is under a similar timeliness obligation. Yet it routinely takes months or even years for these reports to be published on the Internet, particularly regarding the Chief's decisions in IAD cases. Timelier reporting is both required by policy and is essential to effective public oversight of the SFPD.
- Consideration of further legislative changes. As noted, legislation proposed in February 2016 in the State Senate would have eased some of the restrictions that exist on public disclosure of disciplinary proceedings under *Copley Press* and the Penal Code. Although this bill did not succeed, the Legislature should give careful consideration, in light of current circumstances, to whether current law strikes the right balance between officer privacy and the public's right to access information regarding discipline in cases involving allegations of police misconduct.

³⁰⁴ See Cal. Penal Code § 832.7(a), (c); S.F. Police Officers Ass'n v. Superior Court, 202 Cal. App. 3d 183, 192 (1988) (prohibiting dissemination to complainant of full OCC report or recommendation); Copley Press, Inc. v. Superior Court, 39 Cal. 4th 1272, 1297 (2006) (permitting disclosure of complaint information so long as officers involved are not identified).

Chapter 6: Brady Policies and Practices

Background

This chapter discusses issues related to the SFPD and DA's policies regarding *Brady v. Maryland*. The Panel found that while both have written policies and the two agencies communicate well at times, there are gaps in the SFPD's policy (especially pertaining to information contained outside of an officer's personnel file), and neither policy contains mandatory deadlines.

In 1963, the U.S. Supreme Court in the landmark decision *Brady v. Maryland* ("*Brady*") held that the Due Process Clause of the Fourteenth Amendment requires the prosecution in a criminal case to disclose all exculpatory evidence to the accused.³⁰⁵ These disclosures, commonly known as "*Brady* disclosures," include any information that is favorable to the accused, material, and relevant to guilt or punishment. *Brady*'s disclosure requirements have been interpreted by California courts to include evidence of witness bias, including racial or other biases of officers who testify in criminal cases.³⁰⁶ The *Brady* disclosure obligation extends to "evidence known to others acting on the government's behalf."³⁰⁷ Finally, the obligation reaches beyond evidence in the actual possession of the prosecution, and extends to material in the possession of law enforcement agencies assisting the prosecution.

This chapter briefly discusses the two incidents of SFPD officers involved in exchanging racially biased and homophobic text messages, the first of which led to the formation of this Blue Ribbon Panel. It also discusses how the SFPD's *Brady* policies and protocols operate and what deficiencies exist to explain gaps in the system that allowed the biased text messages to go undisclosed to the DA for two years. The failure of San Francisco law enforcement to comply in a timely manner with *Brady* disclosure requirements undermines not only the constitutional rights of the criminally accused, but also the integrity of and faith in the criminal justice process in San Francisco. The recommendations included at the end of the chapter will improve compliance under *Brady v. Maryland* and avoid circumstances where *Brady* material is not provided in a timely manner by the SFPD to the DA for disclosure. More fulsome and timely *Brady* compliance will foster greater faith by citizens in the fair administration of justice.

First Texting Scandal

The racially biased and homophobic text messages written and transmitted in 2012 by 14 San Francisco police officers ("First Texting Scandal") that led to this Panel's review constitute clear *Brady* material under

³⁰⁵ Brady v. Maryland, 373 U.S. 83, 87 (1963).

³⁰⁶ In re Anthony P., 167 Cal. App. 3d 502, 507-10 (1985).

³⁰⁷ Kyles v. Whitley, 514 U.S. 419, 437 (1995).

California law.³⁰⁸ These text messages were not turned over to defendants against whom the officers in question would and did testify. Members of the SFPD's IAD Criminal Division learned of the racially biased and homophobic text messages in December 2012; however, the department did not share the text messages or disclose their existence to the DA. For more than two years, some of the police officers in question continued to work in the field, participate in criminal investigations, and testify as witnesses in criminal trials.

The DA learned of the 2012 racially biased and homophobic text messages only after the San Francisco Chronicle published some of the text messages in March 2015. Police officers implicated in the First Texting Scandal testified in at least nine San Francisco criminal trials without timely disclosure of the Brady material to criminal defendants. Six of the nine trials resulted in guilty verdicts: three against Black defendants, one against an Asian defendant, and three against White defendants. No data exists on whether these individuals were LGBT.

Second Texting Scandal

In or around August 2015, the SFPD discovered a second batch of racially biased and homophobic text messages exchanged between SFPD officers in an unrelated criminal investigation of another SFPD officer. These text messages were written and transmitted in 2014 and 2015 by four other SFPD officers, and received by three officers who did not respond to the messages ("Second Texting Scandal," and together with the First Texting Scandal, hereafter referred to as the "Texting Scandals"). These messages also constitute clear *Brady* material.

Sometime between October 2015 and January 2016, the SFPD first notified the DA that the police officers involved in the Second Texting Scandal had "pending" *Brady* material without disclosing the substance of the material: more racially biased and homophobic text messages. The SFPD had provided the DA with investigation files in a criminal case against an SFPD officer that contained some of the text messages, but did not indicate to the DA that there were biased text messages in the file. The DA learned of the substance of the text messages after reviewing thousands of pages of texting records in the SFPD criminal investigation file. Although these officers did not testify in any criminal cases after the SFPD discovered the text messages, this second delay of two to six months in the disclosure of pending *Brady* material from the SFPD to the DA suggests gaps in the policies and/or practices of San Francisco law enforcement agencies.

Peace Officer Personnel Files and People v. Johnson

In California, the prosecution's *Brady* disclosure obligation is in some tension with California's statutory protections for the rights of peace officers where *Brady* material exists in a peace officer's personnel file. While *Brady* requires the prosecution to disclose information in the possession of investigating agencies, the California statute makes peace officer personnel files confidential even to the prosecution absent judicial determination that disclosure is necessary. California law also prohibits law enforcement agencies from disclosing the substance of ongoing investigations of officer misconduct.

In July 2015, the California Supreme Court in *People v. Superior Court (Johnson)*³¹⁴ addressed how *Brady* material contained in confidential SFPD personnel files should be disclosed and to what extent

³⁰⁸ In re Anthony P., 167 Cal. App. 3d 502, 507-10 (1985).

³⁰⁹ Kale Williams, SFPD Probes Police Officers' Bigoted Texts, S.F. Chronicle (Mar. 14, 2015).

³¹⁰ The DA has advised there may be three additional criminal cases where officers implicated in the First Texting Scandal testified, but their testimony has not yet been confirmed. Two of these cases resulted in guilty verdicts, one of which was against a Black defendant.

³¹¹ One of the defendants listed as "White" may have been of Hispanic descent.

³¹² Cal. Penal Code § 832.7(a); Cal. Evid. Code §§ 1043, 1045.

³¹³ Cal. Penal Code § 832.7.

³¹⁴ People v. Superior Court (Johnson), 61 Cal.4th 696 (2015).

prosecutors are responsible for making such disclosure. Weighing the defendants' due process rights against peace officers' privacy rights, the court held that the prosecution in criminal cases does not have unfettered access to confidential personnel records of peace officers, and thus cannot turn over material in a police officer's personnel file to the defense. Prosecutors must fulfill their *Brady* obligation by informing the defense that the police department has records that may contain exculpatory evidence, whereupon the prosecution or defense may file a motion to review the materials. The U.S. Supreme Court has not yet addressed the implications of *Brady* in the context of police officer personnel files.

The *Johnson* case addressed the limited issue of *Brady* material in personnel files and not the broader issue of the SFPD's obligation to turn over exculpatory material to the DA that exists at the department outside of police officers' personnel files. Following the *Johnson* decision, California Attorney General Kamala issued Published Legal Opinion No. 12-401 in October 2015 addressing the prosecution's obligation to disclose *Brady* material contained in peace officer personnel files.³¹⁵ The Attorney General opinion concluded that prosecutors are not authorized to directly review the personnel files of peace officers who will or are expected to testify as prosecution witnesses, and law enforcement agencies may lawfully release to the prosecuting agency the names of peace officers who have *Brady* material in their personnel files.

District Attorney's Brady Policies and Procedures

In 2010, then DA, current California Attorney General Kamala Harris, implemented two separate *Brady* disclosure policies: (1) an internal policy³¹⁶, which pertains to material in the actual possession of the DA, and (2) an external policy³¹⁷, which pertains specifically to information contained in confidential SFPD personnel files.³¹⁸ Additionally, in 2015, then DA updated its disclosure protocols in light of the California Supreme Court's decision in the *Johnson* case.

The internal policy governs the DA's maintenance and disclosure of potential *Brady* material or information about peace officers discovered by DA prosecutors and employees. An example of internal *Brady* material would be evidence that a peace officer engaged in conduct demonstrating untruthfulness, such as lying on the witness stand in a criminal trial. Under the DA's internal policy, prosecutors and employees are obligated to "timely report" the discovery of potential *Brady* information to their immediate supervisors.³¹⁹ Supervisors are responsible for obtaining all available *Brady* information and forwarding the materials to the DA's internal *Brady* Committee for review.³²⁰

The DA's *Brady* Committee is composed of the Chief of the Criminal Division and the three managing attorneys of the Misdemeanors, Preliminary Hearings, and General Litigation sections. This committee determines whether conduct discovered by DA prosecutors or employees requires (1) *Brady* disclosure; (2) further investigation by the police officer's employer, e.g., the SFPD, in order to make a determination; or (3) judicial *in camera* review to determine whether disclosure is necessary. If the committee determines the material is *Brady*, the DA notifies the peace officer and the head of the officer's employing agency, e.g., the SFPD. The officer is given the opportunity to respond to the allegations in writing.³²¹ The DA is responsible for maintaining secured administrative files for officer-related *Brady* information.

The DA's external policy guides how prosecutors shall handle the existence of *Brady* material in confidential SFPD personnel files, which are not accessible by the DA. The purpose of the DA's external policy is to provide an efficient way for the SFPD to identify and disclose the existence of *Brady* material

^{315 98} Ops. Cal. Atty Gen. No. 54, Opinion 12-401 (Oct. 13, 2015).

³¹⁶ Attached as Appendix J.

³¹⁷ Attached as Appendix K.

³¹⁸ For all other law enforcement agencies, such as the CHP or federal agencies, the DA sends a written inquiry to the agency asking if any *Brady* material exists in the personnel file of the material peace officer involved in the investigation.

³¹⁹ No specific timetable is outlined in the SFPD Internal Policy.

³²⁰ Again, no timetable for forwarding Brady materials to the Committee is imposed.

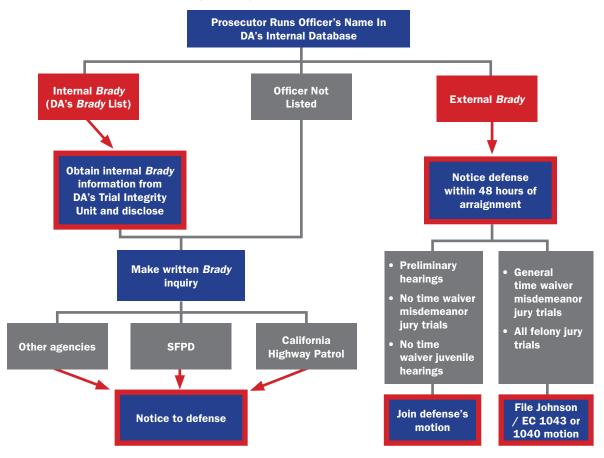
³²¹ There is no timetable for such response.

in SFPD personnel files because of the large volume of inquiries from DA prosecutors—inquiries must be submitted for every officer who is a potential witness. The external policy addresses the type of *Brady* material covered by SFPD Bureau Order 2010-01, discussed below.

The DA has an internal protocol for trial prosecutors to check their cases for potential *Brady* material. Trial prosecutors are required to conduct *Brady* inquiries of all material peace officer witnesses in their cases before arraignment and again when they issue subpoenas for officers to testify. These *Brady* inquiries are conducted by running the officers' names through an internal *Brady* database maintained by the DA's Trial Integrity Unit. This internal database keeps track of *Brady* material known by the DA, either pursuant to its internal *Brady* policy or disclosed to it by the SFPD pursuant to the external *Brady* policy. There are three possible results of a *Brady* inquiry, each of which requires a prosecutor to take different steps.

- **Known existence in database of internal** *Brady* **material:** A record exists in the database of internal *Brady* material relating to the peace officer. The prosecutor is required to obtain the internal material from the secured files for disclosure to the defense, and also make a written inquiry to the employing agency to ask if any additional *Brady* material exists in the officer's personnel file. The prosecutor is required to notify the defense within 48 hours of the defendant's arraignment.
- **Known existence in database of external** *Brady* **material:** A record exists in the database of external *Brady* material in the possession of the SFPD relating to the peace officer. The prosecutor is required to notify the defense within 48 hours of the defendant's arraignment.
- **No database record of** *Brady* **material:** No record is in the database of *Brady* material relating to the peace officer. The prosecutor is required to send a written inquiry to the employing agency to ask if any *Brady* material exists in the officer's personnel file.

DA Internal Protocol for Brady Inquiry



Blue indicates action taken by prosecuting attorney. Red indicates potential Brady material.

In addition to these policies, the DA recently implemented an additional notification procedure in its subpoena process to ensure identification and disclosure of *Brady* material pertaining to peace officers. When prosecutors log into the DA's case management system to issue subpoenas for peace officers, the system now automatically alerts them if their case involves peace officers with known *Brady* material.

Where the prosecution determines that *Brady* material exists for a peace officer, it uses a template to notify the defense. When *Brady* material is placed or resides in a peace officer's confidential personnel file, either the defense attorney or the prosecutor can then file a discovery motion pursuant to California Evidence Code § 1043 or 1040 for a judge to conduct an *in camera* review of the material to determine if it shall be disclosed.³²² Trial prosecutors are required to keep a record of all *Brady* inquiries and disclosures to the defense in their case files.

The DA Trial Integrity Unit is responsible for updating the *Brady* disclosure protocol through policy directives, conducting *Brady* compliance training for prosecutors, maintaining a current internal *Brady* database and administrative files, and overseeing the office's *Brady* disclosure procedures.

In addition to the internal and external *Brady* Policies, the DA also issues policy directives to update the office's *Brady* disclosure protocols. For example, on September 16, 2015, the DA issued a policy directive updating the office's *Brady* protocol in light of the California Supreme Court decision in *Johnson*. These directives are distributed office-wide and are also available to the office's prosecutors on the DA's shared drive.

The Trial Integrity Unit also provides *Brady* training to prosecutors. New hires are required to complete a "boot camp" that covers various law enforcement topics. The boot camp includes live training on the prosecution's *Brady* obligations and an explanation of the office's protocol for meeting these obligations. Lateral hires must attend *Brady* training, although it is not as rigorous. The Trial Integrity Unit also provides recurrent, mandatory *Brady* training to all DA prosecutors.³²³

SFPD Brady Policy and Procedures

On August 13, 2010, the SFPD under then-Chief of Police George Gascón issued Bureau Order 2010-01³²⁴, the first and only written *Brady* policy for the department, which sets forth a procedure for the disclosure of *Brady* materials contained in SFPD personnel files. The bureau order, which is intended to work in conjunction with the DA's internal and external *Brady* policies, defines three categories of *Brady* material in an officer or employee personnel file.

- Sustained findings of misconduct: Incidents where the Chief of Police or Police Commission sustains a finding of misconduct that falls within the definition of *Brady*, and there are no appeals pending or a finding has been upheld on appeal
- Pending charges of misconduct: Charges or appeals of misconduct pending before the Police
 Commission for either an active police officer who is likely to be called as a witness before the
 disciplinary proceedings are concluded, or a police officer who retires before disciplinary proceedings
 have been concluded
- **Criminal misconduct:** Arrests, pending criminal charges, or convictions for felony or moral turpitude offenses of the police officer

Bureau Order 2010-01 only addresses *Brady* material that is placed in a peace officer's personnel file. It does not encompass situations where the SFPD possesses *Brady* material that exists and is known to

³²² Whether the prosecutor or defense attorney will file the motion depends on whether the defendant has waived his speedy trial rights. Because of the 16-day notice requirement for discovery motions, the prosecutor cannot file the motion and comply with the notice requirement unless the defendant has waived speedy trial rights. Thus, for preliminary hearings, misdemeanors with no time waiver, jury trials, and juvenile hearings with no time waivers, the defense will file the motion and the prosecutor will join the motion. For general time-waiver misdemeanors, jury trials, and all felony jury trials the prosecutor will file the motion.

³²³ The Trial Integrity Unit's mandatory *Brady* training for prosecutors qualifies for Continuing Legal Education (CLE) credits.

³²⁴ Attached as Appendix L.

SFPD officers or personnel, e.g. *Brady* material that is discovered in the scope of an IAD Criminal Division investigation or is discovered at a station, but is not placed in an officer's personnel file.

Additionally, Bureau Order 2010-01 specifically carves out "situation[s] in which the Department determines that the existence of *Brady* material may prevent an employee from effectively testifying." The 2010 bureau order stated that the SFPD would implement a separate policy to address that situation, but no such policy has been forthcoming.

The SFPD maintains a *Brady* Unit within the department's Risk Management Office. This unit is responsible for responding to the DA's written inquiries regarding the existence of *Brady* material in police officer personnel files, handling *Brady* motions filed by the DA and defense bar with regard to *Brady* material in SFPD personnel files, and making any necessary *Brady* disclosures as ordered by a court. In carrying out these responsibilities, the SFPD *Brady* Unit also maintains an internal database to keep track of *Brady* material in personnel files.

Additionally, the *Brady* Unit conducts preliminary reviews of IAD Administrative investigations into peace officer misconduct for potential *Brady* material. If the *Brady* Unit identifies potential *Brady* material, it refers the matter to the SFPD *Brady* Committee for review, and changes the officer's status in the internal *Brady* database to "pending" until the SFPD *Brady* Committee makes a determination. If the DA makes a *Brady* inquiry of the SFPD for an officer with a "pending" status, the *Brady* Unit notifies the DA that potential *Brady* material exists so that the prosecution can in turn notify the defense and proceed in accordance with the DA's external *Brady* policy. According to the SFPD, in October 2015, starting with the Second Texting Scandal, the *Brady* Unit began to proactively notify the DA when an officer's status changed to "pending."

The *Brady* Unit does not have access to IAD Criminal Division investigation files and does not review criminal misconduct allegations against SFPD officers for *Brady* material. The *Brady* Unit also does not review the SFPD's general criminal investigation files (e.g., investigations into civilian criminal conduct) for potential *Brady* material.

Finally, the *Brady* Unit acts as a gatekeeper for referring *Brady* material to the SFPD *Brady* Committee. The *Brady* Unit reviews all sustained findings of police officer misconduct by the Police Commission and IAD Administrative Division for potential *Brady* material. If the *Brady* Unit determines that potential *Brady* material exists as a result of the Police Commission and IAD Administrative Division findings, it sends the material to the SFPD *Brady* Committee to make a determination of whether the material should be referred to the DA.

Before the SFPD may disclose that an officer's or employee's personnel file contains *Brady* material, the internal SFPD *Brady* Committee reviews the materials. The SFPD *Brady* Committee is composed of a retired San Francisco judge with substantial criminal law judicial experience, the Assistant Chief of the Office of the Chief of Staff, the Director of Risk Management, the Head of the Legal Division, the Director of Staff Services, and the *Brady* Unit attorney.

The SFPD *Brady* Committee reviews police officer misconduct findings and determines whether they warrant *Brady* disclosure. Before the SFPD *Brady* Committee makes a recommendation to the Chief of Police, the police officer or employee involved is notified and given 15 days to submit written information as to why the misconduct should not be considered *Brady* material. The SFPD *Brady* Committee reviews the police officer's submission before making a final decision on whether to recommend to the Chief of Police that the department should disclose the material as *Brady* material to the DA.

If the SFPD *Brady* Committee recommends disclosure based on a conclusion that an officer's conduct constitutes *Brady* material, the Chief of Police must approve or disapprove the Committee's recommendation, or make a separate recommendation, in writing. Significantly, the bureau order does not indicate a time frame for the Chief of Police to make this decision. Further, the bureau order gives the Chief of Police the authority to reject the *Brady* recommendation, at which point disclosure is not permitted. If the Chief of Police approves the SFPD *Brady* Committee's recommendation, the department notifies the DA that the police officer has *Brady* material in his or her personnel file that may be subject to disclosure.

In a request under the Public Records Act, the Panel asked for a list of all officers on the SFPD's *Brady* list, including demographic information. The SFPD informed the Panel that as of May 20, 2016 that there are 105 officers employed by the SFPD who have potential *Brady* material in their personnel files. Of these, 101 are male and 4 are female; 52 are White, 21 are Hispanic, 21 are Asian, 10 are Black, and 1 is Other race. About half of these officers, 57, continue to work in the field. Of the other half, 28 are still active but not in the field, and 20 are inactive but still employed by the SFPD. The SFPD refused to provide additional information, such as the names of officers on the *Brady* list or the date each was placed on the list, citing various provisions that permit withholding information under the Public Records Act.

Brady Policies and Procedures of Other San Francisco Law Enforcement Agencies

In August 2012, San Francisco adopted a *Brady* material policy for all city and county employee personnel files, titled the "Policies and Procedures for Compliance with *Brady* Requirements for Employees Who Participate in Criminal Proceedings" (CCSF *Brady* Policy). The CCSF *Brady* Policy was drafted by the DA and the City Attorney to require that all City and County of San Francisco agencies comply with *Brady* disclosure requirements, while safeguarding confidential employee files. This policy provides procedures for *Brady* review and disclosure, and encourages law enforcement agencies that receive repeated *Brady* inquiries from the DA to implement alternate policies, such as Bureau Order 2010-01 adopted by the SFPD.

For agencies outside of the City and County of San Francisco, e.g., in other counties, the DA sends formal written inquiries to the agencies requesting disclosure of any *Brady* material contained in their personnel files for testifying witnesses.

Findings

1. Both the District Attorney's Office and SFPD have *Brady* policies and dedicated *Brady* units and committees.

Unlike a number of district attorney offices and/or police departments in other major cities and counties, both the SFPD and DA have some *Brady* policies in place. The DA has two *Brady* policies, which appear to cover broad identification and disclosure of *Brady* material, and the DA's office has further issued several policy directives to update its two existing policies from 2010 with developing law. Notwithstanding Bureau Order 2010-01's statement that another *Brady* policy would be forthcoming, the SFPD still has only one *Brady* policy, Bureau Order 2010-01, which addresses *Brady* material only in peace officer personnel files. In February 2016, the SFPD began the process of drafting two additional *Brady* policies.

Both the DA and SFPD have established units dedicated to identifying and disclosing *Brady* materials. Each is staffed with at least one full-time attorney knowledgeable about *Brady* issues and disclosure obligations. Each formed a *Brady* Committee in 2010. Both committees include attorneys or police officers dedicated to reviewing material for potential *Brady* disclosure. The SFPD *Brady* Committee includes a retired judge, who provides an independent legal perspective. The SFPD's *Brady* Unit attorney also sits on the SFPD's *Brady* Committee. Together, these two individuals provide legal guidance for the non-attorney members.

The DA Trial Integrity Unit is impressive. The unit is made up of a team of prosecutors experienced in *Brady* issues and disclosure requirements. This unit has been generally proactive in maintaining, updating, training, and enhancing its *Brady* policies and protocols. In addition to overseeing *Brady* compliance, the Trial Integrity Unit provides new-hire and recurrent training for all of its prosecutors. The unit is also in the process creating a database of *Brady* training materials that will be available and accessible office-wide on the DA's internal shared network. Finally, in light of the two Texting Scandals, the Trial Integrity Unit has engaged an outside attorney to review its *Brady* policies, meet with the DA's internal *Brady* Committee, speak with the staff, and make recommendations regarding *Brady* policies and protocols.³²⁵

³²⁵ The DA has engaged Gerald Chaleff, former President of the Los Angeles Board of Police Commissioners and Special Assistant for Constitutional Policing to the Los Angeles Chief of Police.

The SFPD *Brady* Unit consists of one in-house attorney and one paralegal who are dedicated to addressing *Brady* issues and making the department's *Brady* disclosures. It is the Panel's sense that the SFPD *Brady* Unit is understaffed. The *Brady* Unit attorney is currently drafting two new *Brady* policies for the Department, which she anticipates will be finalized and implemented in 2016. The SFPD's efforts in this regard are a positive step toward creating an effective set of *Brady* policies. The SFPD is considering additional *Brady* Unit staffing.

2. The DA's Trial Integrity Unit and SFPD's *Brady* Unit maintain open and positive lines of communication.

The positive relationship between the DA's Trial Integrity Unit and the SFPD's *Brady* Unit attorneys is another notable strength of the current DA and SFPD *Brady* protocols. Attorneys from both units spoke positively of the working relationship. The two units are in frequent communication and regularly discuss developments in the law. The DA's Trial Integrity Unit attorneys said that the SFPD *Brady* Unit attorney is quick to respond to inquiries regarding the existence of *Brady* in officers' personnel files.

3. Both the SFPD and the DA policies lack established deadlines for Brady disclosure.

A serious weakness of both the SFPD and DA policies is that they impose no deadlines for timely review or disclosure of *Brady* material, which leaves a significant risk of untimely disclosure, or worse, no disclosure to criminal defendants. The First Texting Scandal illustrates the problem. The IAD Criminal Division of the SFPD learned of the text messages as early as December 2012, but the DA did not receive the text messages until March 2015—over two years later.

The Panel was unable to obtain a satisfactory explanation for why the text messages in the First Texting Scandal were not transmitted by the SFPD to the DA for two years. Despite our repeated requests, the IAD Criminal Division officers who had direct knowledge of the text messages during that two-year window declined to be interviewed. In the course of our investigation, at least three possible explanations have been suggested for why the IAD Criminal Division officers who learned of the text messages in 2012 did not disclose them to SFPD management or the DA.

First, the IAD Criminal Division officers who learned of the text messages may have believed that a March 1, 2014, confidentiality order issued by Judge Charles Breyer, the trial judge on the *Furminger* case, prevented disclosure of the racially biased and homophobic text messages. If so, there is no indication those police officers sought legal guidance from the SFPD Legal Division or the U.S. Attorney's Office regarding the scope of the confidentiality order.

Second, IAD Criminal Division officers may have believed a Rule 6(e) order,³²⁶ regarding secrecy obligations of grand-jury proceedings, prohibited them from disclosing the racially biased and homophobic text messages to the department or the DA. Because the text messages were obtained as a result of a search warrant and not a grand-jury subpoena, they were not likely subject to a Rule 6(e) order. If this belief is the reason for the two-year delay, the police officers should have again sought legal guidance from the in-house attorneys in the SFPD or the U.S. Attorney's Office.

Third, IAD Criminal Division officers could have intentionally suppressed and kept the disclosure of the racially biased and homophobic text messages from the IAD Administrative Division. This scenario is unlikely because the IAD Criminal Division officers participated in, fully cooperated with, and helped facilitate a successful federal police misconduct investigation and prosecution of some of these same officers. None of the individuals interviewed indicated that the IAD Criminal Division officers here espoused or condoned the disturbing racially biased and homophobic text messages exchanged between the 14 SFPD officers, nor was there any suggestion these IAD Criminal Division officers would have wrongfully suppressed disclosure of the text messages.

The IAD Criminal Division officers who could have best explained the circumstances or reasons for the delay in transmitting clear Brady material refused to be interviewed. Their decision has not served the public or the department well. These officers may well have had reasonable but perhaps mistaken beliefs regarding their authority to disclose the racially biased and homophobic text messages or ability to seek legal guidance, but the Panel could not obtain firsthand accounts.

Under current policies and procedures, the IAD Criminal Division has no explicit deadline for timely disclosure of the material to the SFPD Brady Unit, the Brady Committee, or in turn the DA's office. Moreover, even if the 2012 text messages had been timely or immediately referred to the SFPD Brady Unit or Brady Committee, Bureau Order 2010-01 does not impose any internal deadlines or timeline for the SFPD Brady Unit or Brady Committee to act, notify, or disclose the material to the DA, whose prosecutors are bound in criminal trial proceedings to disclose all exculpatory materials. A two-year delay in the transmission of Brady information to the SFPD might have been avoided had there been clear deadlines for disclosure.

4. SFPD Bureau Order 2010-01 fails to address the treatment and disclosure of Brady material outside personnel files.

The SFPD Brady policy, Bureau Order 2010-01, only addresses the disclosure of Brady material contained in officer personnel files. There is no procedure for the review or disclosure of Brady material that exists outside of officer personnel files, e.g., material sitting at police stations or pending in an IAD Criminal Division investigation. These gaps in the policy present a significant risk of delayed disclosure—or nondisclosure.

Under the above bureau order, Brady materials in officer or employee personnel files are only subject to disclosure after the material is referred to the SFPD Brady Committee for review, the Brady Committee recommends disclosure, and the Chief of Police approves the recommendation to disclose. The department has no requirement to submit potential or clear Brady material to the Brady Committee for review. Unlike the DA, the SFPD has not implemented a general or broad Brady policy covering Brady material from whatever source or location.

Notably, Bureau Order 2010-01 expressly contemplated that the SFPD would implement a separate policy to address circumstances in which Brady misconduct prevents an officer from testifying at all. The department did not implement this new policy, and now states it is prohibited from doing so because in October 2013—three years after Bureau Order 2010-01 was implemented—POBR was amended to prohibit law enforcement agencies from considering an officer's Brady status for promotion, assignment, or any adverse action.327 While the department may still consider a peace officer's underlying conduct for these purposes, it may not take action based on the officer's Brady status alone.

In February 2016, the SFPD Brady Unit began drafting two new Brady policies. The first would require the SFPD's background investigators to disclose to the Brady Unit potential Brady material discovered while conducting the background checks on new hires. The second would require the IAD Criminal Division to disclose to the Brady Unit potential Brady material discovered in the course of a criminal investigation of officer misconduct at the conclusion of the investigation, and at the same time that it submits the investigation findings to the DA for filing arrest warrants. The purpose of this second policy was to create a direct reporting line between the IAD Criminal Division and the Brady Unit, where none previously existed. Other than these two draft policies, the SFPD has not implemented any supplemental policies or protocols to address deficiencies in the bureau order in the past five years.

³²⁷ Cal. Gov. Code § 3305.5; enacted by Senate Bill No. 313.

5. SFPD Bureau Order 2010-01 does not impose mandatory reporting obligations upon officers and employees who discover Brady material.

Another pitfall of Bureau Order 2010-01, also highlighted by the Texting Scandals, is that it imposes no mandatory reporting obligation or chain of command for disclosure by SFPD employees who discover clear or potential Brady material to the SFPD Brady Unit. As discussed below, police officers have not apparently been trained to identify Brady material.

In the First Texting Scandal, IAD Criminal Division members learned of the racially biased and homophobic text messages and failed to disclose them to the Chief of Police, Legal Division, or Brady Unit for two years.³²⁸ A policy with timely disclosure obligations requiring the IAD Criminal Division employees to promptly report the text messages to the Brady Unit or consult with the SFPD Legal Division³²⁹ may have prevented this two-year delay in disclosure.

Likewise, in the Second Texting Scandal, a mandatory Brady reporting policy would have required the three officers who received, but did not respond to, the biased text messages to report the messages to the Brady Unit for review. This may have resulted in earlier discovery of the texting officers' biased behavior. Instead, the messages were only discovered in the course of an unrelated criminal investigation.

According to the members of the SFPD Risk Management Office, officers and staff are obligated to report misconduct (e.g., conduct unbecoming of an officer) to their superiors or the Internal Affairs Division. However, a general policy is not sufficient to ensure that all potential Brady material is properly identified, screened, and timely reported. At a minimum, any official policy that requires the reporting of misconduct should specifically include potential Brady material as a category that must be reported.

6. There is no reporting chain between the Office of Citizen Complaints and the SFPD's Brady Unit or Brady Committee.

Three investigative bodies are responsible for reviewing allegations of SFPD officer misconduct: (1) the SFPD itself, which reviews internal misconduct through its Internal Affairs Division and Chief of Police; (2) the OCC, a local government agency that handles allegations of misconduct reported by civilians; and (3) the Police Commission, which conducts disciplinary hearings on misconduct referred to it by the Chief of Police or the OCC.330 Under Bureau Order 2010-01, only the SFPD and the Police Commission are required to report sustained findings of misconduct to the Brady Committee; there is no direct reporting line between the OCC and the Brady Unit or Brady Committee. Instead, all OCC sustained allegations must be approved by the Chief of Police or the Police Commission before they are referred to the SFPD Brady Committee for evaluation. The lack of a direct reporting chain between the OCC and the SFPD Brady Unit or Brady Committee presents a risk of delayed disclosure or nondisclosure in cases where the OCC sustains a complaint but the Chief or the Police Commission disagree with the OCC's conclusion.

7. The SFPD Brady Committee holds quarterly meetings, which may be insufficient to guarantee timely Brady compliance.

The SFPD Brady Committee plays a pivotal role in the disclosure of Brady material as the body charged with deciding whether officer misconduct rises to the level of Brady material. Under Bureau Order 2010-01, the SFPD cannot put Brady material in a police officer's personnel file and subject it to disclosure until the Committee reviews the material, determines that it warrants disclosure, and makes a recommendation to the Chief of Police that the material be disclosed. A delay in any of these steps can result in untimely

³²⁸ Panel representatives repeatedly requested interviews of certain SFPD personnel to learn what led to the two-year delay in order to make constructive suggestions to avoid its reoccurrence.

³²⁹ It was clear from our interview of the SFPD attorney that no one consulted her about the Brady issues arising from the racially biased text messages involved in the First Texting Scandal. She first learned of the messages in March 2015, and had no firsthand knowledge of the First Texting Scandal except what she learned from the media.

³³⁰ See Chapter 5: External Oversight for more on the OCC and Police Commission.

disclosure to the DA and, ultimately, to a criminal defendant. Failure to ensure timely *Brady* compliance not only violates the due process rights of criminal defendants, but can also potentially lead to criminal cases being dismissed, thus interfering with victims' and their families' access to justice.

The *Brady* Committee currently meets three to four times per year, which presents a risk of exposure and can cause a delay disclosing *Brady* material that can impact cases in progress. This creates a danger that potential or sustained officer misconduct may linger without review for three months or more before the Committee convenes, which means that a police officer for whom clear *Brady* material exists may testify and a criminal defendant may not receive timely materials mandated by *Brady v. Maryland*.

8. SFPD officers do not receive regular, quality *Brady* training.

Regular, quality *Brady* training is fundamental and essential to both prosecutors' and peace officers' full understanding of and compliance with *Brady v. Maryland*. Although *Brady* disclosure obligations fall primarily on the prosecution, law enforcement agencies are part of the prosecution team and need to fully understand *Brady*'s disclosure requirements in order for all exculpatory material to be timely disclosed as required by law.

Unfortunately, the SFPD has not provided the Blue Ribbon Panel with sufficient information to evaluate whether any of its officers receive formal *Brady* training or the quality of any *Brady* training. In response to a Public Records Act Request for *Brady* training materials, the SFPD produced an outline titled "Advance Officer - Continuing Professional Training Course Outlines 2009-2016," which lists *Brady v. Maryland* as one topic. The department objected to producing the substantive training materials on the grounds that the materials are exempt under Government Code section 6254(f). It is not readily apparent how sharing the *Brady* segment of a training program would constitute "intelligence information or security procedures" or would otherwise fall within the exemptions of section 6254(f).³³¹

While the SFPD has declined to provide any substantive training materials or attendance logs for any *Brady* trainings, witnesses shared anecdotal information indicating that no formal *Brady* training program for officers exists. An SFPD police officer who has worked for the department for more than 10 years said that he has never received *Brady* training. Outside counsel to the Police Officers' Association represented that after speaking with members of the SFPD, she did not believe any *Brady* training materials existed. The SFPD's *Brady* Unit attorney, perhaps the employee most familiar with the mandate of *Brady v. Maryland*, confirmed that she has never provided any *Brady* training to SFPD officers. Peace officers who are not adequately trained to understand *Brady* and its requirements may not be able to properly recognize and identify *Brady* material, let alone report *Brady* misconduct to their superiors in a timely manner.

Recommendations

1. Police officers, employees, the SFPD Internal Affairs Department, and the OCC should be required to provide potential *Brady* material to the SFPD *Brady* Unit within 14 days of discovery.

The SFPD should require all employees and investigative departments to report potential *Brady* misconduct to the SFPD *Brady* Unit within 14 days of discovery for preliminary review. This mandatory reporting policy should apply with equal force to members of the IAD Criminal Division, IAD Administrative Division, and the OCC, regardless of whether there is a pending investigation. The department can achieve this goal by either implementing disclosure deadlines in its formal *Brady* policy or by updating any existing misconduct reporting policy to specifically include *Brady* misconduct. In either case, the SFPD should establish clear guidelines in practical terms that are tailored to officers and employees at every level in order to assist them with identifying categories of *Brady* material.

³³¹ See Introduction at page 10 for more on the Panel's PRA request to the SFPD.

2. The SFPD should require that its *Brady* Unit review reports of misconduct for *Brady* material within seven days of receipt and make a preliminary disclosure of potential *Brady* "pending" investigations to the DA Trial Integrity Unit within three days of this determination.

Upon receiving reports of potential *Brady* material, the SFPD *Brady* Unit should complete an initial review of reported misconduct for potential or clear *Brady* misconduct within seven calendar days of receipt and mark any such material as "pending" in its internal database. If the *Brady* Unit makes a determination that the material constitutes clear *Brady* information, e.g., racially biased text messages, it should affirmatively make a preliminary disclosure to the DA within three days. Preliminary disclosures can be made without providing details of the allegations or charges by turning over only the name of the implicated officer and noting the existence of a pending investigation with potential *Brady* implications. This would ensure that the DA is aware of a *Brady* issue as soon as possible after the discovery of such material.

3. The SFPD should require its *Brady* Committee to, absent extraordinary circumstances, complete its review of misconduct and issue recommendations within 45 days of receipt.

The SFPD *Brady* Committee should be required to review sustained findings of officer misconduct and make a recommendation to the Chief of Police within 45 days of receiving the case to ensure timely disclosure. This 45-day timeframe would allow the SFPD *Brady* Committee sufficient time to evaluate the conduct, determine if the conduct warrants *Brady* disclosure, and if so provide the police officer the requisite 15 days to submit a letter as to why the conduct does not constitute *Brady* material.

4. The DA should update its formal policies to incorporate firm, mandatory *Brady* disclosure deadlines.

The DA should impose a specific deadline of 14 days for prosecutors or other DA employees to disclose potential *Brady* information to the Trial Integrity Unit to avoid unnecessary delays in identification and proper disclosure of internal *Brady* information. Implementing such a deadline will ensure that potential *Brady* material reaches the appropriate unit within weeks, not years later. The DA's 2015 policy directive requires prosecutors to disclose *Brady* material or the existence of *Brady* material to the defense within 48 hours of arraignment and/or calling an officer to testify at trial. This appears to be a reasonable timeframe, but these procedural timetable requirements should be incorporated into the DA's formal policies.

While reasonable minds may differ on what the appropriate timeframes are for Recommendations 1 and 2, the two-year delay that occurred in the First Texting Scandal constituted a denial of due process under the Fourteenth Amendment for numerous criminal defendants who went to trial in San Francisco courts. Some clear timetable is appropriate to prevent a recurrence of this type of delay and denial of due process.

5. The SFPD should implement a *Brady* policy addressing *Brady* material located outside peace officer personnel files.

The SFPD should develop a policy requiring the SFPD *Brady* Unit to review clear or potential *Brady* material that is in the department's possession, but that may not be found in a personnel file or may not be part of an IAD Administrative Division investigation. This includes, but is not limited to:

- clear or potential *Brady* material that is discovered by the SFPD or its employees, but may not rise to the level of employee misconduct subject to mandatory reporting to the IAD Administrative Division;
- clear or potential Brady material that is discovered during or used as evidence in a pending OCC, Internal Affairs Criminal or Administrative Division, or Police Commission investigation for officer misconduct; and
- clear or potential *Brady* material that was discovered during or used as evidence in an OCC, Internal Affairs Criminal or Administrative Division, or Police Commission investigation, but for which the investigation did not result in a sustained finding of officer misconduct.

This new policy should cover the same broad categories of Brady material and evidence set forth in the existing policy but that is not contained in the officer's personnel file.

6. The DA and SFPD should track and review Brady data and prepare an annual report to the public on Brady findings—sustained and unfounded—in order to understand the magnitude of any problem, identify potential problem stations, and better inform training.

The DA and SFPD should maintain statistical records of all Brady material alleged and reviewed, and release an annual report assessing this data. The compilation and analysis of statistical data could identify trends, problem areas, and inform specific needs for training. For example, such data could identify if certain police stations receive a disproportionate number of reports or sustained complaints of officer bias, e.g., animus toward a particular race, gender, or sexual orientation. The DA should include in its annual report data regarding all allegations and sustained findings of internal Brady material broken down by station or units. The SFPD should include in its report data all allegations of Brady misconduct, including incidents discovered by or reported to the IAD Administrative Division, the IAD Criminal Division, and the OCC, as well as the types of material the Brady Committee determines constitute Brady data. Together the agencies should establish and tailor training based on the annual results of the data.

7. The SFPD should train and encourage police officers to consult with legal counsel on questions of Brady application and compliance.

SFPD officers should be trained and encouraged to consult legal counsel, whether in the Brady Unit or the SFPD Legal Division, regarding questions about Brady application and compliance. When participating in federal grand jury investigations, officers should be encouraged to consult with the Assistant U.S. Attorneys with whom they are working should any Brady issues arise. Such consultation could have avoided a twoyear delay in producing the racially biased and homophobic text messages to the DA.

8. The DA should provide annual interagency Brady training tailored to both DA attorneys and SFPD police officers and employees.

The DA, as the prosecuting agency, should provide quality, annual Brady training for its attorneys and the law enforcement agencies with which it works. This training should be tailored to the target audience and explain the applicable Brady policy. Ideally, all trainings should be live, and contain real-world, anecdotal, and up-to-date examples of Brady material.

For police officers, the DA and the department should provide joint Brady training, akin to mandatory sexual harassment training, which will help officers understand the nuances of Brady, how to identify Brady material, and under what circumstances they should report potential Brady misconduct. For example, such trainings should educate officers in practical terms on how to identify Brady material, the prosecution team's Brady disclosure requirements, how the requirements apply to officers as part of the prosecution team, and how officer misconduct may be subject to disclosure. Training officers to identify potential Brady material, to timely consult the Brady Unit or SFPD Legal Division if there are any questions, and to timely report potential Brady material to the Brady Unit would create another level of protection against any failure to disclose Brady material.

The DA should also provide training to all SFPD investigative bodies, including the Internal Affairs Administrative and Criminal Divisions, Police Commission, and full OCC personnel, and include the types of material covered by Brady and any timeframes or deadlines relevant to each investigative body's function. Every law enforcement agency is responsible for disclosure of potential Brady material, and the investigative bodies of those agencies are most likely to encounter Brady material. The individuals who make up these bodies must be regularly and properly trained.

9. The SFPD and DA should coordinate and adopt a uniform *Brady* policy and protocol to assure joint, timely, and seamless interagency communication and compliance.

San Francisco's two principal law enforcement agencies should coordinate and adopt a uniform *Brady* policy of county-wide application. Although the DA's *Brady* policies and SFPD Bureau Order 2010-01 were designed to work in conjunction with each other, the lack of a uniform policy for both agencies has led to inconsistent practices and has permitted reporting obligations to fall through the cracks. Any county-wide policy must of course also comply with the mandate of the California Supreme Court in *People v. Johnson*.

10. The DA should require prosecutors to make a record of written requests to testifying police officers to report any *Brady* information and retain police officer responses.

The DA should require its trial prosecutors to affirmatively, and in writing, ask police officers who will testify in cases to state whether there is known *Brady* material attributable to them or to another police officer in the case. This simple, direct inquiry allows the prosecution to confirm from the source that no *Brady* material exists, and would promote disclosure of *Brady* material that may exist outside of peace officer personnel files, such as the material that was not identified under the current *Brady* inquiry process in the First Texting Scandal. An open dialogue between the prosecutor and the testifying peace officer would also provide an opportunity for clarification and education, as many peace officers may not understand the nuances of what constitutes *Brady* material or triggers a disclosure requirement, e.g., racially biased text messages. Finally, confirming with an officer that no *Brady* material exists allows the prosecutor to confidently represent to both the court and the defense that the prosecution team is unaware of the existence of any *Brady* material in the case. Intentional misrepresentation by a police officer or a prosecutor should be subject to discipline and would constitute evidence of untruthfulness, and thus *Brady* material. Mistaken misrepresentations should be evaluated on a case-by-case basis for potential discipline.

11. The SFPD should work with the Office of Citizen Complaints to send its sustained findings of misconduct to the SFPD *Brady* Unit and/or *Brady* Committee for review.

The SFPD should establish a disclosure protocol for the OCC to report its sustained findings of misconduct directly to the SFPD *Brady* Unit and/or *Brady* Committee for review. This protocol should be identical to the existing referral process for sustained findings of misconduct by the Chief of Police and Police Commission.

12. The San Francisco City Attorney should report civil cases against peace officers to the DA's Trial Integrity Unit.

If allegations of officer misconduct are not sustained by the Internal Affairs Criminal or Administrative Divisions, the OCC, or the Police Commission, there is a risk that they will not be reviewed by the SFPD *Brady* Unit or *Brady* Committee. As a safeguard, the City Attorney should be required to report all civil lawsuits in which it represents police officers to the DA's Trial Integrity Unit for review for potential *Brady* material.

13. The DA should consider adopting an open file discovery policy.

The DA should consider adopting an open file discovery policy which, absent extraordinary circumstances, would allow the defense access to all of the prosecution's evidence bearing on the accused's guilt or innocence. Transparency in the discovery process not only allows defendants and their counsel to adequately prepare a defense, but would also alleviate the risk of inadvertently withholding *Brady* information during the discovery process. Open files are not a complete panacea to *Brady* compliance, however, when *Brady* material is not placed in the prosecution's file in the first instance. The San Francisco Public Defender offered this suggestion, and it seems a wise one to foster greater faith in the fairness of the criminal justice process.

Chapter 7: Culture

Background

This chapter contains an examination of SFPD culture, as it relates to racial, gender, ethnicity, and sexualorientation bias. The Panel found that while witnesses unanimously agreed that individual bias exists, a segment of SFPD officers claimed there is no systemic or institutionalized bias within the department. Another segment of witnesses, however, relayed their belief that bias in the SFPD is institutionalized and widespread. This chapter also finds that the line between the SFPD and the POA is often blurred, and some witnesses indicated they were reluctant to engage with the Panel out of fear of retaliation from either the SFPD or POA.

The concept of "culture" within the SFPD is amorphous and contains both inward- and outward-facing aspects. Culture may explicitly or implicitly exhibit minimal bias, widespread and institutionalized bias, or anything in between. It can also work to promote or impede accountability to the extent biased conduct occurs. The interviews recounted in this chapter occurred prior to the public revelation of the second textmessaging scandal in late April 2016.

The POA publicly and repeatedly has characterized the Panel as a body under District Attorney Gascón's will and influence.332 Confidential witnesses informed the Panel that current officers were afraid of retaliation by the POA and/or their fellow officers if they spoke with the Panel. As a result, the Panel's working group focused on culture spoke with two categories of current SFPD officers: officers prepared and produced by the POA, who spoke with POA counsel at their sides, and confidential witnesses, who spoke on condition of anonymity. The sole exception was Sergeant Yulanda Williams, who was interviewed and publicly testified about her perceptions on bias in the department.

The investigation of SFPD culture was based predominantly on witness interviews. The investigation was framed, however, by relevant SFPD policies. While many of the SFPD's departmental general orders are relevant to issues of bias and community relations, DGOs 5.17 and 11.07 are of particular importance.

 DGO 5.17, entitled Policy Prohibiting Biased Policing, prohibits discrimination against individuals in the community and was last updated on May 4, 2011.333 The DGO recognizes that community trust requires the SFPD to act free from bias and "eliminate any perception of policing that appears racially biased."334 DGO 5.17 defines "biased policing" as "the use, to any extent or degree, of race, color, ethnicity, national origin, gender, age, sexual orientation, or gender identity in determining whether to initiate any law enforcement action in the absence of a specific suspect description." 335 Officers

³³² See Introduction at page 7 for more detail on the Panel's interaction with the POA.

³³³ See SFPD Department General Order 5.17, Policy Prohibiting Biased Policing (Rev. May 4, 2011).

³³⁴ See id. at 1.

³³⁵ See id. at 1 § I.

are forbidden from relying on race or other identity characteristics in conducting stops or detentions "except when engaging in the investigation of appropriate suspect-specific activity to identify a particular person or group."³³⁶ Section II(B) in DGO 5.17 on "preventing perceptions of biased policing" is limited to advising officers to be courteous and professional when stopping a person, to detain no longer than necessary, and to answer any questions.³³⁷

DGO 11.07, Prohibiting Discrimination, Harassment and Retaliation, prohibits discrimination against one department member by another (sworn and civilian) and was last updated on May 6, 2009.³³⁸ DGO 11.07 defines "discrimination" as adverse employment action.³³⁹ Harassment is defined as unwelcome, offensive, or intimidating conduct that is directed at an individual or a group of individuals because of one or more protected categories; it must be severe or pervasive enough to create a hostile working environment.³⁴⁰ DGO 11.07 prohibits retaliation for protected conduct.³⁴¹

Findings

1. While witnesses unanimously agreed that individual bias exists, a segment of SFPD officers claim there is no systemic or institutionalized bias within the department.

Witnesses provided different accounts of the presence of bias in the SFPD. Some witnesses, such as those whose interviews were suggested and facilitated by the POA, stated categorically that no institutional or widespread bias exists within the department, though these witnesses stated individual officers or "bad apples" sometimes engaged in biased conduct.³⁴²

Typically, witnesses who believed that no generalized racial or other bias exists within the department stated that while some bias is present, it is not widespread, rampant, or systemic.³⁴³ For example, a current Black lesbian officer, in an interview arranged by the POA, stated that she has not seen any bias at work and she does not believe bias is institutionalized in the SFPD. These witnesses generally provided two explanations for their beliefs.

The primary reason provided by several witnesses for their belief that no bias exists within the SFPD was the diversity of personnel within the department. These witnesses apparently believed that institutionalized bias could not exist in the presence of a diverse workforce. For example, one current officer, also a defense representative for officers facing citizen complaints, stated that investigators for the Office of Citizen Complaints considered the diversity of a group of officers as evidence tending to disprove bias where one of the officers faced a discrimination complaint; the officer also stated that in his view, a diverse group of officers simply would not act in a biased manner. Some officers who believed diversity was incompatible with bias explained the racial disparities within the city's arrest and detention statistics by reference to the "criminal element," alleging without evidence that persons of certain identities simply committed more crime.

³³⁶ See id. at 2 § II(A)(2).

³³⁷ See id. at 2 § II(B).

³³⁸ See SFPD Department General Order 11.07, Prohibiting Discrimination, Harassment, and Retaliation (Rev. May 6, 2009).

³³⁹ See id.at 2 § I(A).

³⁴⁰ See id. at 2 § I(B).

³⁴¹ See id. at 3 § I(C).

³⁴² The "rotten apple" explanation—that the officers expressing bias are rogue and in the minority—has frequently appeared in discussions of the SFPD over the past year. This explanation has been criticized by leading criminal justice scholars, who argue that "patterns of misconduct are ultimately the result of inadequate management policies and practices." They argue that where individual "bad" cops act with impunity, the entire ecosystem is infected—it is a "rotten barrel" rather than "rotten apples." See Samuel Walker & Morgan Macdonald, An Alternative Remedy for Police Misconduct: A Model State 'Pattern or Practice' Statute, 19 Geo. Mason U. Civ. Rts. L.J. 479, 483-84 (2009) (citing Samuel Walker, The New World of Police Accountability 14 (Sage Publications 2005)).

³⁴³ One current officer, whose interview was mediated by the POA, stated unequivocally that he has seen no bias in the police force at all, ever.

These witnesses claimed that officers only care that you wear a uniform, not what race you are. A current officer whose interview was suggested and arranged by the POA described the department as a diverse "melting pot" where officers and staff did not have problems working with each other because of race; he further stated that he had never heard any racial slurs about Black or LGBT people. However, later in his interview, the same officer stated that racist language, while not appropriate for the "streets," could be appropriate for use between partners in their patrol cars. The officer further stated that "you're not going to find someone brave enough to hang a noose on someone's locker or put a swastika on it."

The second justification these officers generally provided for their belief that institutionalized bias did not exist within the department was related to the POA's financial grants to diverse community groups. These witnesses believed that the POA's donations to communities of color disproved the idea that institutionalized bias could exist within the department. For many years, the POA has given thousands of dollars to community organizations, and in 2015, the POA established a fund that allowed community organizations to apply to the POA for grants.³⁴⁴ In his January 2016 letter to Sergeant Yulanda Williams objecting to her testimony before the Panel,³⁴⁵ as printed in the February issue of the *POA Journal*, POA President Martin Halloran cited community grants as strong evidence of the POA's outreach to minority communities.³⁴⁶ Current officers whose interviews were suggested and arranged by the POA highlighted these donations as evidence that the POA cares about and is engaged with communities of color. One officer stated that because Sergeant Williams had received money from the POA for community activities, it was hypocritical for her to now call the POA racist.

Officers whose interviews were suggested and arranged by the POA also expressed satisfaction with the POA's decision to publish the above-referenced letter sent to Sergeant Williams. Some witnesses stated that they "had no problem" with the letter or its publication. One Black officer whose interview was suggested and arranged by the POA stated that the letter was "great" and "cleared up several facts." The officer did not view the letter, or its publication, as retaliatory, and stated that the POA's conduct did not make her nervous about speaking out. A Latino officer whose interview was suggested and arranged by the POA stated that the letter and its publication were appropriate based on Sergeant Williams' allegations in her testimony, which were "unfair" to the POA. The officer stated that Sergeant Williams "has her own agenda" and that members of her organization (OFJ) disagreed with what she said.³⁴⁷

Most witnesses who stated their belief that there was no systemic racial bias in the department also made allowances for racist conduct they had observed. One current officer whose interview was suggested and arranged by the POA denied widespread racial bias in the department, describing a hypothetical situation in which a White officer responded to a call for service involving a Black suspect, and then made derogatory comments about that suspect. The officer concluded, "of course there's going to be some bias when officers respond to different calls." A recently retired SFPD officer stated "I can say with confidence that there is no racism in the police department, but there are members who are racist."

In a POA opinion piece, POA President Martin Halloran admitted that bias is present in the department, but his response to the issue was that there is bias everywhere, including in the offices of the Public

³⁴⁴ See S.F. Police Officer's Ass'n ("SFPOA"), 47(8) POA Journal 10 (Aug. 2015), http://sfpoa.org/journal_archives/POAJournal_August2015.pdf (announcing establishment of the Community Investment Grant initiative).

³⁴⁵ See Introduction at page 9 for details about the letter.

³⁴⁶ See SFPOA, *Outbox*, 48(2) POA Journal 6 (Feb. 2016), http://sfpoa.org/journal_archives/POAJournal_February2016.pdf ("[T]he POA repeatedly sponsored youth from the Bayview/Hunters Point to travel to West Africa to explore their heritage; was an annual sponsor of Live Free through the Omega Boys Club headed by Dr. Joe Marshall; has continued to sponsor Blessings in a Backpack which provides nutritious lunches to school children in Visitation Valley; and most recently, afforded our first Community Grant to Hunters Point Family to support their community garden. These are just a few of our outreach services to the minority community and you personally sent me an email on September 9, 2015 commending the POA for assisting our financially challenged community.").

³⁴⁷ The current and former OFJ members with whom we spoke did not confirm this statement.

Defender and District Attorney.³⁴⁸ Halloran further characterized statements by city agencies regarding racial bias in the department as politically motivated.³⁴⁹ In another piece, he interpreted almost any statements about potential bias in the SFPD as "anti-law enforcement" and seemed to treat them as personal insults levied at him and at SFPD officers.³⁵⁰

Several POA-suggested witnesses, including one female officer, claimed that there was no bias against women in the department. One of these witnesses, a current officer, stated that he had never, in any instance, seen women being treated differently than their male counterparts. He stated further that while he had seen derogatory comments to or about women, these comments were usually exchanged by women who knew each other. He stated that when he heard women calling each other the "B-word," the women involved were good friends with each other.

Likewise, some POA-suggested witnesses—including one lesbian officer—denied any sexual-orientation bias within the department. One officer stated that LGBT officers—like female officers—were judged on how hard they worked rather than on their sexual orientation. The same officer stated that while he had heard jokes or disparaging remarks involving LGBT colleagues, these comments usually occurred within the context of a relationship (e.g., a friendship) that one gay officer had with another officer.

Regarding reactions to the text messages that sparked this investigation, some witnesses stated that they were "shocked" by these text messages and had no explanation for them. They stated that they knew the officers who composed and sent the texts, and that they never would have known that these officers would engage in this type of conduct. One current officer stated that he was surprised both that the officers were comfortable using the language in the messages and that the officers were able to keep their views hidden for so long. This officer was unable to reconcile the content and distribution of the texts with an earlier statement that there is no widespread racial bias in the department.

2. Several SFPD officers and other witnesses believe that systemic and institutionalized bias is widespread in the department.

Other witnesses, such as OFJ President Sergeant Yulanda Williams and the confidential witnesses who are current SFPD officers, stated categorically that widespread institutionalized and systemic bias exists within the SFPD. These witnesses experienced or observed numerous instances of unfair or discriminatory treatment that led them to this belief.

A Black, female SFPD officer stated that when she joined the department, she felt isolated among her classmates and, later, her colleagues, because of the "clear divide between White and Black cadets." This witness stated that when she joined the department, some senior officers told her that she would not be treated fairly because she was a Black woman. Initially, she did not believe them, but over time she saw "glaring" differences in the treatment of officers based on race. The witness stated further that while there were some older White officers who understood the issues of racial discrimination within the department, officers of color and White officers did not generally agree on whether racism existed. How officers were treated, disciplined, and even spoken to by supervisors differed based on race; one witness stated that Black SFPD officers were not respected unless they "play[ed] ball a little bit."

Two current SFPD officers perceived that Black officers were more harshly disciplined than their White colleagues, pointing to "Videogate" as an example, noting that the Black officer involved received 365 days off without pay, though he only appeared in and did not produce the videos.³⁵¹

³⁴⁸ See, e.g., SFPOA, Enough! The Anti Law Enforcement Bandwagon Is Overcrowded, 47(7) POA Journal 1 (July 2015), http://sfpoa.org/journal_archives/POAJournal_July2015.pdf ("The common denominator is that we are all human and prone to make mistakes.").

³⁴⁹ *Id.* ("They paint all of the SFPD with a broad brush then, try and grab their 15 minutes of fame on the backs of the hard working, dedicated, and committed members of the SFPD.").

³⁵⁰ See SFPOA, 2015: A Recap, 47(12) POA Journal 1 (Dec. 2015), http://sfpoa.org/journal_archives/POAJournal_December2015.pdf (stating that during 2015, "various city organizations" "tried to pass baseless resolutions painting all members of the SFPD with the broad brush of racism. Of course, this was baseless, unfair, and offensive.").

³⁵¹ See Appendix B for more on Videogate.

One witness gave two additional examples of differential disciplinary standards. First, according to the witness, a Black officer was found to have arranged exoneration from charges (i.e., "fix[ed] tickets") for people, sometimes at the request of the officer's superiors. As discipline, the officer received a six-month suspension without pay, while other (White) officers involved in the scheme received no punishment. Second, a witness recalled a White officer who beat up a handcuffed detainee and was demoted by Chief Fong, but re-promoted by Chief Suhr.

Some witnesses stated that women have faced bias in the department. One retired officer still involved with OFJ stated that when women first joined the department, they were not perceived as equal, and the first Academy class of women had to fight to keep their jobs because of the stigma of women "doing a man's job"; some had a tough time making it through probation. According to this officer, there is still a small percentage of male officers who believe that women do not belong in police work. A current SFPD officer who spoke on condition of confidentiality stated that she encountered significant discrimination based on her gender, race, and age. She stated further that the SFPD "break[s] down your self-confidence a little bit at a time" as an institutional weapon to ensure that certain officers are promoted and other officers are kept in place through isolation. The witness believes that this conduct is malicious, methodical, and systemic.

Some witnesses stated that while they found the text messages that gave rise to this investigation hurtful, they were not surprised by them. A high-level confidential witness with former ties to the SFPD opined that the text messages were "more of the same thing" and that they showed officers failing to "learn their lesson" from previous scandals. A current officer expressed surprise that officers had documented their obviously biased views by using text-messaging, but was not surprised by the sentiments expressed.

A current Black SFPD officer was shocked and upset when he heard about the text messages. The witness stated the officer was "really cool" with two officers involved in the text message scandal and that they were "regular guys," but that some of the Textgate officers were known to be "shady." The witness further stated that there may be a split between how White and Black officers perceived officers' intentions behind the racist text messages. According to the witness, many White officers expressed that "those guys were just joking, they're not that serious." The witness further remarked that Black officers in the SFPD already did not receive respect, and that was now exacerbated by his uncertainty about whether White officers saw him as a "monkey." 352

With respect to the department's handling of the texting scandal, one witness described former Chief Suhr's conduct as allowing Textgate to "fester" by placing the officers on paid administrative leave instead of immediately recommending that they be terminated (while only the Police Commission, not the Chief, has the power to terminate officers, the Chief can recommend termination to the Commission). The witness noted that (on account of the ongoing litigation regarding the Chief's attempt to terminate and discipline these officers) the leave has extended past a year, a "total waste of city funds" that has shaken the trust of officers and the public. A city official could not understand why someone who would make such derogatory comments about people would be a police officer.

A current officer reported that Textgate caused her to fear for her safety because the SFPD's reaction was inadequate. In her opinion, the text messages-especially those which targeted specific members of the department—amplified the fears of officers of color that there would be retribution for speaking out about discrimination because the officers involved were not immediately terminated. According to this witness, the way the texting scandal was handled reduced the likelihood that officers of color would report bias within the department.

A current Black officer noted that an officer who was involved in Textgate has been on paid administrative leave for a year. The Black officer noted further that the officer had several other prior incidents in his file, including use of the "N-word." Yet the offending officer was moved from investigations

^{352 &}quot;Monkey" was a racial slur used against OFJ President Sergeant Yulanda Williams in one of the text messages.

to night captain, where he made more money (via the night differential). Although the witness cited no substantiating evidence, the witness perceived that the failure to timely disclose the texting events constituted a "cover-up" on the part of the department, motivated in part by this officer's involvement. The witness said that the SFPD's favorable treatment of the officer was very unfair to other officers.

Witnesses who believed institutionalized bias exists in the department reacted negatively to the POA's published letter to Sergeant Williams following her public testimony to the Panel, during which she described how she felt ostracized from the department's majority culture which, according to Williams, tolerated officers who held discriminatory views. Former Chief Suhr also stated that the POA should not have sent the letter, and that he reached out to Sergeant Williams to ask whether she wanted to be transferred. A Black officer (who agreed to be interviewed specifically because of the POA's treatment of Sergeant Williams, but requested confidentiality) was disturbed by the POA's letter. She stated that it created a hostile work environment that humiliated Sergeant Williams and enabled other officers to "laugh at her." The officer stated that the letter was "outrageous" and was a "poorly written letter with no facts."353 Another Black officer stated that she agreed with Sergeant Williams' statements to the Panel. The witness stated that she was afraid for Sergeant Williams and believed Williams was not getting the protection she needed because the POA was angry about her statements. The witness stated further that she was not the only person in the SFPD who agrees with Sergeant Williams, but officers were not coming forward because they knew that if they publicly agreed, they would be ostracized.

Former Chief Suhr, while declining to opine on whether there was systemic bias in the SFPD, stated that Sergeant Williams was not alone in her belief that systemic bias existed, and that there must have been "something" in the culture that caused officers to feel as she felt. Suhr disagreed with the POA's rejection of any claim of bias in the department, stating his belief that it was honorable to recognize bias, and that while we all had bias, officers needed to be able to set that bias aside when policing to be objective.

After the Mario Woods shooting, Suhr stated that racial bias existed in the department.³⁵⁴ In his testimony before the Panel, Suhr attested that while there were "bad apples" in the department, there was no systemic bias. And in the wake of the release of a second set of explicitly biased text messages, after his interview with Panel representatives and after his testimony before the Panel, Suhr recently stated, "[a]s with any big organization, you're going to have people who are not as you would have them be... I think all the men and women who serve this department know I give no quarter to this kind of thing. The message from the top has been clear. This level of intolerance will not be tolerated."355

Suhr also expressed his pride in the "Not On My Watch" pledge campaign, which incorporates commitments by officers to report bias and intolerance.³⁵⁶ All members of Suhr's command staff took the pledge, and cadets will have an opportunity to take the pledge at Academy graduation. Former Chief Suhr planned to invite officers to take or recommit to the pledge each January; he wanted officers to know how serious he was about combating bias. Suhr believed this pledge was a first-of-its-kind effort. One member of the Police Commission stated that taking an oath not to obey the "code of silence"—an informal rule that officers should not report a fellow officer's misconduct—was very significant.

³⁵³ At one point, the letter misspells Sergeant Williams's first name.

³⁵⁴ Chris Roberts, After The Mario Woods Shooting, Chief Greg Suhr Pledges To Reform The SFPD," S.F. Weekly (Jan. 6, 2016), http:// www.sfweekly.com/sanfrancisco/news-police-mario-woods-sfpd-law-enforcement-greg-suhr-officer-involved-shooting-Mayor-edlee-protests/Content?oid=4389642.

³⁵⁵ Vivian Ho, New Rash of Bigoted Texts by S.F. Police, S.F. Chronicle (Apr. 1, 2016), http://www.pressreader.com/usa/san-franciscochronicle/20160401/281500750392331.

³⁵⁶ The Pledge, and more information about the program, is available at http://notonmywatchsfpd.org/.

3. Officers were reluctant to engage with the Panel for fear of retaliation from the POA and/ or SFPD.

According to some witnesses, the POA and SFPD retaliate against and ostracize those who speak out against the department.³⁵⁷ Aside from Sergeant Williams, subject matter experts provided by the department, and officers whose interviews were suggested and arranged by the POA, every current officer who was willing to be interviewed by the Panel did so on condition of anonymity—those officers indicated that the reason for requesting anonymity was a fear of retribution by the POA and SFPD. Two current and former SFPD officers refused to engage at all for those reasons. In some cases, officers stated they feared for their physical safety.

A former officer still associated with OFJ stated that officers who spoke out against the SFPD and/or their supervisors were ostracized; isolated; and faced retaliatory actions like frequent transfers, desk duty, and work in undesirable locations or units. As a result, many officers who were otherwise well-intentioned were disincentivized to report misconduct.³⁵⁸ The officer added that he was aware of officers who did not want to participate in the Panel's investigation because they feared being ostracized or retaliated against if they did so.

Further, several current officers said they feared retaliation for speaking with the Panel—or generally speaking out publicly about the department—in the form of damage to their professional reputations and/or careers (including being precluded from promotions). Another witness who spoke on condition of anonymity stated that if officers stepped out of line, they faced retaliation. She gave the example of field training officers assigned to train the children of a Chief or Deputy Chief facing the threat of retaliation if the training officers failed the trainees.

At least two current officers expressed a fear for the physical safety of themselves and their families, specifically related to their fellow officers potentially not "having their back" during dangerous situations in the field if they spoke out against the department. One witness stated she was afraid both for herself and for Sergeant Williams.

Fear of retribution has the potential to impede the free flow of information, lower employee morale, and worsen working relations within the department. It has no place in a modern police department.

4. The SFPD blurs the line between it and the POA, and allows the POA to take on an outsized role inside and outside the department, making it more difficult to address the issue of bias within the department.

The SFPD is a government agency and the POA is a labor union; each has a role to play with regard to officers and the larger community. But while each claims to be independent of the other, the distinction is often blurred. The way the POA inserted itself between the Panel and the SFPD in this investigation is a prime example of this blurred line. When the Panel's working group on culture reached out directly to a member of the SFPD command staff-at former Chief Suhr's request-and then directly to individual officers to request voluntary interviews, Suhr advised that interviews should be arranged through the POA. The POA's vigorous intervention and the SFPD command staff's acquiescence strongly blur the line between the two organizations.

³⁵⁷ Claims that the POA retaliates against and ostracizes officers were also supported by the publication of its letter to Sergeant Williams criticizing her testimony before the Panel.

³⁵⁸ The retired officer illustrated the point with an anecdote now several decades old. When the officer began training, he observed a group of white officers taking Black arrestees to the back of Park Station and beating them. The officer attempted to physically intervene to stop the beating. (Another retired officer confirmed this account.) As a result, the SFPD threatened to bring charges against the officer. Retaliation also included transfer to another station; indefinite desk duty; and assignment to undesirable duties, such as the city jail. The officer was ostracized by other officers as well. This treatment persisted for about 10 years. The officer stated that this treatment resulted because the SFPD could not fire him easily (he had been an officer for more than one year at the time of the incident).

As a result of the nexus between the POA and SFPD, some officers expressed fear of professional or career reprisals from speaking out against the POA. This highlights the extent to which some officers feel the need to advance the interests of the POA in order to advance their own careers within the department, and the extent to which the POA enforces the party line.

A key example very much in the public eye occurred during the pendency of the Panel's investigation. Fellow SFPD officers reported that Sergeant Lawrence Kempinski of Bayview Station had made highly biased and inappropriate statements about Black people and women while in the station. As reported in the press, former Chief Suhr forwarded the relevant information about the incident to the Police Commission for action. Gary Delagnes, former POA President and its current paid consultant, publicly expressed his anger on Facebook, calling the reporting officers "trained snitches." He complained that the department, through the "Not On My Watch" pledge, encouraged officers to turn each other in and declared that the intolerant statements allegedly made were "nothing that would merit" turning Sergeant Kempinski in, and that Sergeant Kempinski was being made a "scapegoat." Delagnes's message was clear: police officers were not supposed to "snitch" on other police officers, especially not for making biased and bigoted statements.359

While the POA is ostensibly protecting its members, the SFPD—as a department of city government—is obligated to act in the public's interests. But when former Chief Suhr was asked about the incident related to Sergeant Kempinski at the Police Commission meeting on May 11, 2016, he stated only that "retired sergeants" are "not in his jurisdiction." He failed to note that Delagnes's criticism of "snitches" runs directly counter to the "Not On My Watch" pledge, which Suhr promoted.360 The "good cops" that, by all reports, make up a majority of the SFPD will never make headway absent more management support for whistleblowers.

5. The POA has historically taken positions resistant to reform and insisted that there is no widespread or inherent bias in the department. Because the department has consistently ceded the ground of discourse to the POA, theirs is the dominant law enforcement voice heard on this issue.

Witnesses reported that the POA has historically not acted to improve race relations and has made statements that have alienated citizens, officers within the department, and others, including officials of some City agencies. They noted that the POA has traditionally been resistant to listening to alternative points of view, whether internal or external. This inability to engage in any critical introspection has hampered transparency and reform within the SFPD. To date, the SFPD has appeared unwilling or unable to take on the POA and to take the necessary steps to combat bias within the department.

According to several sources, the POA's strategy with regard to its culture is twofold, and it stretches back decades. First, the POA portrays all police, and SFPD officers specifically, as free from all bias and unfailingly altruistic. The POA uses several themes to characterize its culture: the SFPD is diverse; the POA supports community activities, including grants to the vulnerable and poor; and POA "outreach to the community is legendary."361 In doing so, the POA uses absolutes to describe the SFPD that leave essentially no room for potential improvement. For example, "there is no more diverse, culturally enlightened, better trained, and better educated urban law enforcement agency than is the SFPD"; "not a single law enforcement agency in this nation has done more outreach to the community it serves than has the SFPD"; and "there is no more proactive police association than the SFPOA that has done more to seek fair and relevant dialog with the communities served by its members."362

³⁵⁹ See Jonah Owen Lamb, Former Police Union Head Plays Down Latest Racist Allegations in SFPD, S.F. Examiner, May 10, 2016, http://www.sfexaminer.com/former-police-union-head-plays-latest-racist-allegations-sfpd/.

³⁶⁰ The comments should be a cause for alarm. For example, one commenter below Delagnes's Facebook post requested the names of the "snitches" so they could be "taken care of." Another stated, "if they want snitches, this department is doomed." Another characterized the officers who reported the conduct as "childish candy asses." One characterized "sensitivity training" as "bullshit." Perhaps most alarming, another commenter stated, "I hope it doesn't get ugly out there, someone could get hurt."

³⁶¹ Paul Chignell, POA Dramatic Defeat of Feinstein Anti-Police Measures in 1985-1986 Mirror December 2014 POA City Hall Fight, 47(1) POA Journal 4 (Jan. 2015), http://sfpoa.org/journal_archives/POAJournal_January2015.pdf.

³⁶² Letter from Martin Halloran to Supervisor John Avalos (Dec. 12, 2014), reprinted in 47(1) POA Journal 7 (Jan. 2015).

Second, the POA characterizes those who challenge it—or suggest that there is room for improvement as misinformed, malicious, untruthful, opportunistic, and anti-police. For example, members of the San Francisco Board of Supervisors advocating a resolution regarding the Michael Brown officer-involved shooting in Ferguson were described as "opportunists" and "ideologues" by past POA President Paul Chignell.³⁶³ According to the San Francisco Examiner, which obtained relevant emails, the POA "bullied" several supervisors into changing their votes on the resolution.³⁶⁴ The lead story in the POA Journal each month often portrays city leaders or the public at large who make statements or take actions that are contrary to the POA's positions as merely politically opportunistic, uninformed, or having an anti-police agenda.365

A former high-level SFPD officer attested that in the past, the POA interfered with the SFPD's investigation and discipline of officer misconduct. As evidence, the witness described circumstances connected to both Videogate and Fajitagate, 366 explaining that a lack of trust between SFPD management and POA leadership impeded the investigations. When Videogate happened, the SFPD tried to aggressively investigate because, among other reasons, those involved were in administrative positions and the videos were made on-duty with SFPD cameras. SFPD leadership learned about the videos through the captain of the station involved in the scandal, after the POA obtained the videos and after the media had accessed them. The POA President at the time initially denied that it had possession of the videos, but when the department insisted, the POA finally produced them.

With regard to the current POA, one public official interviewed by the Panel stated that the POA was "problematic," its culture was "bad," and it had taken "damaging" positions on race relations; according to the witness, it would have been "wise" for the POA to not minimize how serious and hurtful the texting scandal was. Another city official stated that the POA Executive Board was very divisive and took on a "my way or the highway" approach. In the official's view, the POA did not represent its members well, and also did not represent all of its members. The official had the impression that there were no Black members on the POA Board and very few, if any, women involved in the decision-making.³⁶⁷

A current officer perceived that the POA was the main obstacle to positive change in the SFPD, as it consistently denied that problems related to racism exist. Though Textgate made these problems visible, the officer continued, no one was disciplined or fired by the SFPD as a result, and therefore Textgate actually diminished the voices of officers of color.³⁶⁸

³⁶³ Chignell, POA Dramatic Defeat of Feinstein Anti-Police Measures, supra note 361, at 4-5.

³⁶⁴ Jonah Owen Lamb, Police Union Strong-Arms Board of Supervisors Over Controversial Resolution on Police Brutality Protests, S.F. Examiner (Feb. 12, 2015), http://archives.sfexaminer.com/sanfrancisco/police-union-strong-arms-board-of-supervisors-overcontroversial-resolution-on-police-brutality-protests/Content?oid=2920037.

³⁶⁵ Martin Halloran, The Silence Is Deafening, 48(3) POA Journal 1 (Mar. 2016) http://sfpoa.org/journal_archives/POAJournal_ March2016.pdf (noting that those who denounced the Mario Woods OIS ignored the fact of ongoing investigations "because [they] did not fit their narratives or political agendas"); Martin Halloran, The Truth Shall Be Known, 48(1) POA Journal 1 (Jan. 2016) http:// sfpoa.org/journal_archives/POAJournal_January2016.pdf (those who disagreed with the SFPD's initial version of the facts of the Mario Woods OIS did so because "it just does not fit the agenda by some of those holding office, seeking office, or attempting to gain political ground"); Martin Halloran, Shameful, but not Surprising, 47(9) POA Journal 1 (Sept. 2015) http://sfpoa.org/journal archives/POAJournal September 2015.pdf (describing those who disagree with law enforcement as a "lynch mob that often reacts on rumors and emotions rather than facts and truth"); Martin Halloran, The Anti Law Enforcement Bandwagon Is Overcrowded, 47(7) POA Journal 1 (July 2015) http://sfpoa.org/journal_archives/POAJournal_July2015.pdf ("As the anti law enforcement rhetoric continues to flood the media print and airways in this country, and as certain groups and politicians are jumping on this bandwagon to bolster their own status or posture for a possible better political position, some police associations and responsible individuals are saying, 'Enough is enough.'"); Martin Halloran, Ambushing the Trust in American Policing, 47(4) POA Journal 1 (Apr. 2015) http://sfpoa.org/journal_archives/POAJournal_April2015.pdf ("The trust in law enforcement, or lack thereof, has been exasperated by those who have alternative motives....").

³⁶⁶ See Appendix B for more detail.

³⁶⁷ Review of the POA website shows at least Clifford Cook, an African-American officer at the Richmond Station, is a member of the POA Board of Directors. Mr. Cook was interviewed by the Culture Working Group at the request of the POA. His interview was attended by a POA representative.

³⁶⁸ An example that predates the public revelation of Textgate is illustrative on this point. In an article in the POA Journal about dangers associated with social media posts and emails, rather than discouraging officers from sending messages that "would not hold up during an IA [Internal Affairs] investigation" at all, the President of the POA told officers to "[e]xercise your [First Amendment] rights by using your personal computers and smart phones for those humorous antidotes [sic]. They will be just as funny." Martin Halloran, Mobile Data Devices; Think Before You Post, 45(10) POA Journal 1 (Oct. 2013).

District Attorney Gascón testified to the Panel that the POA was very strong and held too much control over the SFPD. In his opinion, the POA was heavily involved in local politics, very well-funded, had money to help get politicians elected, and its endorsement was highly coveted. As a result, he believed the POA had more political power than its equivalents in other metropolitan areas. DA Gascón further stated his view that some Police Commissioners were "legacy people" who were close to the department and the POAespecially those appointed by the Mayor.

A high-level confidential witness characterized the POA as a "bullying organization" and "frat house" and past heads of the POA as "bullies." The witness also stated that the POA "doesn't reflect the diversity of the department." Instead, according to the witness, the POA worked to advance the needs of a vocal group of insiders.

The POA seemingly disregards community opinion that is not unfailingly pro-police; it describes community members who object to certain police conduct as misinformed, "professional protestors," 369 race-baiters, or "a small percentage of people who yell the loudest." 370 The POA consistently rebuts any criticism—real or perceived—by promoting the diversity of the SFPD and its prowess in outreach. It will be difficult to rebuilt trust with critics of the SFPD if this pronounced gap in understanding remains unaddressed.

6. Several witnesses stated that the SFPD and POA functioned like a "good old boys' club," making it difficult to impose discipline.

Witnesses inside and outside the SFPD, including one very high-level confidential witness, stated that although the department was diverse in some ways, the culture was dominated by an insular "good old boys' club" that originated in certain high schools in the city, in particular St. Ignatius, Sacred Heart, and Riordan.³⁷¹ In some cases the network reached further back to elementary school and youth sports leagues. Some witnesses stated that officers who did not attend St. Ignatius high school could not reach the inner circles of power in the department.

A high-level confidential witness opined that this insularity resulted in SFPD's disconnection from the culture and practices of other metropolitan police departments. Compared to other departments, SFPD did not look beyond itself for guidance; rather, the high-level witness stated, it "has its own way of [training] around here."

Some witnesses noted that while there were more officers of color than there once were, the insularity of the "club" meant that few would be promoted to the higher ranks. One Black officer, after opining that Sergeant Williams' allegations of bias were rightly understood as related to nepotism rather than racism, further stated that some people in the department received the best assignments because they had known a high-ranking officer all their lives. The officer added that, if he were the boss, he would also give the best assignments to his friends.

One Black officer observed the department hired people who did not understand the importance of building trust with community members, stating "the racist culture is deeply rooted and goes back years and years. The department needs to put some real energy into it, instead of putting a Band-Aid on it. Instead of trying to make real, true progress, they want us to take pictures with the community, hugging kids." The witness further observed that "the department seems to find the same type of person to do the

³⁶⁹ See Michael Nevin, The Big Lie, 47(1) POA Journal 7 (Jan. 2015), http://sfpoa.org/journal_archives/POAJournal_January2015. pdf ("Most of the professional protesters—and the politicians who support them—claim to be defending the rights of young urban minorities.").

³⁷⁰ Gary Delagnes, Mario Woods Day; Why We Can't Let it Go, 48(3) POA Journal 4 (Mar. 2016), http://sfpoa.org/journal_archives/ POAJournal March2016.pdf.

³⁷¹ In reference to the "central" SFPD culture, a San Francisco official stated "they all went to SI [St. Ignatius]. That's part of the problem. There are so many other high schools in San Francisco. You can diversify these departments by looking at the public high schools in San Francisco. There are lots of folks who grew up in the Western Addition who wanted to be officers, but it's very challenging. Ultimately the chief decides."

job—officers who are easily influenced to conform to the existing culture. The norm is to be followers [who do not say anything about misconduct], unless jobs or lives are at risk."

One witness disagreed and attested that the power of the "club" did not represent the totality of department culture, and its power waxed and waned depending on SFPD leadership. This witness stated that under former Chief Suhr, the "club" had more power than it did during the era of the 1978 Consent Decree or under the chiefs who led the SFPD between 1998 and 2011. The witness opined that the tone of SFPD leadership may shape the limits of authority that the "good old boys" had in the SFPD. For his part, former Chief Suhr, in response to a question about whether a "good old boys" network existed, stated that the SFPD had a culture, as any large organization did—certain people would be closer to certain other people, and not as close to others.

Witnesses also stated that the "club" had consequences for officer discipline. Officers tipped fellow officers off to any threat of disciplinary investigations due to interpersonal relationships. A witness stated that some officers currently felt comfortable with cover-ups because they knew that their friends—whom they grew up with—would be loyal to them. Another high-level confidential witness stated that at least some members of the "club" were involved in the POA and were vocal on issues related to officer discipline before the Police Commission, Chief of Police, and other entities. A current officer had repeatedly seen senior officers retire, only to be replaced by "their next generation"—their children, nieces, etc. whose conduct got "carte blanche because of the relationships their fathers had."

POA representatives accompany officers who are interviewed as part of a disciplinary investigation. One witness formerly involved in SFPD internal investigations stated that the POA representative would share the officer's testimony with others who would then be interviewed about the same incident (while officers can be ordered not to share testimony with anyone else, POA representatives cannot be similarly directed). The witness stated that the current system, with trials before the Commission and complaints brought by the OCC, was to the POA's liking because it was ineffective at actually enforcing discipline.

A former Police Commissioner stated his view that the POA sometimes slowed the disciplinary process down by providing each officer in the same case a unique attorney—thus creating the need to coordinate multiple schedules. Further, the POA sometimes "gummed up the works" to slow the process until the officer in question reached retirement age. Another high-level confidential witness asserted that the POA often sought to delay disciplinary action until the relevant statute of limitations was exceeded—because the POA had more resources to expend on cases than did the Commission, the POA was often successful. As a labor union, the POA is arguably acting in its members' best interests. But, while available data indicates that the Commission is currently managing its disciplinary docket fairly efficiently,³⁷² there was a time where neither it nor the SFPD acted to counterbalance the POA in these circumstances, severely hampering the disciplinary process.

7. Witnesses perceive that a code of silence and lack of transparency creates a failure of accountability in addressing bias within the SFPD.

The "code of silence"—informal pressure for officers to "fall in line" and not report observed misconduct makes it difficult to identify and respond to bias within the department. During the investigation, witnesses strongly expressed that the majority of officers in the SFPD were ethical, good officers who always strove to do the right thing. Officers who fell outside this majority group may lack sufficient training or understanding; lack motivation because of indifference, burnout, or peer pressure; or know their actions are wrong but do them anyway. When the large majority of "good" officers say nothing when they see conduct that violates standards and/or laws, however, there is a widespread, major failure of accountability within the department. As a result, the officers who engage in misconduct continue on their paths with impunity. In turn, this impunity seriously damages the morale of the majority of officers in the department.

³⁷² See Chapter 5: External Oversight for more detail.

In other words, the conduct of "a few bad apples"—as the officers implicated in Textgate were repeatedly characterized by the POA—inexorably affects the entire department, "spoiling the barrel."

A city official summarized the situation as follows:

The SFPD protects its own, and that's part of the problem with the culture. When you're a good police officer and you see another police officer do bad things [but don't report it], you're just as guilty. The culture of not saying anything still exists; you could be ostracized by other members of the department. Why do you expect people in the community to snitch on others—point the finger—when you won't do it within the department?

Recommendations

1. The SFPD should demonstrate proactive leadership to eliminate bias in the department.

To have any chance of success, efforts to address bias within the SFPD must be led by the department's leadership, and communicated "top down" at every level of command to all SFPD officers. Many witnesses viewed the SFPD as "all talk and no action." Both critics and supporters of the department acknowledged that even when the SFPD says the right thing, it too often fails to take the steps necessary to provide meaningful change within the department. Unless the SFPD is prepared to do so, including reducing the POA's influence over the department, it is unlikely the SFPD will be viewed as being seriously committed to reform.

As an employer and a municipal agency, the SFPD has obligations to officers and the community that are different from those of the POA. The SFPD should take steps to clarify how its role and positions are distinct from the POA. For example, the SFPD is obligated to provide a work environment that protects against the reality or perception of retaliation for speaking out against bias and should provide a means for officers to speak out, perhaps in the form of an ombudsman.

2. The SFPD should make the "Not On My Watch" pledge mandatory and enforce the pledge.

Currently, the "Not On My Watch" pledge, which is in part a promise to report wrongdoing, is only voluntary. Because the pledge essentially articulates a commitment to current SFPD policy as articulated in DGOs, the department should make the pledge mandatory. Likewise, because the pledge promises adherence to what are already requirements for officer conduct, the SFPD should enforce it and provide relevant periodic reports to the Police Commission.

3. The Police Commission should review current implicit-bias training within the SFPD and recommend additional or different training where appropriate.

The Police Commission should review current training on implicit bias and, where appropriate, require additional—or different—training. Implicit-bias training is currently provided only to command staff. Former Chief Suhr promised to provide it to all officers by the end of 2016. The Commission should ensure that this happens, that the training is appropriately extensive, participatory, informative, and that its effectiveness is evaluated.

4. The Police Commission should engage an outside entity to further investigate the presence of bias within the SFPD.

While officers whose interviews were suggested and arranged by the POA denied the existence of institutionalized bias within the department, several officers and other witnesses testified to the opposite. A survey of SFPD officers should be conducted by an outside entity/organization regarding issues of racial and other biases, both internal to the department and external regarding interactions with the community. The Police Commission should engage an expert in implicit bias to study the SFPD "system" and determine to what extent implicit or systemic bias affects outcomes.

5. The Police Commission should require the Chief of Police to regularly meet with all affinity groups in an effort to enhance communication and access to information.

Witnesses testified that as part of the SFPD's compliance with the consent decree, past SFPD chiefs used to meet with representatives of all the Police Employee Groups (PEGs), including affinity groups such as OFJ and Pride Alliance. Later, chiefs sent deputy chiefs rather than attending themselves, and apparently the meetings ultimately died out. Bringing back these meetings and requiring the Chief to attend in person would improve communication, flow of information, and mutual respect and trust.

6. The SFPD should form a community networking group to meet with the POA and the Police **Employee Groups.**

To increase communication with communities and make the department more transparent, the SFPD should form a community networking group by recruiting key community stakeholders. This group should meet with the POA and the PEGs at least on a quarterly basis to encourage transparency in policing, open discussion of community issues, and to identify and address problems of concern.

7. The Police Commission should engage an outside entity to examine the SFPD's hiring statistics in order to better understand the extent to which nepotism, favoritism, and the "good old boys' club" affect hiring and promotions within the department.

A variety of opinions exist with regard to whether nepotism and the "good old boys' club" actually influence the workings of the SFPD. More investigation is needed to understand the situation. In so doing, the Police Commission should engage an outside entity to thoroughly review the department's records on hiring and promotion to discover the extent to which SFPD officers come from certain schools, are related to current officers, are family friends of the Chief, etc. If these allegations turn out to be true and influential, the Commission should make the hiring process transparent and consider changing the relevant control mechanisms.

Chapter 8: Crime Data

Background

The Panel initially sought to investigate whether there was evidence of bias in clearance rates for crimes reported by the SFPD—that is, did clearance rates reported by the SFPD reveal bias depending on the race, ethnicity, or sexual orientation of the victim or perpetrator of the crime? Preliminary research revealed, however, that available data could not provide a statistical basis for answering this question. The data made publicly available by the SFPD-which, in this respect, appeared to be typical of other police departments—did not match crime clearance information with demographic information of crime victims or perpetrators. Accordingly, the Panel looked more closely at the SFPD's policies and procedures regarding collection, analysis, and publication of crime data.

This chapter provides a high-level summary of the SFPD's data practices and procedures. Other chapters of the report provide additional detail on particular aspects of SFPD data collection, analysis, and dissemination that bear directly on bias, such as stop, search, and arrest data and use-of-force data.

Crime Data Collection

The SFPD currently uses two principal systems for compiling crime data. First is its legacy Computer Assisted Bay Area Law Enforcement system, which was initially implemented by the department in the 1970s. To enter data into CABLE, incident reports—which are created at district stations—are printed, driven down to the Hall of Justice, and manually entered by department employees. As a result of this multi-step process, various crime data are entered into CABLE two to three days after they are filed, and on rare occasions not entered for several weeks. 373 The data entered into the system is sometimes inaccurate because of the highly manual entry process and the fact that the data is entered by a group of poorly compensated employees who frequently turn over, or poorly motivated officers who have been removed from the field.

In summer 2012, the SFPD introduced the Crime Data Warehouse (CDW), a cloud-based system that permits officers to enter and share data more easily. This system, developed by Oracle, houses incident reports, including some (but not all) crime data from the legacy CABLE System. CDW has a number of functions that are great improvements over CABLE. Calls for service to San Francisco's 911 system are mapped instantly in the database. Officers can create incident reports through a web-based portal, either at stations or on their smartphones, which can be instantly viewed by other officers (after the officer-incharge electronically signs the report). CDW permits officers to search for crimes by location or search for

³⁷³ Memorandum from Corina Monzón, et al., Office of the Controller, City and County of San Francisco, to Greg Suhr, Chief SFPD, entitled CompStat Review (Jan. 20, 2012), http://sfcontroller.org/sites/default/files/FileCenter/Documents/2878-SFPD_ CompStat_Memo_FINAL.pdf at 8.

people by a number of different fields. Officers can access or search CDW from any computer terminal or smart phone that is connected to the Internet, permitting them access to CDW's data even when they are in the field. CDW can create customized reports, allowing captains to better understand crime trends in their districts. Despite these great improvements, the department has continued to use the legacy CABLE system to this present day, primarily because other agencies, such as the court system, continue to use and rely on it.

The SFPD is currently piloting a smart phone app that allows officers to record citations on a smart phone. The department has plans to expand the functionality of this program to allow certificates of release from detention and field interview cards to be entered on smart phones as well.³⁷⁵ The SFPD plans to require citations to include race and ethnicity information.

Crime Data Analysis

The primary way that the SFPD analyzes its crime data is through the Compstat process. Compstat—short for "computer statistics"—is a system used to "reduce crime and achieve other police department goals" through "information-sharing, responsibility and accountability, and improving effectiveness." Compstat has four central elements: (1) timely and accurate information, (2) rapid deployment of resources, (3) effective tactics, and (4) follow-up.³⁷⁶ While the specific contours of a Compstat program may vary from department to department, the core concepts are to use data to identify problems, redeploy resources to respond to those problems, and then empirically evaluate the effectiveness of these efforts.

In 2009, under the direction of newly-appointed Chief George Gascón, the SFPD began implementing a Compstat program. Gascón—a former assistant chief in the Los Angeles Police Department—hired Jeffrey Godown, a then 29-year law-enforcement veteran who ran the LAPD Compstat program.³⁷⁷ Godown was tasked with developing a Compstat system for the SFPD that would be modeled on the Compstat program implemented by the LAPD.

The SFPD houses its Compstat unit within its Crime Analysis Unit (under the Planning Division) and implements it through monthly meetings. Commanders, district captains, and other officers attend these meetings, which are open to the public. For each district, the commanders review crime statistics from the prior month and ask each captain about crime trends and what he or she is doing to address them. The questions the commanders asked are often quite specific and at times pointed. Commanders ask about specific types of crimes, specific streets where crimes occur, and specific trends that stand out to them. The captains have to offer explanation for the identified trends in some detail, and often address questions with specific strategies aimed at addressing their commanders' concerns.

Crime Data Dissemination

The SFPD recently started to publish a variety of different sets of crime data on its website. First, the department published data that are reviewed at its monthly Compstat meetings.³⁷⁸ These reports provide

³⁷⁴ See generally, Susan Merritt, New Techs. Deployed by the San Francisco Police Dep't (Nov. 2014) ("Meritt Presentation"), http://techforum.apcointl.org/wp-content/uploads/6 Merritt SFPD ETF1114.pdf.

³⁷⁵ San Francisco Police Dept't, Final Report of the President's Task Force on 21st Century Policing (Sep. 2015), http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27535-SFPD%20Response_21st%20Century%20Policing_Final%202015_09_22.pdf.

³⁷⁶ This description of Compstat is derived from interviews and from the Police Executive Research Forum's paper: Police Executive Research Forum, Compstat: Its Origins, Evolution, and Future in Law Enforcement Agencies (2013), https://www.policeforum.org/assets/docs/Free_Online_Documents/Compstat/compstat%20-%20its%20origins%20evolution%20and%20future%20in%20|law%20enforcement%20agencies%202013.pdf.

³⁷⁷ Bratton was a pioneer of crime analysis, creating the first Compstat program in New York in 1994. David Weisburd, et al., Reforming to Preserve: Compstat and Strategic Problem Solving in American Policing, 2 Criminology & Pub. Pol'y 421 (2002), http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1689&context=facpubs at 422.

³⁷⁸ Compstat Reports, San Francisco Police Dep't (May 25, 2016, 1:22 PM), http://sanfranciscopolice.org/compstatreports.

year-over-year and month-over-month statistics on what the U.S. Department of Justice defines as "Part I" crimes: homicide, rape, robbery, aggravated assault, burglary, larceny theft, motor vehicle theft, arson, and certain forms of human trafficking. These reports merely describe the number of crimes committed in a given month, and do not contain data about crime clearance, crime location within the city, or the demographics of the victim or perpetrator.³⁷⁹

Second, the SFPD publishes a fairly detailed set of information on San Francisco's OpenData website, 380 which contains a map of all reported crimes in San Francisco since 2003—the map can be filtered to display the results by date or type of crime. 381 The SFPD's website also contains a link to a third-party website that also maps San Francisco crime data. 382

Third, the SFPD publishes the data that it reports to the FBI for inclusion in the nation's Uniform Crime Reports (UCR).383 UCR is the primary tool that the FBI uses to compile and compare nationwide trends in crime. This data is limited to "Part I" crimes, the same set of crimes included in the monthly Compstat reports. The SFPD also reports a similar set of data to the California Department of Justice on a monthly basis.384

At the direction of Mayor Lee, the department recently joined the White House Police Data Initiative—a project to realize the data and technology-related recommendations of the White House Task Force on 21st Century Policing. Goals of the Police Data Initiative include increasing transparency and accountability and building community trust. Thus far, the department has posted only aggregate statistics as part of this initiative, including employee demographics, total numbers of officer-involved shootings, and racial data regarding traffic stops.385

Findings

1. The SFPD's data collection practices and data quality have been criticized in the past, and the extent to which they have improved is unclear.

Collecting and maintaining accurate data is an essential first step toward transparency, yet indications of the department's questionable data collection practices persist. Gascón noted that when he was first appointed Chief, he had to weigh whether to improve the SFPD's antiquated data systems before implementing Compstat because decision makers may have misallocated police resources if the data that went into the Compstat process was inaccurate. While CDW is unquestionably an improvement over CABLE, data quality may remain an issue.

Former Chief Greg Suhr asked the Office of the Controller to conduct a review of the department's Compstat program in 2011. The Controller published an extensive report in January 2012, finding a number of data quality issues. The data was inaccurate because it was fed into the Compstat process from "disparate data sources," and data entry was "prone to error due to manual processes, lack of training,

³⁷⁹ The SFPD also publishes a monthly report of traffic violations. See Traffic Stats (May 25, 2016, 1:22 PM), http://sanfranciscopolice. org/traffic-stats.

³⁸⁰ Public Safety, City and County of San Francisco (June 21, 2016, 12:57 PM), https://data.sfgov.org/browse?category=Public+Safety.

³⁸¹ Map: Crime Incidents - from 1 Jan 2003 (May 25, 2015, 1:28 PM), https://data.sfgov.org/Public-Safety/Map-Crime-Incidentsfrom-1-Jan-2003/gxxq-x39z. Another page on this website lists all reported crimes since January 1, 2003 in a table that the user can sort by a number of different variables. See SFPD Incidents - from1 January 2003 (May 25, 2016, 1:28 PM), https://data. sfgov.org/Public-Safety/SFPD-Incidents-from-1-January-2003/tmnf-yvry.

³⁸² Crimemapping, http://www.crimemapping.com/map/agency/334 (June 24, 2016, 6:01 PM), Crimemapping.com represents that it extracts data from the SFPD's records "on a regular basis," indicating the SFPD has a relationship with the site. See http://www.

³⁸³ See UCR, San Francisco Police Dep't (May 25, 2016, 1:22 PM), http://sanfranciscopolice.org/UCR.

³⁸⁴ Office of the Cal. Att'y General, Criminal Statistics Reporting Requirements (Apr. 2014), https://oag.ca.gov/sites/all/files/agweb/ pdfs/cjsc/rptreq.pdf.

³⁸⁵ Data, San Francisco Police Dep't (May 25, 2016, 2:01 PM), http://sanfranciscopolice.org/data.

and high staff turnover." It also found that the reporting of Part I data in the SFPD's UCR reports did not match the reporting of Part I data in its Compstat reports when the figures should have been "relatively comparable." 386

The report identified more than 100 recommendations that could improve data quality, including a number of recommendations concerning the department's then-forthcoming implementation of the Crime Data Warehouse. In an interview, Susan Merritt, Chief Information Officer of the SFPD, attested that she maintained a personal spreadsheet to keep track of progress with regard to these recommendations, but the Panel could not find any public report that kept track of progress made on these recommendations. According to the Controller's Office, the SFPD recently requested a follow-up review of its data practices.

There are indications that discrepancies in crime data remain. In May 2016, the DA sent a letter to former Chief Suhr pointing out that the SFPD reported two different sets of crime statistics for 2015 and requesting a meeting to discuss the SFPD's crime data methodology. Former Chief Suhr responded several days later, agreeing to meet with the DA but not providing any comprehensive answer for the different figures that the DA noted.

2. The Compstat process focuses on crime statistics, but not accountability.

The Compstat process is a means for the SFPD to analyze crime data and deploy resources. It provides a forum for the public to hear about trends in crime, as well as an opportunity for captains to share information and ideas with each other. Critical to any Compstat process, however, is a focus on accountability. While commanders may ask captains to explain crime statistics from their districts during public meetings, a formal or systematic evaluation of past initiatives is seemingly outside the scope of the department's current Compstat practices.

3. The SFPD's public reporting of crime data has become less robust, frequent, and detailed over the past five years.

As of May 25, 2016, the SFPD's website contained monthly Compstat reports going back to October 2015, but no reports for the months May 2014 through September 2015. Furthermore, more recent Compstat reports only provided information on a city-wide basis. This was not always the case—Compstat reports from 2009 through May 2014 contained district-level detail, and some contained information on crimes other than Part I crimes. Not publicly reporting aggregate crime data by district prevents the public from assessing whether crime data in areas with larger populations of color is in line with crime trends in other areas. Similarly, by reporting aggregated crime data, the department prevents the public from assessing whether crime is increasing or decreasing in their particular community.

Further, there are reports that the crime data that is made public by the department is sometimes not published on a timely basis. For example, a December 2015 San Francisco Examiner article revealed that the SFPD had not published Compstat reports since the summer, and had actually removed certain data from prior time periods from its website.³⁸⁷

³⁸⁶ Memorandum from Corina Monzón, et al., Office of the Controller, City and County of San Francisco, to Greg Suhr, Chief SFPD, entitled CompStat Review (Jan. 20, 2012), http://sfcontroller.org/sites/default/files/FileCenter/Documents/2878-SFPD_compStat_Memo_FINAL.pdf at 1.

³⁸⁷ Jonah Owen Lamb and Michael Barba, SF Police Refuse to Release Damning Crime Stats, S.F. Examiner, Dec. 6, 2015, http://www.sfexaminer.com/police-refuse-to-release-damning-crime-stats/.

Recommendations

The SFPD should take steps to ensure the accuracy of its crime data and its data practices and quality should be regularly audited.

The SFPD should phase out obsolete systems—such as the legacy CABLE system—given that the reporting of crime information into that system is laborious, prone to inaccuracy, and duplicative of the data reported to the Crime Data Warehouse. It should also adopt internal guidelines that provide rules, processes, and procedures to guide department employees' input and reporting of crime data and prioritize the hiring of non-sworn personnel with technology backgrounds to assist in the implementation and development of the aforementioned guidelines.

The SFPD's data collection practices and data quality should also be subject to a regular audit. Given the central importance of accurate data to properly allocate resources, evaluate effectiveness, and monitor potential bias and other impropriety, an external entity should act as the auditor.

2. The SFPD should take steps to improve its Compstat process.

The department should adopt a policy that outlines its stated goals in implementing a Compstat process and secures the commitment of both command staff and rank-and-file officers to take efforts to ensure the success of the Compstat process. This includes prioritizing the timely and accurate collection of crime data, publicizing its monthly Compstat meetings, and providing the public with crime data that permits it to assess whether the department's policing efforts have been successful. Captains should be assessed on what they are doing to establish and develop community-policing partnerships and problem-solving strategies to combat specific trends in their districts, and commanders should then follow-up in future Compstat meetings to ensure that the measures taken generate results. The department should also consider evaluating data related to biased policing in Compstat meetings.

3. The SFPD should make crime data regularly available to the public.

The department should make crime data available on a monthly basis—at a minimum. The data should be tied to specific communities, districts, and/or divisions so that the public may assess the efficacy of policing efforts in particular neighborhoods. The data collected and released should include demographic information sufficient to track evidence of potential bias. It should also aim to achieve the goals represented by the department's commitment as part of the White House Police Data Initiative-increasing transparency and accountability and building community trust.

Appendix A: List of All Findings and Recommendations

Findings

Stops, Searches, and Arrests

- 1. The San Francisco Police Department's (SFPD's) stated policies prohibiting biased policing are in line with best practices.
- 2. Available statistics indicate racial disparities in SFPD stops, searches, and arrests.
- Community members and others have experienced bias in SFPD stops, searches, and arrests of people of color.
- 4. Community members have expressed concern that the SFPD does not engage in community policing.
- 5. The SFPD may use confrontational and intrusive policing tactics in certain neighborhoods.
- 6. The SFPD's current traffic stop data collection program is outdated and inconsistent.
- 7. A recently passed city ordinance requires data collection for all encounters and regular analysis and reporting of data.
- 8. The SFPD has not consistently collected traffic stop data.
- 9. The requirements of the SFPD's current traffic stop data collection program are unclear.
- 10. The SFPD has not regularly analyzed its stop data.
- 11. The SFPD has failed to report the number of Hispanic arrestees to the California Department of Justice.
- 12. The department's 849(b) release forms do not include demographic information and are kept only in hard copy.
- 13. Field interview cards include demographic information and are maintained electronically.
- 14. Body-worn cameras are predicted to reduce the number of citizen complaints and use-of-force incidents.
- 15. Body-worn camera footage will be used as evidence in legal and administrative proceedings.
- 16. SFPD and Police Officers' Association (POA) members were disproportionately represented on the body-worn camera policy working group.
- 17. Members of the body-worn camera policy working group disagreed over the issue of officer review of footage.
- 18. The Risk Management Office will monitor compliance with the body-worn camera policy.
- 19. There is anecdotal evidence that some members of the SFPD engage in stop-and-frisk detentions, contrary to official SFPD policy.

Personnel

- 20. The SFPD prioritizes recruitment outreach to young people and aims to provide them with a positive experience of the department.
- 21. The Chief of Police, as the appointing authority, makes the final decision about who will be invited to attend the Police Academy.
- 22. The SFPD's Background Investigation Unit conducts extensive investigations, but its operations are fairly opaque and inefficient.
- 23. While the SFPD has an explicit policy against nepotism and favoritism, and the department has instituted some practices to guard against nepotism, more can be done to curb actual or perceived nepotism in hiring.
- 24. The absence of rules governing the selection of promotional candidates and the discretion held by the Chief, along with the lack of programs offering support to those seeking promotions, raises the likelihood of bias or favoritism in promotion decisions.
- 25. Available data indicate that racial and gender diversity at the SFPD has been stagnant over the past three years, during a time when the department greatly increased its hiring.
- 26. The percentage of officers of color receiving promotions is rising, and an outsized percentage of women are being promoted.

Use of Force and Officer-Involved-Shootings

- 27. The SFPD's use-of-force policies are contrary to best practices and should be revised.
- 28. The SFPD did not provide sufficient information to evaluate its use-of-force training.
- 29. The SFPD does not collect data sufficient to evaluate whether people of color are disproportionately the subject of police use of force.
- 30. The SFPD's implementation of a body-worn camera policy is a positive development, but the final adopted policy reduces accountability benefits.
- 31. Officer involved shooting investigations conducted by the District Attorney's Office suffer from a lack of independence and an outdated notification system.

Internal Discipline

- 32. The SFPD's internal discipline process is opaque.
- 33. It is unclear whether the Chief's disciplinary authority is appropriate.
- 34. The SFPD does not track or evaluate discipline data in a robust manner.
- 35. The process from the filing of a complaint to resolution is too slow and can be subject to strategic manipulation.
- 36. Protections for whistleblowers do not appear to be an area of emphasis.
- 37. Internal Affairs Division positions have traditionally been viewed as a relatively low-status position within SFPD, although there is some evidence that is changing.
- 38. SFPD leadership sets a highly influential tone regarding discipline and accountability.
- 39. The POA plays a role in the SFPD's disciplinary process.
- The SFPD rarely intervenes when Early Intervention System warnings are triggered.

External Oversight

- 41. San Francisco's police oversight structure is unique and, in some respects, effective.
- 42. No entity regularly audits SFPD operational effectiveness, high-risk activities, or compliance with policies.
- 43. In the wake of the texting scandal, no oversight body has undertaken any formal investigation or audit of the SFPD to determine whether there is systemic bias within the department.
- 44. Time and resource constraints hamper the Police Commission's ability to fulfill its many responsibilities.
- 45. Complaints made to the Office of Citizen Complaints (OCC) rarely result in disciplinary consequences, and when they do, the discipline imposed is almost always mild.
- 46. The OCC has failed to meet its own goals for completing timely investigations and suffers from a lack of resources.
- 47. The Police Commission is currently managing its docket of disciplinary cases and imposing serious discipline, but the lack of available information makes it difficult to evaluate whether the Commission is acting consistently and appropriately in all instances.
- 48. State law imposes significant restrictions on the transparency of officer discipline.
- 49. San Francisco is not as transparent about officer discipline as existing confidentiality laws permit, or as its own rules require.
- 50. Lack of transparency surrounding officer discipline makes it difficult to determine whether disciplinary outcomes are fair and appropriate.
- 51. Community members report that the lack of information about the outcomes of OCC complaints and officer disciplinary proceedings generates mistrust of the OCC and the SFPD, and a perception that the disciplinary process is ineffective.
- 52. The current Police Commission has adopted a collaborative and inclusive process for making and revising policy, but the inclusiveness of the policymaking process is limited by collective bargaining rules that give substantial power to the POA relative to other stakeholders.
- 53. Policy priority-setting at the Police Commission is reactive and the ongoing process of revising existing policies can be slow.
- 54. Resource and informational constraints limit OCC's ability to contribute to the policymaking process.

Brady Policies and Practices

- 55. Both the District Attorney's (DA's) Office and SFPD have *Brady* policies and dedicated *Brady* units and committees.
- 56. The DA's Trial Integrity Unit and SFPD's Brady Unit maintain open and positive lines of communication.
- 57. Both the SFPD and the DA policies lack established deadlines for Brady disclosure.
- 58. SFPD Bureau Order 2010-01 fails to address the treatment and disclosure of *Brady* material outside personnel files.
- 59. SFPD Bureau Order 2010-01 does not impose mandatory reporting obligations upon officers and employees who discover *Brady* material.
- 60. There is no reporting chain between the Office of Citizen Complaints and the SFPD's *Brady* Unit or *Brady* Committee.
- 61. The SFPD *Brady* Committee holds quarterly meetings, which may be insufficient to guarantee timely *Brady* compliance.
- 62. SFPD officers do not receive regular, quality Brady training.

Culture

- 63. While witnesses unanimously agreed that individual bias exists, a segment of SFPD officers claim there is no systemic or institutionalized bias within the department.
- 64. Several SFPD officers and other witnesses believe that systemic and institutionalized bias is widespread in the department.
- 65. Officers were reluctant to engage with the Panel for fear of retaliation from the POA and/or SFPD.
- 66. The SFPD blurs the line between it and the POA, and allows the POA to take on an outsized role inside and outside the department, making it more difficult to address the issue of bias within the department.
- 67. The POA has historically taken positions resistant to reform and insisted that there is no widespread or inherent bias in the department. Because the department has consistently ceded the ground of discourse to the POA, theirs is the dominant law enforcement voice heard on this issue.
- 68. Several witnesses stated that the SFPD and POA functioned like a "good old boys' club," making it difficult to impose discipline.
- 69. Witnesses perceive that a code of silence and lack of transparency creates a failure of accountability in addressing bias within the SFPD.

Crime Data

- 70. The SFPD's data collection practices and data quality have been criticized in the past, and the extent to which they have improved is unclear.
- 71. The Compstat process focuses on crime statistics, but not accountability.
- 72. The SFPD's public reporting of crime data has become less robust, frequent, and detailed over the past five years.

Recommendations

General

- 1. The Police Commission should review department general orders on a regular basis.
- 2. The SFPD should cease the use of departmental bulletins to modify policies.
- 3. The SFPD should make all departmental bulletins publicly available online.

Stops, Searches, and Arrests

- 4. SFPD should engage in community policing and community outreach.
- 5. The SFPD should improve initial and follow-up training on implicit bias, procedural justice, and racial profiling.
- 6. The SFPD should incorporate procedural justice language into its department general orders and department bulletins.
- 7. The SFPD should issue a department bulletin addressing searches of transgender individuals.
- 8. The SFPD should update its current data collection policy to clearly define when data collection is required.
- 9. The SFPD's policies implementing the recent data collection ordinance should clearly define when data collection is required.
- 10. The SFPD should implement a system to monitor and facilitate officer and supervisor compliance with its data collection policy.

- 11. The SFPD should make its stop data publicly available on a monthly basis.
- 12. The city should engage outside researchers or consultants to analyze stop data.
- 13. The SFPD should internally audit and regularly review its stop data for internal benchmarking.
- 14. The SFPD should require demographic information on 849(b) forms, analyze the data from 849(b) forms and field interview cards, and issue a certificate of detention to anyone detained and released in accordance with 849(c).
- 15. The body-worn camera policy should prevent officer review of footage following any reportable use-offorce incident.
- 16. The SFPD should establish specific criteria for the release of body-worn camera footage to the public.
- 17. The SFPD should use body-worn camera recordings for internal and external accountability purposes.
- 18. The SFPD should collect data regarding body-worn camera usage to monitor compliance and should establish a clear policy that body-worn camera violations may be grounds for discipline.
- 19. After the body-worn camera policy is implemented, it should be actively reviewed every six months and revised if necessary.
- 20. The body-worn camera training materials should provide more specificity regarding usage.
- 21. The SFPD should develop and implement a training program for body-worn camera use.
- 22. The SFPD should eliminate any unlawful stop-and-frisk practices and should collect the data necessary to determine whether such practices are occurring in violation of SFPD policy.

Personnel

- 23. The SFPD should rededicate itself to recruiting and hiring more officers of color, especially from San Francisco.
- 24. The SFPD should continue and expand its efforts to build relationships with young people in the community.
- 25. The SFPD should increase transparency in the selection of background investigators.
- 26. The SFPD should mandate regular implicit-bias training for background investigators.
- 27. Background investigators should sign a standardized form stating that there is no prior relationship with the applicant for each assigned case.
- 28. The SFPD should institute a high-level hiring committee to sign off on the Chief of Police's final hiring decisions, including deviations from the standard hiring and training process.
- 29. The Police Commission should create and implement transparent hiring and promotions processes and criteria, including a requirement that every candidate's disciplinary history and secondary criteria be considered.

Use of Force and Officer-Involved Shootings

- 30. The SFPD should regularly update, review, and revise its use-of-force policies.
- 31. The SFPD's use-of-force policy should clearly and concisely state guiding principles and expectations.
- 32. The SFPD should limit the circumstances where the carotid restraint is an acceptable use-of-force technique and delineate those circumstances in the written policies.
- 33. The SFPD should eliminate its "escalating scale" of permissible uses of force in its use-of-force policy and include a focus on "de-escalation."
- 34. The SFPD should articulate all permissible types of chemical agents, impact weapons, and extended-range impact weapons in its use-of-force policy.

- 35. SFPD supervisors should be required to evaluate the reasonableness of force after all use-of-force incidents.
- 36. The SFPD's use-of-force policy should include a provision emphasizing the SFPD's duty to conduct fair and unbiased policing.
- The SFPD should adopt the "guardian" mentality in its use-of-force training.
- 38. The SFPD should expand its training on de-escalation and proportionality.
- 39. The SFPD should expand implicit-bias training, including use-of-force scenario training and community involvement.
- 40. The SFPD should expand the definition of what constitutes a reportable use of force.
- 41. For reportable uses of force, the SFPD should expand the types of information that it collects and reports for each instance, including demographic information about each subject.
- 42. The SFPD should clarify who is responsible for reporting use-of-force information.
- 43. The SFPD should collect use-of-force reports in an electronic format.
- 44. The SFPD should evaluate how body-worn camera footage can improve scenario-based training.

Internal Discipline

- 45. The SFPD should publish and adhere to updated disciplinary guidelines.
- 46. The SFPD should implement a single, department-wide system to track discipline and regularly report data to the public.
- 47. The SFPD should document and audit its internal discipline process.
- 48. Early Intervention System alerts should be reviewed by captains or command staff.
- 49. SFPD leadership should implement a culture of respect for the Internal Affairs Division.
- 50. The SFPD should highlight the City's existing whistleblower protections and apply them to people who report all types of SFPD policy violations.
- 51. The SFPD should implement a strong policy of disciplining any cover-ups of misconduct.
- 52. The SFPD should employ careful review of prior complaints against the same officer.
- 53. The SFPD should implement civilian direction/management of the Internal Affairs Division.

External Oversight

- 54. An Office of Inspector General should be created that should regularly audit the SFPD and OCC for operational effectiveness and compliance with policy.
- 55. The investigative and policy capabilities of the OCC should be enhanced.
- 56. The Police Commission should have a dedicated policy analyst and access to a statistician.
- 57. The Police Commission should develop clear guidelines allowing the use of body-worn camera footage in disciplinary proceedings.
- 58. Police oversight should be as transparent as the law allows.

Brady Policies and Practices

- 59. Police officers, employees, the SFPD Internal Affairs Department, and the OCC should be required to provide potential Brady material to the SFPD Brady Unit within 14 days of discovery.
- 60. The SFPD should require that its Brady Unit review reports of misconduct for Brady material within seven days of receipt, and make a preliminary disclosure of potential Brady "pending" investigations to the DA Trial Integrity Unit within three days of this determination.

- 61. The SFPD should require its *Brady* Committee to, absent extraordinary circumstances, complete its review of misconduct and issue recommendations within 45 days of receipt.
- 62. The DA should update its formal policies to incorporate firm, mandatory Brady disclosure deadlines.
- 63. The SFPD should implement a *Brady* policy addressing *Brady* material located outside peace officer personnel files.
- 64. The DA and SFPD should track and review *Brady* data and prepare an annual report to the public on *Brady* findings—sustained and unfounded—in order to understand the magnitude of any problem, identify potential problem stations, and better inform training.
- 65. The SFPD should train and encourage police officers to consult with legal counsel on questions of *Brady* application and compliance.
- 66. The DA should provide annual interagency *Brady* training tailored to both DA attorneys and SFPD police officers and employees.
- 67. The SFPD and DA should coordinate and adopt a uniform *Brady* policy and protocol to assure joint, timely, and seamless interagency communication and compliance.
- 68. The DA should require prosecutors to make a record of written requests to testifying police officers to report any *Brady* information and retain police officer responses.
- 69. The SFPD should work with the Office of Citizen Complaints to send its sustained findings of misconduct to the SFPD *Brady* Unit and/or *Brady* Committee for review.
- 70. The San Francisco City Attorney should report civil cases against peace officers to the DA's Trial Integrity Unit.
- 71. The DA should consider adopting an open file discovery policy.

Culture

- 72. The SFPD should demonstrate proactive leadership to eliminate bias in the department.
- 73. The SFPD should make the "Not On My Watch" pledge mandatory and enforce the pledge.
- 74. The Police Commission should review current implicit-bias training within the SFPD and recommend additional or different training where appropriate.
- 75. The Police Commission should engage an outside entity to further investigate the presence of bias within the SFPD.
- 76. The Police Commission should require the Chief of Police to regularly meet with all affinity groups in an effort to enhance communication and access to information.
- 77. The SFPD should form a community networking group to meet with the POA and the Police Employee Groups.
- 78. The Police Commission should engage an outside entity to examine the SFPD's hiring statistics in order to better understand the extent to which nepotism, favoritism, and the "good old boys' club" affect hiring and promotions within the department.

Crime Data

- 79. The SFPD should take steps to ensure the accuracy of its crime data and its data practices and quality should be regularly audited.
- 80. The SFPD should take steps to improve its Compstat process.
- 81. The SFPD should make crime data regularly available to the public.

Appendix B:

A Timeline of San Francisco Police Department Incidents and Calls for Reform

1937

Following an outpouring of civic anger, the Mayor and District Attorney of San Francisco hired a private investigator to examine alleged bribery and corruption in the San Francisco Police Department (SFPD). The entire Police Commission was required to step down, along with dozens of officers who were fired or resigned. During this time, one officer killed himself and his family. The report into the corruption—which included wide-ranging findings of pay-offs, staged raids and bail-bond skimming—went missing from the County Clerk's office in 1939. For more than 70 years, this two-million-word report has remained missing.

1943

The San Francisco Chronicle ran an exposé of an alleged clique of officers who profited from bars, vice, and gambling. The San Francisco Chronicle also ran a 12-part exposé series in 1955 on corruption in the SFPD, which come to be known as the "Blue Gang" stories. It is not clear if any official investigation was ever launched into these allegations.

1960

SFPD officers used fire hoses on a group of students on the steps of City Hall who were protesting the House Subcommittee on Un-American Activities. Officers were accused of beating, clubbing, and dragging the students down the steps, where 64 of the demonstrators were arrested. The incident, which later became known as "Black Friday," is thought to have sparked the Free Speech Movement in Berkeley that happened four years later. The San Francisco Chronicle ran a 50th anniversary article in May 2010 with interviews of the protestors, now senior citizens, who reconvened at City Hall to remember the event.

1965

The newly formed Council on Religion and the Homosexual (CRH) held a fund-raising event in central San Francisco. The SFPD attempted to force the organizers to cancel the event, but, following a meeting with the group's ministers, agreed not to interfere. Guests arrived to find police taking pictures of each of them as they entered and left. The organization's lawyers refused to allow the police to enter the venue and were arrested on charges of obstructing an officer. The arrested lawyers came to trial represented by the American Civil Liberties Union (ACLU). All charges against them were dropped.

1966

Members of the SFPD targeted members of the transgender and transsexual community by arresting and mistreating patrons of Compton's Cafeteria (a late night restaurant in the Tenderloin). A riot started after an officer attempted to arrest a transgender women and she threw her coffee in his face. The incident was one of the first public protests against the SFPD's treatment of the lesbian, gay, bisexual, and transgender (LGBT) community.

Employment Practices and 1979 Consent Decree

Public Advocates, a non-profit law firm and advocacy organization, brought a civil rights suit against the San Francisco Police Commission and the San Francisco Civil Service Commission on behalf of Officers for Justice (OFJ) in 1973. The action sought to challenge the SFPD's use of quota hiring and specifically focused on the use of entrance examinations. It also petitioned the court for changes to the use of such exams to select candidates for promotion to sergeant, lieutenant, and captain and to monitor the development and use of new tests. The U.S. Department of Justice (DOJ) subsequently sued the City for discriminatory employment practices—this suit was consolidated with the one brought by OFJ.

The suit was successful and in November 1973, the court announced a preliminary decision that prevented the further use of the various tests and introduced quotas on the hiring of and promotion to sergeant. The court findings were revised in May 1975 to take account of the results of newly developed entrance examinations. The original racial quotas were abolished and substituted with a gender-based quota.

The case ultimately resulted in a consent decree, which set goals for hiring and promotion to sergeants, assistant inspectors, lieutenants, and captains with 50% of all vacancies to be filled by Blacks, Hispanics, or Asians/Pacific Islanders. The consent decree was intended to govern selection procedures for 10 years, requiring the City to promote a certain number of officers and prohibiting the City from using methods in its hiring and promotions that would adversely impact women and people of color.

In 1989, most of the required promotions still had not been made because of delays in the test development process. In response to this, the district court ruled that the decree would not terminate by its own terms, but rather only with the court's approval. A "Supplemental Order" was entered by the district court to address the City's failures to meet the prescribed quotas.

A 1991 ruling confirmed that "banding" of test scores was a legal affirmative-action tool to meet promotional goals (banding is the use of a range or "band" of test scores that are statistically insignificant and therefore equivalent for the purpose of determining employment qualifications). This approach provided the City with a method for selecting qualified and diverse candidates from an examination results list. The constitutionality of banding was upheld in the Ninth Circuit Court of Appeals in 1992. A group of experts (representing the City and the other parties) developed a lieutenant's examination and, in April 1993, 255 candidates sat for the test.

Most of the provisions of the consent decree were lifted in 1998, bringing 25 years of litigation and court-ordered monitoring to an end. The City agreed to continue affirmative-action policies and practices and pledged that 45 percent of all new recruits would be people of color. The City also agreed to actively recruit qualified pools of candidates to ensure a representative refection of the diversity of San Francisco and to look more holistically at educational background and professional training when selecting for promotion. In addition, the City committed to continuing a mentoring program aimed at retaining minority and female officers, and implemented a career development program to help all officers learn the skills needed to achieve promotions.

1979

In 1979, community members responded angrily to a verdict of manslaughter (rather than first-degree murder) for the shooting deaths of Supervisor Harvey Milk and Mayor George Moscone. Several hundred San Francisco citizens marched to City Hall. There were allegations that the police reacted to the march aggressively and with unwarranted force, not only at City Hall but also in the Castro area of the city later that night and the following night. The series of the clashes with the police, which become known as the "White Night Riots," resulted in civil lawsuits against the SFPD from citizens who alleged widespread abuses of police powers. In particular, patrons of a bar in the Castro area, Elephant Walk, claimed abusive behavior by officers.

1984

Four SFPD officers were fired after paying a prostitute to perform a sex act on an unwilling, and reportedly gay, police cadet at a graduation party. The incident was allegedly leaked by a female officer who had been one of the first new recruits under the quotas mandated by the 1979 consent decree. The whistleblower later went on to claim that she suffered sexual harassment for almost a decade within the SFPD.

1988

During a peaceful protest in Union Square, Dolores Huerta, a well-known economic justice advocate, was beaten with a police baton. The beating by a helmeted member of SFPD was caught on video camera and broadcast widely on local news channels. The footage included a clear image of the butt-end of the baton being rammed into Huerta's torso—she suffered several broken ribs and significant internal injuries. necessitating emergency removal of her spleen. Ms. Huerta filed a civil lawsuit against the City and won a substantial settlement. The aftermath of the assault prompted another movement to change SFPD crowdcontrol policies and a call to address the way in which police misconduct is handled.

1989

A local AIDS advocacy group, ACT UP, organized one of their recurring protests to draw attention to the need for government action to address the AIDS epidemic. The protestors attempted to march directly from City Hall to the Castro area of the city. Although the advocacy group followed the same routine as numerous prior protests, police motorcyclists interrupted their route. When the group's police-liaison approached the officers to question why the department was interrupting the protest, he was pushed to the ground and arrested. The march continued without incident until the protestors reached the street intersection where they paused to chant slogans.

They were met by police officers blocking the intersection and forcing them onto Castro Street itself, where they mingled with bystanders. Officers then began arresting protestors and turned their attention to the rest of the crowd. Tactical officers were sent in and ordered members of the public to clear the streets. A line of officers charged down Castro Street, trapping many members of the public between themselves and the initial officers in attendance. Witnesses described being beaten and clubbed with batons and 10 members of the public were seriously injured. Those who managed to enter shops and dwellings on Castro Street were trapped inside for an hour while the seven-block area was declared an unlawful assembly zone.

The police reaction and resulting aftermath led to a class action lawsuit against the City that ultimately cost the City hundreds of thousands of dollars and led to the suspension and resignation of senior members of SFPD. Mayor Art Agnos ordered an investigation into the event and publicly declared it "deeply disturbing." The Office of Citizen Complaints determined that the "Castro Sweep" was ordered by Deputy Chief Jack Jordan. The investigation also found that half of the entire police department had been dispatched to manage a routine protest, which had previously required a minimal presence to maintain order. Deputy Chief Jordan was demoted and later resigned from the department, allegedly in connection to the aftermath of the Dolores Huerta incident in 1983 rather than the Castro Sweep. Captain Richard Cairns was placed on administrative duty and later suspended, Deputy Chief Frank Reed was reprimanded, and Captain Richard Fife was reassigned to the traffic bureau. Following his suspension, Captain Cairns sued the City over how his disciplinary action was handled. He had been personally identified by a man injured on Castro Street as the officer who had assaulted him.

1992

SFPD Chief Richard Hongisto was fired after a tenure of only six weeks. Community activists were highly critical of his handling of the demonstrations in San Francisco in the wake of the Rodney King police brutality in Los Angeles. During the demonstrations in San Francisco, an entire neighborhood was subject to widespread arrests. Those individuals arrested were then processed in Alameda County, a tactic which

prevented them from returning to demonstrate in San Francisco. The San Francisco Board of Supervisors ordered Chief Hongisto to release the citizens he had arrested.

Shortly after the demonstrations, the San Francisco Bay Times (a free LGBT community newspaper) published a doctored image of Chief Hongisto, depicting his head on the body of a lesbian activist. Around 2,000 copies of the paper were found at a police station, having been removed from news racks by three officers. Chief Hongisto denied that he had attempted to censor the press but the San Francisco Police Commission found this to be the case and he was dismissed by the Mayor. One of the officers alleged to have been involved in removing the papers, Gary Delagnes, later went on to become president of the Police Officers' Association.

1995

A New Year's Eve AIDS benefit party was raided by SFPD officers and 11 party-goers were arrested. Witnesses alleged that officers used excessive force, caused injuries, and made homophobic comments. Several complaints were filed with the Office of Citizen Complaints and many complainants and witnesses appeared before the Police Commission.

Attorneys for those arrested argued that there was no reason for officers to demand a permit for the event, and therefore, there was no justification for the arrests. SFPD Deputy Chief Tom Petrini told the Police Commission that there were concerns about fire safety but an Internal Affairs Division investigation was initiated. Police Commission members were particularly troubled by reports that a camera was seized from one of those arrested and noted that it may be in breach of new policies specifically on this issue (SFPD General Order DGO 5.07 "Rights of Onlookers") (Revised Feb 1995). Four officers were charged with use of excessive force.

Also in 1995, Aaron Williams, a Black man, died while in the custody of SFPD. Witnesses described several officers, led by Officer Marc Andaya, repeatedly kicking Williams in the head. Three canisters of pepper spray were directed into William's face and, despite his difficulty in breathing, he was gagged, restrained, and placed into the back of a police van where he died within a few minutes. At a hearing in relation to William's death, the Police Commission divided on the issue of whether Officer Andaya used excessive force against Williams. Ultimately, Officer Andaya was suspended for 90 days for failing to monitor Williams' medical condition properly following his arrest. Officer Andaya's disciplinary record from his 11-year service as an Oakland Police Officer had included numerous lawsuits and complaints related to brutality and other misconduct. Andaya was ultimately terminated by the Police Commission.

2002

Three off-duty SFPD officers, Matthew Tonsing, David Lee, and Alex Fagan, Jr., demanded that two San Francisco residents, Adam Snyder and Jade Santoro, hand over their take-out fajitas. The three officers then assaulted the two men. This incident was labeled "Fajitagate" by the media. Officer Alex Fagan, Jr., was the son of recently appointed SFPD Assistant Chief Alex Fagan, who later became Chief. Grand jury indictments were served on the entire leadership of the department, including Chief Earl Sanders, accusing them of covering up an investigation into the assault by the junior officers. Owing to a lack of evidence, the charges were eventually dropped. Later, in 2006, a civil jury found former officers Fagan and Tonsing liable for damages suffered in the beating and award Snyder and Santoro \$41,000 in compensation.

2005

SFPD Officer Andrew Cohen posted clips of parody police videos on his private website. These videos appear to mock minorities, and were sexist and degrading to the LGBT community. Most of the officers involved in the videos were connected to the Bayview Police Station. The leaking of the videos occurred at a time of increased homicides, many of which were taking place in the Bayview-Hunters Point areas. Sensitivities around policing were high and there was community anger at the insulting content of the leaked videos. This incident was dubbed "Videogate."

Mayor Gavin Newsom and Police Chief Heather Fong were highly critical of the officers involved and announced plans for a panel to review the entire department's operations, alongside an Internal Affairs Department investigation. The Mayor also asked the city's Human Rights Commission and the Commission on the Status of Women to conduct their own investigations, although it is not clear whether they did so. Over a dozen officers faced some form of discipline, with Officer Cohen resigning from the department and two other officers receiving 360-day suspensions.

2006-2007

A three-month long series by the San Francisco Chronicle examined and reported on use of force by SFPD. The articles, entitled 'The Use of Force - When SFPD Officers Resort to Violence," reported that 25 percent of use-of-force incidents involved less than five percent of officers. The series criticized oversight procedures as slow and ineffectual, allowing problem officers to continue unchallenged. Police Chief Heather Fong referred to the series as inaccurate, questioning the validity of the data used and emphasized that new oversight structures had recently been put in place to monitor issues such as use of force.

2009

Former SFPD Chief Greg Suhr-then Deputy Chief-was demoted to captain after his failure to follow SFPD policies and state laws on how to deal with domestic violence allegations. An Internal Affairs Division attorney, Kelly O'Haire, prosecuted the case before the San Francisco Police Commission. O'Haire was terminated by the department shortly after Suhr became chief in 2011 and subsequently filed a lawsuit for wrongful termination against the City and Suhr. The City agreed to settle O'Haire's suit for \$725,000 in 2015.

2010

An audit of an SFPD crime laboratory revealed missing evidence. A recently retired technician, Deborah Madden, was linked to drugs missing in several cases. Chief George Gascón announced that several hundred criminal cases were to be dismissed owing to unreliability of testing practices at the laboratory. Madden was tried twice on felony charges with both juries unable to reach a decision.

2011

A federal investigation revealed that an undercover team of SFPD officers had carried out illegal searches, during which they committed theft and robbery. The officers, Sergeant Ian Furminger, Officer Edmond Robles, and Officer Reynaldo Vargas, were indicted and Furminger and Robles were convicted (Vargas pled guilty and testified against the other two). Furminger applied for bail pending his appeal. In opposition to that motion, the government released scores of text messages demonstrating racial and homophobic bias; the scandal became known as "Textgate."

Appendix C: Government Motion Containing Textgate Messages

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 1 of 9 MELINDA HAAG (CABN 132612) United States Attorney DAVID R. CALLAWAY (CABN 121782) Chief, Criminal Division 3 JOHN H. HEMANN (CABN 165823) Assistant United States Attorney 5 450 Golden Gate Avenue, Box 36055 San Francisco, California 94102-3495 6 Telephone: (415) 436-7200 FAX: (415) 436-7234 7 John.Hemann@usdoj.gov 8 Attorneys for United States of America 9 10 UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA 11 SAN FRANCISCO DIVISION 12 13 Case No. CR 14-0102 CRB UNITED STATES OF AMERICA, 14 DECLARATION OF SPECIAL AGENT TYLER Plaintiff, NAVE IN SUPPORT OF GOVERNMENT'S 15 OPPOSITION TO DEFENDANT FURMINGER'S 16 MOTION FOR BAIL PENDING APPEAL IAN FURMINGER, 17 Defendant. 18 19 I, Tyler Nave, declare as follows: 20 1. I am a Special Agent with the Federal Bureau of Investigations (FBI). I have been a special 21 agent since March 2009. I am one of the agents assigned to this case. 22 2. During the investigation that led to this case, the FBI obtained text messages for Ian Furminger's 23 personal mobile telephone number, including for the time from October 2011 to June 2012. 24 Furminger was still a San Francisco Police Officer during this time frame. Text messages for 25 earlier times were not available when the FBI obtained these messages. 26 3. I have reviewed the text messages seized by the FBI. The messages include overtly racists and 27 homophobic statements made by Furminger and people with whom he was communicating. 28 NAVE DECLARATION CR 14-0102 CRB

- 4. I prepared the attached spreadsheet, Attachment A, containing some of those messages.
 - a. The text of the messages highlighted in yellow were messages sent from Furminger's cell phone.
 - I redacted the telephone numbers from the spreadsheet.
 - i. The redactions in red, which appear as red blocks, are from Furminger's cell
 - ii. The redactions in blue are from telephone numbers I know from my investigation to be associated with other San Francisco Police Officers.
 - iii. The redactions in black are from telephone numbers associated with civilians known to the FBI or with individuals not known to the FBI.

I swear under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge. Executed this 13th day of March 2015 at San Francisco, California.

Special Agent, FBI

NAVE DECLARATION CR 14-0102 CRB

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 3 of 9

MESSAGE DATE/TIME	FROM	то	MESSAGE TEXT
10/25/2011 16:13:36			[Dont worry about my height, worry that Im white!]
10/25/2011 16:14:08			[White Power!]
10/26/2011 18:57:21 10/27/2011 17:20:30			[I was trying to be nice to you as everyone knows your gay] [I love calling you a fag! Good enough?]
10/31/2011 9:38:20			[Looks like the minutes ran out on your mexican phone again bitch!]
11/09/2011 10:07:13			[I'm working on us]
11/09/2011 10:13:24		100 m	[Fuckin border bandits]
11/09/2011 10:15:54			[We got two blacks at my boys school and they are brother and sister! There cause dad works for school district and I am watching them like hawks]
11/09/2011 10:17:46	ROSE STR	La Sala	[Do you celebrate qaunza at your school?]
11/09/2011 10:19:18			[Yeah we burn the cross on the field! Then we celebrate Whitemas]
11/09/2011 10:20:33			[Its worth every penny to live here away from the savages]
11/21/2011 17:00:35			[Those guys are pretty stupid! Ask some dumb ass questions you would expect from a black rookie! Sorry if they are your buddies!]
			[The buffalo soldier was why the indians Wouldnt shoot the niggers that fought for the confederate They
11/24/2011 7:58:49			thought they were sacred buffalo and not human]
11/24/2011 7:58:50			[They were not far off Marley was a nigger]

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 4 of 9

	TA RESERVE FOR THE	
11/24/2011 8:01:11		[Ha! We stole california from the mexicans too! Would have had Baha too but felt it wasnt worth it]
11/24/2011 8:03:41		[n The indians never had shit Columbus thought he landed where he was headed India So HE named them indians They never had a name of their own And the]
11/24/2011 8:03:42		[n re is evidence that the moors niggers were here first]
11/24/2011 8:06:41		[Gunther Furminger was a famous slave auctioneer]
12/08/2011 7:21:41		[I cant imagine working At costco and hanging out with filthy flips. hate to sound racist but that group is disgusting]
12/10/2011 7:50:55		[5 He would be so much better off had he married a white chick with a brain he would have a nice house with white kids that were not ghetto as his are An]
12/10/2011 8:06:09		[Just saw on news there was a peace march in oakland. everyone marching was whilte]
12/10/2011 15:34:36 12/10/2011 15:34:36		[My wife has 2 friends over that dont know each other the cool one says to me get me a drink nigger not knowing the other is married to one just happ] [ened right now LMFAO]
12/10/2011 16:15:04		[Can you work tomorrow?]
12/10/2011 16:32:54		[I hardly remember being at your crib! straight swervin nitro! bout to do it again foo]

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 5 of 9

12/10/2011 16:34:23			[Coolhopefully I'll be 97]
12/10/2011 16:35:04		400	[Da naaaa]
12/10/2011 16:48:54		AND DE	[Gotta get my drunk on!]
12/10/2011 16:49:42		250	[Word! let me know blood]
12/10/2011 17:21:16			Have fun tonight! but dont stand under the miselto]
12/10/2011 17:24:25	State of the same		[Hoda and i are getting married!]
12/10/2011 18:01:32			[[name redacted] walked up to [name redacted] and said Break yo-self nigga! Then [name redacted] said, dont make me go old school on yo bitch ass nigga!]
12/10/2011 10:01:02			mane me ge era earreit en pe artein ass miggar j
1/23/2012 18:00:29			Ok is fine in the morning im going. In the morning for orden my medical report to hospital
1/23/2012 18:10:51	SECTION SECTION	Market St.	Ok
1/23/2012 18:11:59 1/23/2012 18:13:19			Yeah man something else man! Fuckin sorry ass people Ok see you in susie house 3:00pm tank you
1/25/2012 16.15.19	OF CHILD SHOW A SECOND		And only when they think there caught red
1/23/2012 18:13:59			handedthere us a reason why people for not likefriendlol
1/23/2012 18:34:00			Oh my fucking god, r u kidding me? i am so sorry
			No not at all, are You kidding me? Its all good, I expected a lot of work and
1/23/2012 18:40:06	200		thats not much
1/23/2012 18:41:15	The state of the state of		They are called black
1/25/2012 11:15:08			White power
1/28/2012 12:39:45			White Power Family, [Furminger home address redacted]

	T	
2/5/2012 13:45:39		All good, I still hate black people!
2/10/2012 9:43:26		Niggers should be spayed
2/10/2012 9:44:35		I saw one an hour ago with 4 kids
2/10/2012 9:44:59		See
2/10/2012 9:45:18		That would be four less
2/21/2012 19:19:36		I am just leaving it like it is, painting KKK on the sides and calling it a day! Cross burning lowers blood pressure! I did the test
2/22/2012 13:04:25		myself!
2/22/2012 13:05:39		So do I. Every camping trip I burn an image of the prez
2/24/2012 15:36:29		At his school! Multi purpose room! Their shouldnt be any blacks!
2/28/2012 9:22:05		All niggers must fucking hang
2/28/2012 9:22:09		Oh and Peachey is fuckin retarded
2/28/2012 9:23:22	NEWSTREET,	Ask my 6 year old what he thinks about Obama
4/16/2012 12:05		[Just boarded train at Mission/16th]
4/16/2012 12:06		[Ok, watch out for BM's]
4/16/2012 12:07		[Too late. I'm surrounded. And the only gun I have is broken!]
4/16/2012 12:08		[Your fucked]
4/16/2012 12:08		[Dumb nig nugs.]
4/18/2012 19:20		[20,000 bees are in Vacaville near School but they are not dangerous like black people]
4/20/2012 15:28		[You are a total homo! And your gay!]

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 7 of 9

1	T	-	
5/5/2012 17:41:59	A STATE OF		[Busted up but thats what happens to fags!]
5/6/2012 10:54:36			[We decided to chill but ended up going to BC house for first half of fight! Home around 9 ish]
5/6/2012 10:55:29			[Coolwho won thatcottonot]
5/6/2012 10:56:23			[No, the nigger!]
5/6/2012 10:56:48			[Nigger]
5/10/2012 14:39:25			[I resent you an email because I haven't heard from you. When do you plan to pay me child support for this month?]
5/10/2012 14:40:22			[When do You plan on letting me see [name redacted]?]
5/10/2012 14:51:26			[As soon as she wants to but it would be a mistake to force her at this point.]
5/10/2012 14:51:50			[Does that mean that you don't plan on paying me?]
5/10/2012 17:02:17			[Please answer me. \nDo you plan on paying child support?\n]
5/10/2012 17:03:55			[Please answer me! Court wants joint custody, you want full custody! You have a plan to keep me out of [name redacted]life for good]
5/10/2012 17:05:40			[Court wants joint custody? What are you talking about? Will you be paying child support?]
5/10/2012 17:06:46		Maria 10	[Read last text]
			[I'm tired of your nonsense. I need to know if you are planning to pay child
5/10/2012 17:08:31			support so I can make the necessary decisions.]
5/10/2012 17:09:32			[Are You planning on letting me see [name redacted]! I am tired of You hurting her future!]

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 8 of 9

		[I'm tired of your nonsense. I need to know if you are
		planning to pay child
5/10/2012 17:11:57		support so I can make the necessary decisions.]
	College Colleg	[Are You planning on letting me see [name redacted]! I
5/10/2012 17:12:27		am tired of You hurting her future!]
5/10/2012 17:26:11		[[name redacted] doesn't want to see you. You have hurt her, repeatedly.]
		[No, You have hurt her permanently! This was never
		about her and I, and now she lost her Dad and brother
5/10/2012 17:28:02		over your inability to budget money!]
		[You should see this text war I am having with Lucie!
5/10/2012 17:28:54		Awesome! Fuck her!]
		[lan you are once againconfused, making things
	Section 1	worse and causing stress. Please reply about child
5/10/2012 17:31:17	STATE OF STA	support.]
•	1000	
		[And You broke my parents hearts too They are 81 and
F /40/2042 47:22:40		not in great health Her dog is not doing great either
5/10/2012 17:33:18		Hope your happy cause the gravy train runs]
	E3/60	[to a complete stop in 5 years My parents and Kojack
5/10/2012 17:33:19		will be gone by then and [name redacted] will be in high school]
5/10/2012 17:55:19		[I am far from confused! You have an agenda and is
		going to seriously damage [name redacted] and her
5/10/2012 17:36:14		future!
5/10/2012 17:42:38	NAME AND ADDRESS OF TAXABLE PARTY.	[Does that mean that you will pay child support?]
Of EGIL ET ITE SO	TO THE REAL PROPERTY.	[Since this all started you have done nothing to reunite
-		[name redacted] and I only
	The second secon	asked for money You all talk about me hurting Iname
5/10/2012 18:11:53		asked for money You all talk about me hurting [name redacted] but never the reason so we]

Case 3:14-cr-00102-CRB Document 247-1 Filed 03/13/15 Page 9 of 9

5/10/2012 18:14:06		[You keep creating more reasons. It's been hard to keep up. We 'all' have told you repeatedly. I only ask for [name redacted] child support when you fail to pay me.]
5/19/2012 19:45:04		[I hate to tell you this but my wife friend is over with their kids and her husband is black! If is an Attorney but should I be worried?]
5/19/2012 20:27:04		[Get ur pocket gun. Keep it available in case the monkey returns to his roots. Its not against the law to put an animal down]
5/19/2012 20:27:41	图 使用的现在分	[Well said!]
5/19/2012 20:29:32		[U may have to kill the half breed kids too. Don't worry. Their an abomination of nature anyway.]
6/2/2012 20:38:33		[Dude. Your boy made Q50 . Sgt. Aj Holder]
6/2/2012 20:39:00	RECEIPTED AND	[Fuckin nigger]
6/2/2012 20:39:46	WEST STATE OF	[LoL and Yolanda Williams]
6/2/2012 20:40:07	The sales of	[Or my]
6/2/2012 20:40:02		[Nigger bitch]
6/10/2012 22:50:24		[Your sister lies more than any nigger I have ever met in my life! You awake?]

Key	
	lan Furminger's redacted telephone number
	Police Officer's redacted telephone numbers
	Non-Police Officer's redacted telephone numbers
	lan Furimnger's sent text messages

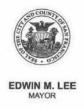
Appendix D: List of Selected Panel Interviewees

- Jeff Adachi, Public Defender, San Francisco Public Defender's Office
- John Affeldt, Managing Attorney, Public Advocates
- Imam Abu Qadir Al-Amin, Resident Imam, San Francisco Muslim Community Center
- Ali Amanath, San Francisco Police Department (SFPD) Technology Division
- Eric Baltazar, Deputy Director, San Francisco Office of Citizen Complaints (OCC)
- Rick Braziel, Executive Fellow, Police Foundation; Inspector General, Sacramento County; former Chief of Police, Sacramento, CA
- London Breed, President, San Francisco Board of Supervisors
- Amos Brown, President, San Francisco NAACP
- Brian Buchner, President, National Association for Civilian Oversight of Law Enforcement (NACOLE)
- Alex Bustamante, Inspector General, Los Angeles Police Department
- Teresa Caffesse, former Chief Attorney, San Francisco Public Defender's Office
- · Angela Chan, former Commissioner, San Francisco Police Commission
- Doug Chan, former Hearing Officer, San Francisco Police Commission
- Paul Chignell, Legal Defense Administrator, San Francisco Police Officers' Association (POA)
- Wade Chow, Chief of Trial Integrity Unit, San Francisco District Attorney's Office
- Clifford Cook, SFPD Officer
- · John Crudo, SFPD Internal Affairs Division
- Sheryl Davis, Executive Director, Collective Impact
- Petra DeJesus, Commissioner, San Francisco Police Commission
- Ines Vargas Fraenkel, Attorney, OCC
- · Dr. Lorie Fridell, Associate Professor of Criminology, University of South Florida; Author, Fair and Impartial Policing: Recommendations for the City and Police Department of San Francisco (2007)
- George Gascón, District Attorney, City of San Francisco; former Chief of Police, SFPD
- Leela Gill, Community Representative, Body-Worn Camera Policy Working Group
- Jeff Godown, Chief of Police, Oakland Unified School District; former Interim Chief of Police, SFPD
- Phillip Goff, Associate Professor, UCLA Center for Policing Equity
- Judy Greene, Director, Justice Strategies
- Michael Haddad, Attorney, Haddad & Sherwin, LLP
- Martin Halloran, President, POA
- · Jack Hart, San Francisco Police Academy
- Joyce Hicks, Director, OCC

- Benjamin Houston, Human Resources Manager, SFPD
- Victor Hwang, Commissioner, San Francisco Police Commission
- Marion Jackson, Officers for Justice; retired SFPD officer
- Jennifer Johnson, Deputy Public Defender, San Francisco Public Defender's Office
- Peter Keane, former Commissioner, San Francisco Police Commission
- Carol Kingsley, former Commissioner, San Francisco Police Commission
- Tonia Lediju, Director, Controller's Office, City Services Auditor Division, Audits Unit
- Leroy Lindo, retired SFPD Officer
- Heather Littleton, Project Manager, Controller's Office, City Services Auditor Division, City Performance Unit
- Suzy Loftus, President, San Francisco Police Commission
- Essex Lordes, Co-Director, Community United Against Violence
- Hon. Harry Low, Committee Member, SFPD Brady Committee; retired judge
- Allison MacBeth, Attorney, San Francisco District Attorney's Office, Trial Integrity Unit
- Daniel Mahoney, SFPD Personnel Division (retired)
- Samara Marion, Attorney, OCC
- Dr. Joe Marshall, Commissioner, San Francisco Police Commission
- Thomas Mazzucco, Commissioner, San Francisco Police Commission
- Tracy McCray, SFPD Officer
- Tracey Meares, Walton Hale Hamilton Professor of Law, Yale Law School
- Sonia E. Melara, Commissioner, San Francisco Police Commission
- Susan Merritt, Technology Division Director, SFPD
- Corina Monzon, Project Manager, Controller's Office, City Services Auditor Division, City Performance Unit
- · Kelly O'Haire, former Internal Affairs Division Attorney, SFPD
- Sean Perdomo, SFPD Officer
- Dr. Steven Raphael, Professor, UC Berkeley
- Joe Reilly, former Secretary, San Francisco Police Commission; SFPD Officer (retired)
- Louise Renne, former San Francisco City Attorney; former Commissioner, San Francisco Police Commission
- Shawn Richard, Brothers Against Guns
- Donna Salazar, Attorney, OCC
- Ron Sanchez, former Commander, Los Angeles Police Department
- Nina Sariaslani, Attorney, SFPD Internal Affairs Division
- Julia Sherwin, Attorney, Haddad & Sherwin, LLP
- Rev. Richard Smith, Vicar, St. John the Evangelist Episcopal Church
- Peg Stevenson, Director, Controller's Office, City Services Auditor Division, City Performance Unit
- · Greg Suhr, former Chief of Police, SFPD

- Felix Tan, Public Information Officer, City of Richmond Police Department
- Art Tapia, Member, Officers for Justice; SFPD Officer (retired)
- Rev. Arnold Townsend, Vice President, San Francisco NAACP; Associate Minister, Without Walls Church
- Mawuli Tugbenyoh, Aide to City of San Francisco Supervisor Malia Cohen
- L. Julius Turman, Vice President, San Francisco Police Commission
- · Alice Villagomez, Human Resources Director (retired), SFPD
- . Dr. Samuel Walker, Professor Emeritus, University of Nebraska School of Criminology and Criminal Justice
- Peter Walsh, SFPD Risk Management Division
- Victor Wang, Crime Analyst, City of Richmond Police Department
- · Walter Ware, SFPD Officer
- Dr. David Weisburd, Distinguished Professor, George Mason University
- Sean Whent, former Chief of Police, Oakland Police Department
- Yulanda Williams, President, Officers for Justice; SFPD Sergeant
- Ashley Worsham, Attorney, SFPD Internal Affairs Division
- Robert Yick, SFPD Internal Affairs Division
- Rebecca Young, Assistant Public Defender, San Francisco Public Defender's Office; Member, Body-Worn Camera Policy Working Group

Appendix E: Selected Correspondence Related to SFPD Cooperation with the Panel



POLICE DEPARTMENT CITY AND COUNTY OF SAN FRANCISCO

HEADQUARTERS 1245 3RD STREET SAN FRANCISCO, CALIFORNIA 94158



October 5, 2015

Mr. Anand Subramanian
Executive Director
Blue Ribon Panel on Transparency, Accountability, and
Fairness in Law Enforcement
Sent via Email: anand@policylink.org

Dear Mr. Subramanian:

I am in receipt of your e-mail dated October 1, 2015, regarding the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement.

As part of our commitment to the recommendations of the President's Task Force on 21st Century Policing, especially in regard to Pillar One; Building Trust and Transparency, the Police Department supports the efforts of the panel. We are happy to provide documentation and interviews at the request of the panel as practicable.

All requests for information and/or scheduling of interviews should be made to Deputy Chief Hector Sainez, Chief of Staff, hector.sainez@sfgov.org or through his assistant at (415) 837-7002.

Sincerely,

GREGORY P. SUHR Chief of Police

/cf



POLICE DEPARTMENT CITY AND COUNTY OF SAN FRANCISCO

HEADQUARTERS 1245 3RD STREET SAN FRANCISCO, CALIFORNIA 94158



November 6, 2015

The Honorable George Gascón District Attorney's Office 850 Bryant Street, 4th Floor San Francisco, CA 94103

Dear DA Gascón:

I am writing regarding your taskforce and "Blue Ribbon Panel On Transparency, Fairness, and Accountability in Law Enforcement" ("Panel"). Public statements that you and your office have made suggest that the taskforce is investigating the alleged misconduct of members within the San Francisco Police Department ("SFPD") relating to the well-documented "text messaging cases," and the Panel is investigating the same alleged text messaging cases, the DNA crime lab incident, and the Sheriff Department's alleged mistreatment of inmates. For me and my department to be helpful in these efforts, I need you to take certain steps to make the transfer of information both feasible and lawful.

As you know, when I received notification that members of my department were involved in racist text messaging, I was disgusted and immediately took corrective measures – actions which are well-documented in the media, at Police Commission meetings, and in correspondence between our offices. My staff investigated these allegations. As you also may be aware, a number of these officers sought relief from the Superior Court to prevent that investigation from proceeding. Those cases are pending before the Superior Court. (Daugherty et al. v. City and County of San Francisco et al., Case No. CPF-15-514302).

I know there is much work to be done to address racial and ethnic disparities and implicit bias issues not only within my department but within the entire criminal justice system. Earlier this year, the Burns Institute released a study analyzing the racial and ethnic disparity that exists within the criminal justice system here in San Francisco; from arrests to bookings, from pre-trial diversion programs to prosecution, and from conviction/sentencing to probation. No single department was immune from the findings - local law enforcement agencies, the District Attorney's Office, the Probation Department, or the Courts. Although not a new phenomenon, it was disheartening to see that after years of community involvement and youth engagement efforts with the objective of reversing this trend, there is still so much we in the criminal justice system need to do to address these disparities. I am committed to working with the Burns Institute and others to find solutions to racial and ethnic disparities and implicit bias issues that exist within my department.

Consistent with my long-standing commitment to address these issues. I have committed to working with your office to allow you, your taskforce, and your Panel to do their work to the extent feasible. practical, and lawful. That said, the information regarding the goals and status of your taskforce and/or Panel has not been made clear to me. Thus, I have only been able to discern what is available in the media. For instance, the only communication I had with you relating to your office's investigation into the text messaging incidents occurred earlier this year following your press release announcing the formation of a taskforce. On March 31, 2015, I received a letter from you requesting documents (reports, supplemental reports, and statistical data) authored by and/or related to the 14 officers involved in the "text messaging" case. As you recall, on April 7, 2015, I sent a reply to your request providing you with a point person in the Police Department's Risk Management Office who could assist your office.

Letter to DA George Gascón Page 2 November 6, 2015

Although I did not receive a response, on May 7, 2015, you held another press conference and announced that you would "expan[d] ... the existing taskforce that was implemented to investigate misconduct related to racist and homophobic text messages sent by 14 SFPD officers, revelations of faulty testing at the DNA Crime Lab, and prize-fighting of inmates in our County Jail." And you stated during this press conference that this expansion would be limited to the text messaging incident. You further announced that three notable and highly-respected judges were asked to assist with the review of 3,000 arrests in which the 14 officers were involved to ensure that bias did not play a role or result in the wrongful prosecution or conviction of any individual. You also stated during the media event that your taskforce would go further than the text messages to determine if this case was indicative of deeper biases throughout the Police Department. I welcomed the inclusion of these three judges as part of your taskforce

I am now receiving further requests for information from third-party inquirers, and I am writing to you because the requests raise issues that I need your cooperation to address.

The first issue concerns the authority of the Panel to seek information and interviews. On October 1, 2015, I received an email from Anand Subramanian, who introduced himself as the Executive Director of the Panel and claims to represent the Panel. He informed me that the three renowned judges you mentioned in your May 7 press release that formed your taskforce was "a separate entity" called the "Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement." On October 23, 2015, I received a followup email requesting interviews and documents.

This self-introduction from Mr. Subramanian coupled with the request for interviews and information sought raised a number of issues including Constitutional and statutory concerns. As Chief of Police, I am obligated to comply with the U.S. Constitution, the California Constitution, Government Code Section 3300 et al., and Penal Code Section 832.7. Thus, members may have a right to representation. All the information I have relating to your taskforce I have received thus far has been gleaned from your press releases and media reports. I do not understand the scope of the Panel's authority or scope of inquiry. For those reasons, clarifying the Panel's authority and power would aid in the Department's production of the information and interviews. For example, to what extent, if any, does the Panel and/or independent entities have authority to request interviews? Is this Panel and/or the independent entities an extension of the District Attorney's Office? Please provide the legal authority the Panel has to obtain this information and request interviews.

Second, in order to facilitate the voluminous document request we recently received and the anticipated requests we expect in the near future from the various subgroups within the Panel and taskforce you created, we ask that you designate one single point of contact within your office to work with the SFPD. Some of the information sought may be protected from public disclosure; however, it is already available to you as a law enforcement agency. I will continue to cooperate with your office and provide the information to you. It is within your discretion to determine whether it is appropriate to share information with the taskforce or the Panel that may be protected by the U.S. Constitution, California Constitution, state, or local law. Attached to this letter we are providing you with information and documents responsive to your Panel's request (Attachment 1). To the extent permissible by law and practicable, we will continue to provide additional information upon receiving the single point of contact from your office and clarifying the scope of the information sought. To assist you as you move forward, all inquiries for information, documents, or interviews should be routed through the SFPD's single point of contact, Deputy Chief Hector Sainez.

Third, the Panel is requesting information relating to Daugherty et al. v. City and County of San Francisco et al.. Case No. CPF-15-514302. There are three orders bearing on the issue of confidentiality and govern the protection of documents (Attachment 2; Protective Order dated June 22, 2015, Proposed Order Served on the City September 20, 2015. Proposed Protective Order Served on the City September 21, 2015). I am unable to provide information to the public related to the case at this time.

Letter to DA George Gascón Page 3 November 6, 2015

Fourth, I will need your office to work to clarify the information that is being sought, as some of the document requests I received are extensive and at times vague. For instance, the request is for all IAD complaint files. There is no time period attached, and there are a number of Constitutional and statutory concerns. Furthermore, some of the information sought is currently available to your office as you are a law enforcement agency, and we have an Operations and Data Sharing Agreement that dictates the access and parameters around sharing that information through the JUSTIS HUB Project (Attachment 3). Although I am fully committed to cooperating, it is simply unfeasible and unreasonable to respond to multiple entities (thirdparty inquirers and/or multiple law firms acting on behalf of the Panel) and to provide the same information/documentation to these entities, much of which is available through or has already been provided to the District Attorney's Office. I will need your office's commitment to work to gather information that it can to provide to the multiple sources, rather than have my department respond to multiple requests or to requests for information that your office can gather itself.

Finally, without further information, I cannot compel department members to be interviewed. As you know, there is a very well-crafted and proven procedure in place to request witnesses in any legal or administrative proceeding. There are already systems in place, such as the Office of Citizen Complaints and the San Francisco Police Commission, that deal with investigating allegations of peace officer misconduct. They also provide oversight to the Department and make various policy recommendations. In this instance, I lack the authority to compel or even request members of my staff to participate in the interviews the Panel has requested, especially without further information as to their creation, authority, and power. There also are concerns that various law firms may be reaching out individually to members of my department requesting an interview or appearance at a public meeting. Due to these concerns, I ask that no outside entity contact individual members of my staff for interviews. I will forward the current list of names and any subsequent requests for interviews to the San Francisco Police Officers Association for sworn members and other applicable associations for non-sworn members. Requests for appearance before the Panel, unless by subpoena, should be made through those representative bodies

Again I must stress that it is my intent to fully cooperate with any review of my Department, including alleged misconduct of members. However, there must be a clear and concise procedure in place in order for us to productively participate in the process. I will be notifying those independent entities requesting information that all inquiries should be directed through your office.

If I can be of further assistance, please feel free to contact me.

Sincerely,

GREGORY P. SUHR Chief of Police

GS/ac/cf

Attachments

Suzy Loftus, President, San Francisco Police Commission Micki Callahan, Director, San Francisco Department of Human Resources Jovce Hicks, Director, San Francisco Office of Citizen Complaints Martin Halloran, President, San Francisco Police Officers Association Raquel Silva, Executive Director, Municipal Executives Association

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



George Gascón District Attorney

November 12, 2015

Chief Gregory Suhr San Francisco Police Department 1245 3rd Street San Francisco, CA 94158

Dear Chief Suhr,

Thank you for your letter of November 6, 2015. I greatly appreciate your expressed commitment to work with us and to cooperate in our work on the critically important issue of potential bias in law enforcement in the City of San Francisco.

In response to your questions, I wanted to explain the genesis of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement ("Panel") I have initiated.

The text messaging cases to which your letter refers raised grave concerns for me and my office as well as for the City. I believe it was incumbent upon me to launch a fair, expeditious and thorough inquiry to better understand the issues of potential bias those cases raised. These issues go directly to our shared oath to uphold the Constitution of the United States and the State of California.

My office was able to identify almost 5,000 cases based in whole or in part on the actions or testimony of the officers involved in the text messaging cases, all of which required review. Because our Trial Integrity Unit has only one full-time employee, and additional resources were not made available by the City to deal with this issue, I made the decision to initiate the Blue Ribbon Panel.

The Panel is composed of three prominent retired state and federal judges in California who together have over 50 years of experience on the bench. I asked these three judges, all of whom are widely respected for their temperament, judgment and integrity, to volunteer their time to conduct a thorough review of the cases at issue. I have also asked them to ensure that their review is impartial and independent of my office as well as of other stakeholders. I intentionally chose judges from outside San Francisco precisely to avoid any claim of influence by personal relationships or political involvement. The judges are not being paid by my office or anybody else. They have committed to performing the work on a *pro bono* basis.

In addition to reviewing the individual cases, the Panel has asked to investigate and I have agreed that they should investigate, the issue of potential racial bias in law enforcement in the City more generally — an issue both you and I have pledged to comprehensively address. In that effort, the Panel is being be supported by several prominent law firms in San Francisco – including Morrison & Foerster, Sidley Austin, Sheppard Mullin, Baker & McKenzie, Morgan, Lewis & Bockius, Hanson Bridgett, and Munger, Tolles & Olson. Each firm is reviewing a separate area: 1) stops, searches and arrests, 2) personnel practices 3) culture, 4) internal discipline, 5) shootings and use of force, 6) crime clearance

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

and data, and 7) external oversight. Each firm is volunteering its services on a pro bono basis. The law firms are tasked with conducting a thorough review of their designated areas, including reviewing policies and procedures, data and written reports, and interviewing relevant parties and impacted community members. After completing the review, and based on their work, the Panel expects to issue a comprehensive report and recommendations.

The Panel has also requested the opportunity to hear directly from witnesses and from members of the public. To that end, the Panel is organizing a number of public hearings where witnesses will be invited to address the Panel in a public forum. There hearings will provide an opportunity for transparency to the community.

The City Attorney's Office has been integrally involved in the initiation of the Panel. Under state law, the panel is acting as an advisory committee pursuant to Administrative Code Chapter 67.4. I have requested that they act independently to ensure their investigation will be impartial and apolitical. In accordance with that goal, the Panel has engaged its own General Counsel, Jerry Roth of Munger, Tolles & Olson, who is working with and advising the Panel and its Executive Director, Anand Subramanian. Mr. Roth is a former federal prosecutor and white collar criminal attorney and has over three decades of experience conducting investigations. Mr. Subramanian works for PolicyLink, an independent non-profit that focuses on issues of racial and economic equity.

We welcome your pledge of cooperation. I appreciate your response to the document requests that you sent on November 6, 2015. As the Panel is independent of this office, I ask you to respond directly to the Panel (and in particular, Mr. Subramanian) regarding its requests in the future. I have also passed your letter along to Mr. Subramanian and the Panel so that they can address some of the logistical issues that your letter raised.

Respectfully,

George Gascón District Attorney

Cc: Suzy Loftus, President, San Francisco Police Commission

Joyce Hicks, Director, Office of Citizen Complaints

Martin Halloran, President, San Francisco Police Officers' Association

Micki Callahan, Director, San Francisco Department of Human Resources

Raquel Silva, Executive Director, Municipal Executives Association

Anand Subramanian, Executive Director, Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

Jerome Roth, General Counsel, Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

November 12, 2015

Chief Gregory Suhr San Francisco Police Department 1245 3rd Street San Francisco, CA 94158

Dear Chief Suhr.

District Attorney George Gascón shared with us your letter of November 6, 2015. Thank you for reaching out to him. We are writing to respond to several of the issues you raised so we can work together cooperatively to address any issues of racial bias in the Police Department that we understand are a major concern of yours.

We are the three members and the Executive Director of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement ("Panel") initiated by the District Attorney. The three of us who are the members of the Panel are all former state or federal judges in California. Although the DA initiated the Panel pursuant to his authority to enlist the assistance of advisory bodies, he has asked that the Panel operate, investigate and draw conclusions independently. As former judges, we take that commitment to independence and neutrality very seriously.

The Panel has also secured the *pro bono* services of several prominent San Francisco law firms to advise it and assist in its work. These firms are working closely with the Panel's Executive Director. Each of them has been asked to investigate issues related to one of several designated topics: 1) stops, searches and arrests, 2) personnel and internal discipline, 3) culture, 4) *Brady* procedure, 5) use of force and officer-involved shootings, 6) crime clearance, and 7) external oversight.

The purpose of the Panel is to investigate potential bias in the thousands of cases that involved police officers identified in the "text messaging cases" and to investigate more broadly issues of racial bias in law enforcement in the City of San Francisco. To correct an assumption made in your letter, the Panel will not be investigating any specific instances of "alleged misconduct" by San Francisco Police Department officers, nor will the Panel be investigating specific officers. The Panel will not be investigating the specific text messaging cases, the DNA crime lab incident, nor the Sheriff Department's alleged mistreatment of inmates. We hope this clarification alleviates most of the concerns raised in your letter.

To perform its important investigative work, the Panel has requested information, documents, and interviews of members and staff of the Department and other stakeholders. We understand that much of this information is not in the hands of the District Attorney's Office or came to that Office from the Department. We appreciate your cooperation in submitting a limited number of the requested documents to the DA's office. As I am sure you understand, the greater access the Panel and its advisors have to this important information, the more thorough, accurate, and useful its report and recommendations will be.

Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

We understand there are potential limitations to your cooperation imposed by state law. For example, we understand the Police Officer's Bill of Rights and Penal Code § 832.7 may prevent you from releasing certain information. However, much of the information would be the proper subject of a public records request and other information could be provided in redacted form to avoid running afoul of any legal prohibitions on disclosure. Nor do we understand there to be restrictions on interviews of members or staff of the Police Department.

We also want to minimize the logistical inconvenience our requests may impose. To that end, the Panel has designated its Executive Director, Mr. Anand Subramanian, to act as your centralized point of contact. He is committed to working with you and others in the Department regarding interview, document and information requests, and will direct the law firm working groups to channel any requests of the Department through him. Mr. Subramanian will be contacting Deputy Chief I lector Sainez, your designated point of contact for the Department, with a clarified list of documents and interview requests within the next week. Please feel free to contact him anytime with further questions.

We appreciate your pledge of cooperation in examining these important issues, including your stated commitment to following the recommendations of the President's Task Force on 21st Century Policing, and look forward to working with you.

Sincerely,

Anand Subramanian

Executive Director of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement

Justice Crue Revnoso

Member of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law

Enforcement

Judge LaDoris Cordell

Member of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law

Enforcement

St Dickran Levrizian

Judge Dickran Tevrizian

Member of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law

Enforcement



SACRAMENTO SAN FRANCISCO

Gregg McLean Adam gregg@majlabor.com direct 415.266.1801

Jonathan Yank jonathan@majlabor.com direct 415.266.1802

November 16, 2015

VIA E-MAIL AND REGULAR MAIL

George Gascón San Francisco District Attorney 850 Bryant Street, 3rd Floor San Francisco, CA 94103

Re: Blue Ribbon Panel on Transparency, Fairness, and Accountability

in Law Enforcement

Dear Mr. Gascón:

We write on behalf of our client, the San Francisco Police Officers Association ("POA"), to address numerous concerns brought about by the activities of your Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement ("Blue Ribbon Panel"), particularly in regard to its apparent investigation regarding so-called "text messaging cases" involving several San Francisco Police Officers. We understand that your Blue Ribbon Panel, including its legal representatives, have made requests to obtain personnel records and to arrange to take testimony of a number of Police Officers represented by the POA. And we are in receipt of a November 6, 2015 letter from Police Chief Gregory P. Suhr, in which he raised several of our concerns.

Quite correctly, Chief Suhr inquired as to the Panel's authority to obtain confidential personnel records and to require individuals to appear and testify. California Government Code section 27721 addresses when an agency has such authority, providing that such subpoena power "be authorized by ordinance or resolution to conduct the hearing; to issue subpoenas; to receive evidence; to administer oaths; to rule on questions of law and the admissibility of evidence; and to prepare a record of the proceedings." Thus, for example, Section 96.6 of the San Francisco Administrative Code provides such legislative authority to the Office of Citizen Complaints. However, as far as we are aware, no such express legislative authority has been granted to the Blue Ribbon Panel. Nor are we aware of any authority which would allow the Panel to subpoena documents expressly subject to protective orders issued by the San Francisco Superior Court in Daugherty et al. v. City and County of San Francisco et al., Case No. CPF-15-5 14302.

One issue not addressed in Chief Suhr's letter is Police Officers' protections arising under the Public Safety Officers Procedural Bill of Rights Act ("POBRA"), Government Code section 3300 et seq. We will not belabor the issue by listing the myriad substantive and

MESSING ADAM & JASMINE LLP

580 CALIFORNIA ST. 415.266.1800 MAIN SUITE 1600 SAN FRANCISCO, CA

94104

415.266.1128 FAX

MAJLABOR.COM



November 16, 2015 George Gascón

Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law

Enforcement

Page 2

procedural protections arising under the POBRA. Suffice it to say that the POBRA, in conjunction with related provisions of the Penal Code, places strict limitations on the discovery of personnel records and on interrogations of protected Police Officers. This is true even when the investigating entity is not the direct employer of the Officers. (See, e.g., California Correctional Peace Officers Association v. State of California (2000) 82 Cal.App.4th 294 [POBRA rights apply to correctional officers in Department of Justice investigation].) And we would be remiss if we failed to remind you that public employees, such as the Police Officers represented by the POA, retain privacy and other protections arising under both state and federal constitutions. (See, e.g., Bagley v. Washington Township Hospital District (1966) 65 Cal.2d 499.)

In light of the foregoing and the additional concerns raised by Chief Suhr, we make two requests for the purpose of vindicating Police Officers' rights and, thus, protecting the integrity of your Blue Ribbon Panel's investigation. First, we request that you immediately provide us with whatever authority (if any) you believe grants the Panel the power to subpoena Officer's testimony and confidential personnel records. Second, we ask that all attempts to arrange interviews of Police Officers represented by the POA be made through the POA, so as to ensure that Officers' rights are protected and that the Panel's investigation not be tainted as a result of any potential violation of those fundamental protections.

Very truly yours,

MESSING ADAM & JASMINE LLP

Gregg McLean Adam

Jenathan Yank

GMA/JY:jag

Martin Halloran, President SFPOA Justice Cruz Reynoso c/o George Gascón Judge LaDoris Hazzard Cordell c/o George Gascón Judge Dickran Tevrizian c/o George Gascón Gregory P. Suhr, Chief of Police Martin Gran, Director of Employee Relations

SFPOA Executive Board



POLICE DEPARTMENT CITY AND COUNTY OF SAN FRANCISCO

HEADQUARTERS 1245 3RD STREET SAN FRANCISCO, CALIFORNIA 94158

November 30, 2015



Mr. Anand Subramanian
Executive Director
Blue Ribbon Panel on Transparency, Fairness, and Accountability In Law Enforcement
Sent via Email: anand@policylink.org

Dear Mr. Subramanian:

We are in receipt of your letter dated November 12, 2015, regarding the Blue Ribbon Panel ("Panel") on Transparency, Fairness, and Accountability in Law Enforcement. On the same day, we received a letter from the District Attorney ("DA") informing us that the Panel, which includes three well-respected judges, was initiated due to a lack of staffing and/or funding within his office to "deal with this issue." The DA went on to say that the Panel will be doing its work independent of his office. Although both letters clarify the intent of the Panel, there are still unanswered questions which lead to an overall concern regarding the Panel, including its autonomy from the District Attorney's Office and its authority as an investigative body.

In any event, we welcome this review, including the expanded scope relating to the potential racial disparities which may exist within the criminal justice system in San Francisco; the Police Department, Sheriff's Office, District Attorney's Office, Adult Probation, and the Courts.

The District Attorney cites Administrative Code 67.4 as the legal authority for creating the Panel. As a department head, the District Attorney has the authority to create a passive meeting body to make policy recommendations. The DA has asked the Panel to work independently due to limited resources, but nonetheless, the Panel is not an independent policy body that has its own power to subpoena records or have direct access to confidential or restricted information. As such, a substantial amount of documents and information responsive to your request dated October 23 on behalf of the Panel were forwarded to the DA's Office for their review and dissemination as they deemed appropriate. The packet included a reference list (see attached) indicating whether an item was provided, not subject to release, already available to the DA's Office per the MOU between our agencies, too vague/vast of a request, or information under the control of another entity and the contact information of that entity.

Due to the legal restrictions on releasing much of this information, coupled with the fact that my department also lacks the same capacity cited by the District Attorney as reason for not being able to go forward with the work of his "taskforce," assigning staff performing other duties to sort through documents already available to the DA through several means would be an unfair burden on my staff as well as result in a substantial cost to the general public. Having said that, inquiries from the Panel will be processed as Public Records Act requests which will require a multi-step process each time. First, responsive records must be identified. Once responsive records are gathered, staff must analyze whether the information is subject to disclosure. This will require us to make a determination on a case-by-case basis for each document.

In regard to interviews, Mr. Jerome C. Roth has advised participation by members will be voluntary. That being the case, all requests on behalf of the Panel should go through the appropriate labor group representing an active employee, i.e., San Francisco Police Officers Association, Municipal Executive Association, Municipal Attorney's Association. As for former and retired employees, they are no longer members of this department and should be contacted directly or through the San Francisco Retirement Board.

Letter to Mr. Subramanian Page 2 November 30, 2015

I want to reiterate that we take the issues of racial bias, procedural justice, and transparency in law enforcement very seriously. We currently are working with the Bar Association of San Francisco on addressing racial disparities that may exist within the criminal justice system (Police Department, Sheriff's Department, District Attorney's Office, Adult Probation Department, and the Courts) here in San Francisco. In addition, with the report released by President Barak Obama's Task Force on 21st Century Policing, we reviewed each of the 58 recommendations and 91 action items of the six pillars. We carefully reviewed our policies and procedures to determine what we currently have in place, what we need to implement, and more importantly, what we need to change to achieve the desired outcomes outlined in the President's report. Our response is available online, sf-police.org/Modules/ShowDocument.aspx?documentid=27534.

We also are currently participating in several cooperative efforts to address potential racial disparities. As already referenced, we are working in collaboration with the Bar Association of San Francisco as well as with the W. Haywood Burns Institute for Juvenile Justice Fairness and Equity, and our local community through the Chief's African American Advisory Forum to look at ways to better build/re-build trust in the communities we serve, especially some communities of color where that trust is not what it should be. We also will review PolicyLink's recently published report on promoting justice in policing and will consider its recommendations comparing them to our existing efforts and the report issued by the President's Task Force on Policing in the 21st Century.

You can see we clearly have been seeking independent review of our operations and procedures. Our process involves working closely with the San Francisco Police Commission and the Office of Citizen Complaints, two bodies established by the City Charter to provide civilian oversight to the Police Department, and more importantly, to establish best practices that might move us forward and make us a better department.

We will continue to make ourselves available to the Panel and its representatives during this review, as time and resources permit. Going forward, I ask you to communicate directly with Lieutenant Christopher Woon at Police Legal, chris.woon@sfgov.org, who will be acting as your requested point of contact for this process.

If I can be of further assistance, please feel free to contact me.

Sincerely,

GREGORY P. SUHR

Chief of Police

GS/ac/cf Attachments

c: Suzy Loftus, President, San Francisco Police Commission George Gascón, District Attorney, San Francisco District Attorney's Office Micki Callahan, Director, San Francisco Department of Human Resources Joyce Hicks, Director, San Francisco Office of Citizen Complaints Sean Connolly, President, Municipal Attorneys Association Martin Halloran, President, San Francisco Police Officers Association Raquel Silva, Executive Director, Municipal Executives Association

Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement

December 8, 2015

Chief Gregory Suhr San Francisco Police Department 1245 3rd Street San Francisco, CA 94158 Sent via email: greg.suhr@sfgov.org

Dear Chief Suhr:

On behalf of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement ("Panel"), thank you for your response letter dated November 30, 2015. I appreciate that you welcome the Panel's review and I hope to work collaboratively, both while the Panel conducts its review and in considering any recommendations the Panel presents in its final report. I invite you to contact me if any further questions or concerns should arise.

The Panel also appreciates the independent and proactive efforts the San Francisco Police Department is taking to address racial bias, procedural justice, and transparency concerns. I encourage you to keep me updated on these efforts for the Panel's consideration. I trust you also recognize the value of the Panel's independent inquiry, which is intended to provide a comprehensive and impartial perspective.

Thank you for producing certain documents in response to the Panel's courtesy request. We will be submitting a formal Public Records Act request later this week. With respect to interviews, the Panel will approach officers directly to request their voluntary participation. We will certainly take account of any request by a police officer regarding his or her organized labor representative. I hope that you and other members of the SFPD Command Staff will choose to share your perspectives with the Panel, and I will reach out soon to attempt to schedule those interviews.

Sincerely,

Anand Subramanian Executive Director

Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement

c: Lieutenant Christopher Woon, San Francisco Police Department Jerome Roth, Munger, Tolles, and Olson Suzy Loftus, President, San Francisco Police Commission George Gascón, District Attorney, San Francisco District Attorney's Office Micki Callahan, Director, San Francisco Department of Human Resources Joyce Hicks, Director, San Francisco Office of Citizen Complaints

Appendix F: Proposed Bulletin from Panel to SFPD

INFORMATION FROM THE BLUE RIBBON PANEL

This sheet provides basic information regarding the Blue Ribbon Panel on Fairness, Accountability, and Transparency in Law Enforcement ("Panel").

The San Francisco District Attorney's Office established the Panel last year to investigate and report on whether there exist issues related to bias in the San Francisco Police Department ("SFPD") in light of the ongoing text messaging cases. The Panel is not investigating the text messaging cases themselves.

The Panel is made up of three prominent former judges from outside San Francisco who have been instructed to act independently from the District Attorney, and who are working with counsel from a number of well-known San Francisco private law firms with no ties to the District Attorney's Office. The work of the judges and the law firms is being conducted on a pro bono basis.

In connection with its investigation, the Panel is very interested in hearing the views of SFPD officers. It would like to hear those views unfiltered by influence of any other groups or individuals, including but not limited to the SFPD, the Chief of Police, the Police Commission, the POA, or the OCC. The goal of the Panel and the law firms counseling it is to get truthful, unvarnished information from officers and from official representatives of those groups as well as from others in the community so that it can draw conclusions and make recommendations based on a full and fair-minded review of the facts

You may be asked to sit for an interview with one of the law firms helping the Panel with its investigation. The interview is entirely voluntary: the Panel, as duly established by the District Attorney, cannot and does not seek to compel the testimony or appearance of witnesses.

The interview also is not disciplinary in nature and does not relate to the personal conduct or performance of the individual being interviewed. The Panel has no disciplinary powers. Instead, the Panel is focusing on broader, department-wide issues.

If a witness desires, the interview may be conducted in a confidential manner and the witness's name will not be used in the Panel's report.

The interview will be conducted at a time and place convenient to the officers while they are off duty.

The Panel hopes that you will agree to be interviewed to assist it in looking into the important issues at stake.

Appendix G

Issued 8/13/2012

SAN FRANCISCO POLICE DEPARTMENT PUBLIC RECORDS REQUEST FORM

(San Francisco Sunshine Ordinance, Administrative Code §67.1 et. seq.)

(DO NOT USE THIS FORM TO REQUEST INCIDENT REPORTS OR TRAFFIC COLLISION REPORTS)

	Date: 12/16/15	
San F	rancisco Police Department	
_	Media Relations Unit 850 Bryant Street, Room 553 San Francisco, CA 94103 FAX: (415) 553-9229	
	Legal Division 850 Bryant Street, Room 575 San Francisco, CA 94103 FAX: (415) 553-7307	
Reque	ester Name: Blue Ribban Panel on Transpurancy, Fairness , Accountable	illy in Love
Addres	ss: 40 Jerone C Roth, Munger, Tolles & Olson LLP	CHI FOR CENTRAL
City / S	State/Zip: 560 Mission St., 27th Fl., San Francisco CA 94103	
Teleph	none: 415-512-4010	
Record	ds Requested: (Please provide a reasonable description of the specific records)	
-		
Please	e use an additional page if more space is needed.	

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_	I would like to <u>inspect</u> the records. Please advise me when the records are available for inspection at a location designated by the Police Department.
1	I would like to <u>pick up</u> copies of the records from Police Department Headquarters. Please advise me when the records are ready. I understand that I must pay for the copies before the Department will release them to me.
<u> </u>	Please <u>mail</u> the records to the address above. I understand that I must pay for postage and the copies before the Department will send the records.
	If less than 10 pages, please <u>fax</u> the documents to: If the records cannot be faxed, please use the alternative method checked above.
×	If the records are in electronic form, and if consistent with Police Department procedures, please email the records to the following email address: Stille Ribbon Power & Mark Com If the records cannot be sent electronically, please use the alternative method checked above.

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HOECKER LUEDTHE

560 MISSION STREET TWENTY-SEVENTH FLOOR SAN FRANCISCO, CALIFORNIA 94105-2907 TELEPHONE (415) 512-4000 FACSIMILE (415) 512-4077

355 SOUTH GRAND AVENUE LOS ANGELES, CALIFORNIA 90071-1560 TELEPHONE (213) 683-9100 FACSIMILE (213) 687-3702

December 16, 2015

Writer's Direct Contact (415) 512-4010 (415) 644-6910 FAX jerome roth@mto.com

San Francisco Police Department Legal Division 1245 Third Street Fourth Floor San Francisco, California 94158

VIA FACSIMILE AND U.S. MAIL

Public Records Request

To Whom It May Concern:

This letter serves as a public records request on behalf of the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Enforcement. Please produce:

- 1. All minutes of SFPD Brady Committee / Brady Unit meetings.
- 2. List of all officers on SFPD's Brady list, including race and gender, and when each was placed on the list broken down by:
 - a. Active officers in the field / active officers out of the field (e.g. working desk jobs);
 - b. Inactive officers (i) terminated; (ii) retired or (iii) other;
- 3. List of all officers terminated for misconduct since 2010 (with names redacted if necessary).

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San Francisco Police Department December 16, 2015 Page 2

- All 849B forms from 2010-2015.
- 5. Arrest data underlying SFPD "Racial Profiling Assessment: Arrests and Traffic Stops" document;
 - a. The same categories of data underlying SFPD "Racial Profiling Assessment: Arrests and Traffic Stops" document for 2015.
- 6. All documents from 2010-2015 related to any training that police officers receive, including how often police officers are required to attend such training, pertaining to:
 - Any form of bias;
 - b. Community policing, relationship-based policing; interaction with community members; interaction with minority community members; language and cultural competency; community sensitivity; and related issues;
 - c. Use of force, de-escalation, and conflict resolution;
 - d. Use of firearms;
 - e. Interactions with youth and interactions with people with mental health issues;
 - f. Procedural justice; or
 - g. Brady v. Maryland.
- 7. All documents from 2010-2015 related to any training that police officers receive at the academy, including instruction syllabi, pertaining to any subject identified in request 6(a)-(g) above.
- 8. Any records of attendance or completion of training (e.g. sign-in sheets) on the subjects identified in request 6(a)-(g) above.
- 9. All statistics related to crime clearance and minority victims / incident reporters, including, but not limited to:
 - a. All guidelines, orders, studies, treatises and reference materials reviewed or relied upon in calculating crime clearance rates;
 - b. All guidelines, orders, studies, treatises and reference materials reviewed or relied upon in determining the methodology for calculation of crime clearance rates;

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San Francisco Police Department December 16, 2015 Page 3

- All statistics, data and reports that discuss, refer or relate to crime clearance rates;
- All statistics, data and reports that discuss, refer or relate to the race, gender or sexual orientation of victims or incident reporters for Part 1 Crimes; and
- e. Any data correlating crime clearance rates with the 5 race and 19 ethnicity categories that the SFPD committed to using in 2012;
- f. Clearance data for arrests since 2010 with race of victim and suspect identified;
- g. Calls for service by police district from 2010 to present.
- List of all referrals to IAD since 2010 broken down by IAD Criminal and IAD administrative.
 - a. List of all referrals sent to Chief and Brady committee with officer race and gender identified and conduct alleged (with names redacted);
 - b. Logs of cases brought to IAD, including date referred and closed.
- 11. All documents sufficient to demonstrate the number of officers investigated each year (2010-2015) by IAD including the number of officers investigated by the IAD Criminal Division and the number of officers investigated by the IAD Administrative Division and the number of officers terminated as a result of an IAD investigation.
- 12. All documents sufficient to show the number of sustained IAD cases 2010-2015.
- 13. All procedural guidelines governing Internal Affairs proceedings.
- 14. All IAD complaints of biased policing 2010-2015.
- Documents sufficient to show the number of bias complaints reviewed by the Chief and Brady committee since 2010.
- All documents related to hiring policies and officer recruiting from 2005-2015, including, but not limited to:
 - a. Announcements and advertisements for recruits;
 - Any lists of publications/organizations where announcements/advertisements are placed;
 - Any policy statements regarding hiring practices and any documents explaining the changes between the policies over time;

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San Francisco Police Department December 16, 2015 Page 4

- d. Recruitment Unit's policies/procedures for hiring LGBT, women, and or individuals of color;
- e. Any audits or assessments of the effectiveness of recruiting tactics;
- f. Statistics regarding the number of applicants hired (2005-2015) including data regarding racial makeup of applicants and hires;
- g. Data regarding applicants to the department with race, gender and sexual orientation and education level listed
- h. Data on the makeup of each recruitment class since 2010, including race, gender, sexual orientation
- i. Any internal reports/documents concerning problems/employee concerns with the recruiting or hiring process;
- j. Policies and procedures governing the referral process, including the bonus structure for the referral program;
- k. Statistics on the number of referrals each officer has made and the percentage of referrals that become SFPD officers;
- 1. Statistics on the number of officers that have a family member in the department
- m. Statistics/documents on recruitment campaign goals over time;
- n. Policies and procedures governing the Accelerated Police Hiring Program and Accelerated Selection Process, including how officers are selected for this program;
- o. Statistics concerning gender, race, and minority group identification with officers selected to participate in the Accelerated Police Hiring Program and Accelerated Selection Process;
- p. Statistics concerning number of officers in the Accelerated Police Hiring Program and Accelerated Selection Process who became SFPD officers, broken down by gender, race, identification with minority classification;
- g. PowerPoint presentation and any other materials provided to police officer candidates during the hiring process;
- Any analyses of the promotion exam;

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San Francisco Police Department December 16, 2015 Page 5

- s. Guidelines for secondary criteria considered for promotion;
- Statistics about the minority makeup of the police officer candidates who enter field training;
- Statistics about the minority makeup of the police officer candidates that complete field training;
- v. Any and all Police Academy training manuals from 2011-2015; and
- w. Any documents or other materials addressing the factors included in background checks for potential recruits.
- 17. All Department Bulletins issued from 2010-present.
- 18. Any documents or other materials recording write-ups issued to recruits/trainees cited for failing to follow "officer safety" protocol when encountering citizens on the street.
- All statistical data regarding hiring, promotion, discipline, retention and terminations, including but not limited to Personnel Orders (2010-2015) and HRMS Data (2010-2015).
- 20. Any documents/policy statements that are used to assess the level of discipline the Chief imposes on officers or that guide or bind his discretion in imposing discipline.
- 21. Any SFPD guidance regarding or interpretation of disciplinary policies.
- 22. List of all personnel assigned to IAD 2010-2015, including descriptions of each's responsibilities within the IAD unit.
- 23. Any internal audits or assessments of the IAD or Office of Citizen Complaints.
- 24. Any internal audits or assessments of the effectiveness of disciplinary measures.
- 25. Names of all SFPD personnel who conducted the internal investigation that followed the discovery of the text messages involved in the text message scandal.
- 26. All depositions of SFPD personnel from the Rain O. Daugherty v. City and County of San Francisco, Case No. CPF-15-514302.
- 27. All documents related to the SFPD's internal investigation of the text message scandal, including relevant interview transcripts, recordings, and/or memos.
- 28. All text messages, email messages, and other documents regarding the investigation of the texting incidents.

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San Francisco Police Department December 16, 2015 Page 6

- 29. All findings, conclusions, and/or recommendations that followed from the internal investigation of the texting incidents.
- 30. Documents sufficient to show the identity of any and all SFPD employees who reviewed Judge Charles Breyer's March 12, 2014 protective order in the federal criminal case No. 3:14-cr-00102 in the U.S. District Court for the Northern District of California.

Per departmental policy and Administrative Code § 76.26, if a responsive record contains both exempt and non-exempt information, please redact the exempt material and make the remainder of the record available. Thank you for your prompt attention to this request.

Sincerely,

Counsel to the Blue Ribbon Panel on Transparency, Fairness, and Accountability in Law Emorcement

¹ See http://sf-police.org/index.aspx?page=4354#disclosure

² "No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.27 of this Article."

Appendix H

SUNSHINE ORDINANCE TASK FORCE



City Hall 1 Dr Carlton B. Goodlett Place, Room 244 San Francisco, CA 94102-4689 Tel. No. (415) 554-7724 Fax No. (415) 554-7854 TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION April 13, 2016 (Updated)

DATE DECISION ISSUED (March 2, 2016)

CASE TITLE – Jerome Roth on behalf of the Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement v. San Francisco Police Department. (File No. 16003)

FACTS OF THE CASE

On January 12, 3016, Jerome Roth (Complainant) made a complaint alleging that the San Francisco Police Department (SFPD) violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.27, by failing to respond to a request for public records in a timely and/or complete manner and failing to provide justification for withholding information.

HEARING ON THE COMPLAINT

On March 2, 2016, the Sunshine Ordinance Task Force (Task Force) heard the matter.

Nicholas Fram, representing the Complainant, provided an overview of the complaint and requested the Task Force to find violations. Mr. Fram stated that the Police Department had failed to provide a records production timeline, despite repeated requests that it do so, and that the Complainant disagrees with the authority to withhold certain documents. There were no speakers in support of the Complainant. Sgt. Mara Ciriaco and Sgt. Stacy Youngblood, Police Department (Respondent), presented the department's position. Sqt. Ciriaco stated that due to the voluminous nature of the request, additional time is needed to comply with the request for records. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant provided a rebuttal.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Task Force finds that there was a violation of Administrative Code (Sunshine Ordinance), Sections 67.21(a)(c) and 67.27.

DECISION AND ORDER OF DETERMINATIONS

The Sunshine Ordinance Task Force finds that the San Francisco Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(a)(c) and 67.27, by failing to respond to a public records request in a timely manner, failing to provide sufficient assistance to the requester in identifying the existence, form and nature of any records or information maintained, and failing to provide appropriate justify for withholding certain records.

The Motion PASSED by the following vote:

Aves: 7 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Haines, Hinze

The Task Force requested that Mr. Fram prioritize the list of requested records. In addition, the Task Force requested the Police Department to provide a timeline for producing the remainder of the requested records by Friday, March 4, 2016. The Task Force suggested that it may be advisable to request the Supervisor of Records to review whether or not certain records were properly withheld as the Task Force has not reviewed the documents in question.

Chair Washburn referred the matter to the Education, Outreach and Training Committee's March 14, 2016, meeting to determine if the Police Department has complied with the Task Force's request. (The Complaint request a postponement of the March 14, 2016, meeting.)

(Update - On April 6, 2016, the Task Force reviewed the status of the complaint and referred it to the April 19, 2016, meeting of the Compliance and Amendments Committee.)

Allyson Washburn, Chair

Sunshine Ordinance Task Force

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Jerome Roth (Complainant) C. Nicholas Fram (Complainant)

Lt. Kathryn Waaland, Police Department Sgt. Mara Ciriaco, Police Department

Sgt. Stacy Youngblood, Police Department

Appendix I

MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE AND THE SAN FRANCISCO POLICE DEPARTMENT REGARDING THE INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS, IN-CUSTODY DEATHS, AND USE OF FORCE INCIDENTS

INTRODUCTION

With the signing of this Memorandum of Understanding, the Office of the San Francisco District Attorney and the San Francisco Police Department embark upon a new and radically different protocol to ensure public trust, accountability, and transparency. Henceforth, the Office of the San Francisco District Attorney (SFDA) shall be the primary criminal investigative agency for all law enforcement officer-involved fatal incidents and significant or suspected excessive uses of force occurring in the City and County of San Francisco. The SFDA shall direct the resources of the San Francisco Police Department (SFPD) as needed in furtherance of these investigations.

RATIONALE

Ethical, effective policing requires the trust and consent of the public. Ethical, effective policing requires that police and the public each see the other as having an equal right to safety and dignity. When police fail to treat the public as equal persons or when the public sees the police as threats rather than guardians, public trust is broken, public and police safety are threatened, and police legitimacy is lost.

The SFDA, the SFPD, and the people of San Francisco all recognize that peace officers will sometimes have to use force – up to and including deadly force – as they perform a difficult and often dangerous job. That job, however, is made <u>more</u> difficult and dangerous when trust in the police is eroded by uses of force the public perceives as illegitimate.

The SFPD needs the trust of the people to prevent crime, identify and apprehend offenders, and ensure that interactions between police and the public are as safe as possible for all parties. The SFDA must honor the trust of the people by holding all parties legally accountable.

The SFPD and the SFDA understand that the public can no longer be expected to trust a criminal investigation of a law enforcement officer's use of deadly or alleged excessive force led by that officer's employing agency, or by a neighboring or allied police agency. Even when the investigating agency does everything honorably, thoroughly and objectively, their findings will not be believed by large sections of the public. They will be seen as the police protecting their own. To establish and maintain public trust, the use of force by police officers must be subject

to thorough examination by a neutral party: one that understands and upholds the role of law enforcement, but that is separate from any police or sheriff's department.

As the chief law enforcement officer for the City and County, the District Attorney bears responsibility for bringing charges against any persons who commit crimes in San Francisco, and pursuing justice for all. Therefore, the office of the San Francisco District Attorney (SFDA) shall be the primary criminal investigative agency for all officer-involved fatal incidents and significant uses of force (as defined below under "Implementation"). The SFDA shall direct the resources of the SFPD in these criminal investigations. The SFDA will conduct additional investigation, independent of the SFPD, and engage the services of other investigative agencies as necessary.

While an employing law enforcement agency may have the responsibility in an officer-involved incident to conduct an administrative investigation to determine if departmental policies were followed and appropriate tactics were used, the SFDA's criminal investigation shall be independent of any departmental administrative investigation. The criminal investigation shall be led by the newly-established Criminal Justice Integrity Team (CJIT) of the SFDA.

The purpose of the SFDA CJIT is to investigate and prosecute cases of law enforcement officers who violate the Fourth and/or Fourteenth Amendment rights of individuals. The SFDA CJIT will handle all officer-involved shootings, in-custody deaths, and cases of on-duty excessive use of force. The unit will also be responsible for investigating and remedying colorable claims of factual innocence. This will include cases discovered through the SFDA's internal look back process after misconduct allegations are discovered, as well as cases brought externally from individuals. This MOU between the SFPD and SFDA, however, does not address the full work of the CJIT and covers only the incidents described below.

INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS, IN-CUSTODY DEATHS AND USE OF FORCE

(a) Covered Officers.

(1) For the purposes of this Memorandum, the term "officer" shall mean any law enforcement officer, regardless of employing agency, including but not limited to municipal police officers, deputy sheriffs, highway patrol officers, and any other county, state or federal agents.

(b) Covered Incidents.

(1) For the purposes of this Memorandum, the term "Covered Incident" shall mean the following: Any incident which occurs in the City and County of San Francisco where: (i) an officer, on or off-duty, shoots and injures or kills any person; (ii) an officer, on or off-duty,

intentionally discharges a firearm at any person; (iii) an individual dies while in the custody or control of a law enforcement officer or agency, including deaths that result from arrest, detention, or any law enforcement application of force intended to affect an arrest or detention or to subdue or apprehend any person, including foot and vehicle pursuits; (iv) an on-duty officer uses a level of force likely to produce great bodily injury or death; or (v) there is a reasonable suspicion that an on-duty officer has used excessive force.

(2) The term "Covered Incident" shall NOT include the following: (i) negligent firearm discharges in which no person is struck; (ii) intentional shootings of animals; and (iii) incidents that occur outside the borders of the City and County of San Francisco, including incidents which occur at the San Francisco International Airport and the San Francisco Sheriff's Department custodial facility in San Bruno.

(c) Notification Requirements.

- (1) The SFPD shall notify the SFDA of all Covered Incidents. For all officer-involved shootings and in-custody deaths, the SFPD shall immediately notify the SFDA CJIT. In no event shall this notification be made later than ten (10) minutes after the notification of the Covered Incident to SFPD's communications department (currently referred to as DOC). For all other Covered Incidents, DOC shall notify the SFDA CJIT as soon as DOC, Internal Affairs, or any SFPD supervisor becomes aware that either an on-duty officer has used force other than a firearm likely to cause great bodily injury or death, or there is a reasonable suspicion a peace officer has used excessive force.
- (2) At the time of notification, the SFPD shall provide the SFDA CJIT with a brief summary of all the facts known at the time, including (if known): the number of officers and other persons involved in the incident; the extent of injuries to any party; the incident location(s) and any other locations to which SFPD personnel have been deployed (including hospitals, command posts, and station houses where interviews are being or are to be conducted); any other relevant information communicated to SFPD responding personnel.
- (3) At the time of notification, the SFDA CJIT shall determine what SFDA resources will be deployed to take command of the incident.
- (4) Nothing in this section shall affect the obligation and ability of the SFPD to deploy its resources, including directing the response of uniformed, plainclothes, investigative, forensic and supervisory/command personnel, as needed. However, SFPD shall not commence other than preliminary investigative efforts necessary to preserve evidence and public safety until the arrival of the SFDA CJIT personnel and at their direction.

(d) Protocol for Investigation of a Covered Incident.

- (1) Pending the arrival of the SFDA CJIT, the SFPD shall be responsible for securing the location and all physical evidence, and locating and identifying witnesses.
- (2) Immediately upon their arrival on scene, the SFDA CJIT shall be briefed about the incident by the ranking member of the SFPD criminal investigative team, or his or her designee. The briefing shall consist of all relevant information known at that time, including, but not limited to: (i) a factual summary based on initial statements from officers, witnesses, suspects, and any other sources of information (including video, digital and other physical evidence); (ii) the numbers and current locations of all involved officers, civilian witnesses and other involved parties, and the medical conditions of any injured parties; (iii) the status of the preliminary investigation, including any outstanding subjects, additional scenes, and significant questions or concerns; and (iv) a "walk-through' of the scene, once secure, so that the SFDA CJIT team may view firsthand all physical evidence. Information shall not be withheld unless obtained via compelled statements.
- (3) The SFDA CJIT, having been briefed, shall direct the further investigation. To the degree possible, the SFDA CJIT shall communicate those directions through the ranking member of the SFPD and/or the supervisors of the various SFPD units assigned to the investigation (including, but not limited to, Patrol, Crime Scene Investigations, and Investigations).
- (4) The SFDA CJIT shall not direct SFPD's administrative investigation, the administrative investigation of any other involved agency, or the investigation of the Office of Citizen Complaints, except to ensure that none of those investigations interferes with the primary criminal investigation.
- (5) Because the SFPD commands significantly greater resources than the SFDA, it is understood that some criminal investigative work by SFPD may occur without the direct and immediate involvement of the SFDA CJIT, especially as necessary to identify and safeguard evidence and witnesses. The resources, expertise and professionalism of SFPD shall be brought to bear in these investigations as in all investigations, except that the SFDA CJIT shall have primary responsibility for the investigation of all Covered Incidents. This responsibility is conferred to the SFDA CJIT upon notification of an incident, and continues until the conclusion of the investigation.
- (6) The SFDA CJIT may request the SFPD to lead the investigation into any underlying crimes involving non-law enforcement personnel, including crimes allegedly committed by the person(s) upon whom force was used.

(7) Unless requested by the SFDA CJIT, the SFPD shall conduct no separate criminal investigation into any Covered Incident. The SFPD maintains the right and responsibility to conduct an administrative investigation in cases involving SFPD personnel.

(e) Interviews of Civilian Witnesses.

- (1) The SFDA CJIT shall have the opportunity to be present at and lead the interviews of all civilian witnesses, both in the immediate aftermath of an incident and throughout the ongoing investigation.
- (2) Notwithstanding Section (e)(1) above, it is understood that the need to have SFDA CJIT personnel present for civilian witness interviews may have to be weighed against the need to obtain critical information in a timely manner and to avoid excessive detention of civilian witnesses. If SFPD must interview civilian witnesses in the absence of SFDA CJIT personnel, SFPD shall conduct only interviews of (i) canvass or elimination witnesses, (ii) witnesses to non-critical, pre-incident or post-incident events; and (iii) "earwitnesses" whose perceptions do not include critical information including commands, threats or other speech. In these cases, field notes, reports and/or recordings of these interviews shall be provided to the SFDA CJIT as soon as possible, and in no event later than 2 business days from the time of origination unless an agreement with the SFDA CJIT is obtained.
- (3) Direct, percipient witnesses and witnesses alleging contradictory or controversial observations shall not be interviewed in the absence of SFDA personnel, except at the direction of the SFDA CJIT. This rule shall apply to interviews of Medical Examiner personnel, other medical and hospital personnel, and arrestees and detainees, including persons struck by gunfire or upon whom force was used.
- (4) The SFDA CJIT may interview, or re-interview, civilian witnesses outside the presence of SFPD. The SFDA CJIT shall decide, in its sole discretion, whether to invite SFPD investigators to take part in the interviews of civilian witnesses.

(f) Interviews of Law Enforcement Witnesses.

- (1) The SFDA CJIT shall lead the interviews of law enforcement witnesses and involved officers. The SFDA CJIT shall decide, in its sole discretion, whether to invite SFPD investigators to take part in the non-compelled interviews of officers.
- (2) SFDA CJIT personnel shall not participate in, monitor, or receive any information from any compelled officer interview except with the approval of the District Attorney or Chief Assistant District Attorney.

(g) SFPD Forensic and Investigative Work.

- (1) All investigative and forensic reports, writings and exhibits prepared or obtained by SFPD regarding a Covered Incident shall be provided to the SFDA CJIT as soon as possible and in no event later than 2 business days from the completion or receipt by SFPD.
- (2) All other evidence obtained by SFPD regarding a Covered Incident shall be provided to the SFDA CJIT as soon as possible and in no event later than 2 business days from the receipt by SFPD.
- (3) The SFDA CJIT may utilize outside agencies, including but not limited to the Federal Bureau of Investigation and the California Department of Justice, and/or private vendors, to collect, process, and/or analyze evidence.

FINAL ACTION

At the conclusion of the CJIT investigation, the SFDA will review and analyze all the evidence to determine whether the officer(s) acted lawfully. The crime charging standards are the same for peace officers as for civilians. The District Attorney's policies regarding crime charging are set forth in the California District Attorneys' Association Professionalism Manual, which states in part:

"The prosecutor should charge only if the four basic requirements are satisfied:

- 1) The prosecutor, based on a complete investigation and a thorough consideration of all pertinent facts readily available is satisfied that the evidence proves that the accused is guilty of the crime to be charged;
- 2) There is legally sufficient, admissible evidence of a corpus delicti;
- 3) There is legally sufficient, admissible evidence of the accused's identity as the perpetrator of the crime charged; and
- 4) The prosecutor has considered the probability of conviction by an objective fact finder and has determined that the admissible evidence is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing all the evidence available to the prosecutor at the time of charging and after considering the most plausible, reasonably foreseeable defense inherent in the prosecution evidence."

If no charges are filed, the District Attorney will issue a closing report summarizing the results of the investigation and analyzing the evidence. This report will address the question of whether or not there is proof beyond a reasonable doubt that an officer, deputy, or any other person committed a crime. It is not the purpose of the District Attorney's criminal investigation or

report to determine if any officer or deputy violated police policy or procedure, or committed any act that would be subject to civil sanctions.

This Memorandum of Understanding shall be effective upon the approval of both the District Attorney and the Chief of Police and shall remain in full force and effect until amended or superseded by another such Memorandum of Understanding or until terminated by one party after thirty days written notice directly to the District Attorney or the Chief of Police.

George Gascón, District Attorney	Greg Suhr, Chief of Police
Date:	Date:

Appendix J

San Francisco District Attorney's Office

BRADY DISCOVERY OF LAW ENFORCEMENT EMPLOYEE MISCONDUCT

(INTERNAL POLICY)

4/21/10

INTRODUCTION

The following is an "internal" policy that addresses information in the actual possession of the District Attorney's Office as opposed to information contained in peace officer personnel files. In order to comply with our discovery obligations, procedures are necessary (1) to ensure that instances of law enforcement employee and expert witness misconduct and credibility issues that come to the attention of the District Attorney's Office are reviewed to determine if disclosure is required under Brady v. Maryland (1963) 373 U.S. 83, (2) to maintain a depository for such information, and (3) to ensure that deputy district attorneys know of the existence of such information regarding potential witnesses so that disclosure can be provided to the defense.

This policy includes information that may bear on the credibility of peace officer witnesses, as well as employees of law enforcement agencies and experts who may be witnesses in criminal cases. As explained below, some of the procedural protections contained in this policy are limited to peace officers and custodial officers, in light of the special legal obligations and protections regarding peace officer and custodial officer personnel records. (Evid. Code §§ 1043-1047; Penal Code §§ 832.5, 832.7.)

WHAT CONSTITUTES BRADY MATERIAL

A. The District Attorney is obligated to provide the defense in criminal cases with exculpatory evidence that is material to either guilt or punishment. (Brady v. Maryland, supra, 373 U.S. 83, 87.) Reviewing courts define "material" as follows: "The evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." (People v.

Roberts (1992) 2 Cal.4th 271, 330.) "Exculpatory" means favorable to the accused. This obligation includes, "substantial material evidence bearing on the credibility of a key prosecution witness." (People v. Ballard (1991) 1 Cal.App.4th 752, 758.) Such impeachment evidence must disclose more than "minor inaccuracies." (People v. Padilla (1995) 11 Cal.4th 891, 929, overruled on other grounds, People v. Hill (1998) 17 Cal.4th 800, 823, fn 1.)

- B. Impeachment evidence is defined in Evidence Code section 780 and CALJIC 2.20. Examples of impeachment evidence that may come with Brady are as follows:
- 1. The character of the witness for honesty or veracity or their opposites. (Evid. Code §780(e).)
 - 2. A bias, interest, or other motive. (Evid. Code §780(f).)
- 3. A statement by the witness that is inconsistent with the witness's testimony. (Evid. Code §780(h).)
- 4. Felony convictions involving moral turpitude. (Evid. Code §788; People v. Castro (1985) 38 Cal.3d 301, 314.) Discovery of all felony convictions is required regarding any material witness whose credibility is likely to be critical to the outcome of the trial. (Penal Code §1054.1(d); People v. Santos (1994) 30 Cal.App.4th 169, 177.)
- 5. Facts establishing criminal conduct involving moral turpitude, including misdemeanor convictions. (People v. Wheeler (1992) 4 Cal.4th 284, 295-297.)
- 6. False reports by a prosecution witness. (People v. Hayes (1992) 3 Cal.App.4th 1238, 1244.)
- Pending criminal charges against a prosecution witness. (People v. Coyer (1983) 7. 142 Cal.App.3d 839, 842.)
- Parole or probation status of a witness. (Davis v. Alaska (1974) 415 U.S. 308, 8. 319; People v. Price (1991) 1 Cal.4th 324, 486.)
 - Evidence undermining an expert witness's expertise. (People v. Garcia (1993) 17 Cal.App.4th 1169, 1179.)
- 10. Evidence that a witness has a racial, religious or personal bias against the

defendant individually or as a member of a group. (In re Anthony P. (1985) 167 Cal.App.3d 502, 507-510.)

- C. The duty of disclosure applies even to completed cases. (People v. Garcia (1993) 17 Cal.App.4th 1169, 1179.) However, it does not apply to cases in which the defendant pled guilty or no contest. (U.S. v. Ruiz (2002) 536 U.S. 622.)
- D. The government has no Brady obligation to "communicate preliminary, challenged, or speculative information." (U.S. v. Agurs (1976) 427 U.S. 97, 109, fn. 16.) However, "the prudent prosecutor will resolve doubtful questions in favor of disclosure." (Id. at p. 108.) See also, Kyles v. Whitley (1995) 514 U.S. 419, 439, which warns prosecutors against "tacking too close to the wind" in withholding evidence.

II. RELATIONSHIP BETWEEN BRADY AND PITCHESS

- A. Criminal defendants may seek disclosure of peace office and custodial officer personnel records and complaints from the law enforcement agency pursuant to Pitchess v. Superior Court (1974) 11 Cal.3d 531 and Evidence Code sections 1042-1047. The Pitchess process operates in parallel with Brady. (City of Los Angeles v. Superior Court (Brandon) (2002) 29 Cal.4th 1, 14.) The availability of the Pitchess procedure does not always satisfy the obligation of the prosecution to provide material exculpatory evidence in the possession or constructive possession of the prosecution. For example, the District Attorney's Office has a discovery obligation as to exculpatory information in its actual possession that may not be included in the officer's personnel file.
- B. In Pitchess motions, the prosecuting attorney shall request that the court issue a protective order against disclosure of the material in other cases pursuant to Evidence Code setion 1045, subdivisions (d) and (e). (See Alford v. Superior Court (2003) 29 Cal.4th 1033.) The Pitchess procedure shall also apply to personnel records of peace

officers employed by the District Attorney's Office (i.e., DAI).

- C. No discovery will be provided for any information in or from a law enforcement employee's personnel file without the court first examining the materials in-camera. If a deputy district attorney is aware of information in a peace officer or custodial officer's personnel file that may qualify for disclosure under Brady, the District Attorney's Office may file a motion for in-camera examination under Brady or Pitchess, or defense counsel may be invited to file a Pitchess motion.
- D. If the deputy district attorney is aware of potential *Brady* material that was disclosed through a Pitchess hearing that is more than five years old, the District Attorney's Office may seek in-camera review of the materials to determine if disclosure is required.
- E. At the present time, the District Attorney's Office has no legal duty to examine a peace officer's personnel file. It is the policy of the San Francisco District Attorney's Office to not seek to examine a peace officer's personnel file for Brady purposes.

PROCEDURE FOR REVIEW OF POTENTIAL BRADY INFORMATION

A. Upon learning of any apparently credible allegation involving law enforcement employee or expert witness misconduct or credibility that may be subject to discovery under Brady, deputy district attorneys and district attorney investigators shall timely report this information to their immediate supervisor. For example, evidence of untruthfulness may come to light during a criminal trial, or from credible reports of other law enforcement employees based on sources other than personnel records. Such allegations must be substantial and may not be limited to a simple conflict in testimony about an event. The notification itself ultimately might be examined in-camera and/or be discovered to the defense, so carelessness in wording or premature conclusions are to be avoided. If and when such information is obtained, the District Attorney's Office will conduct a thorough analysis pursuant to the procedures outlined herein to determine if it is required to disclose the information pursuant to Brady.

- B. Deptuy district attorneys and district attorney investigators shall also advise their supervisors if they become aware of any of the following information regarding a law enforcement employee or expert witness:
- 1. Any information available to the attorney regarding the disclosures made pursuant to a Pitchess motion, and the existence of any protective or limiting order regarding future dissemination of the information. (See Evid. Code §1045(d) &(e).)
 - 2. Criminal convictions of law enforcement employees.
 - Prosecutions initiated against law enforcement employees. 3.
- Rejections of requests for initiation of prosecution against law enforcement 4. employees.
- 5. Any administrative discipline imposed against a law enforcement employee that may have a bearing on credibility.
- C. Following receipt of such a report, the attorney or investigator's supervisor shall obtain all available information concerning the alleged misconduct, including the transcript of any testimony provided, and shall forward the materials to the Brady committee. The Brady committee is made up of the Chief of the Criminal Division, and the Managing Attorneys of Misdemeanors, Preliminary Hearings and General Litigation.
- D. The Brady committee shall review and analyze the materials in light of applicable law. In some cases, it may be necessary and appropriate for the District Attorney's Office to obtain copies of additional court documents or police reports, or interview witnesses. However, absent extraordinary circumstances, the District Attorney's Office will not seek to interview the officer in question or other employees of the employing law enforcement agency.
- E. The standard of proof for disclosure of information shall be the "substantial information" standard. Substantial information is defined as facially credible information that might reasonably be deemed to have undermined confidence in a later conviction

in which the law enforcement employee is a material witness, and is not based on mere rumor, unverifiable hearsay, or a simple and irresolvable conflict in testimony about an event.

- F. Following the initial review and analysis described above, the Brady committee shall decide which of the following conclusions is appropriate: (1) the materials do not constitute Brady material (see paragraph G, below); (2) it appears that disclosure may be required under Brady (see paragraph H, below); or (3) further investigation, including interview of the officer in question or other employees of the employing law enforcement agency, should be undertaken by the employing law enforcement agency (see paragraph I, below).
- G. If the Brady committee concludes that based on the initial review, it is clear that the materials do not constitute Brady material, the matter shall be closed.
- H. If it appears that after the initial review that information regarding a peace officer may be Brady, the officer and the head of the employing law enforcement agency will be invited to provide written comments, objections and/or additional information that may bear on the decision of what information, if any, shall be provided. Given the need to provide prompt discovery to the defense in criminal cases, the opportunity to comment, object or provide information may of necessity be brief or non-existent.
 - 1. The Brady committee shall evaluate all information received and make determinations or conclusions about what disclosure, if any, is appropriate. The committee's decision may include but are not limited to the following actions:
- a. No further action based upon conclusion that no Brady material exists.
 - Discovery is required in a specific case only. b.
- Discovery must be provided in additional cases in which the law enforcement C. employee is or was a material witness. In appropriate cases, a computer or other search of pending and/or past cases may be conducted so that counsel

may be notified.

- d. In some cases, presenting the material to a judge for in-camera review may be an appropriate manner of resolving the discovery issue. (See Section IV, below.)
- In rare cases, blanket notification to representatives of the Public Defender's e. Office, Conflicts Panel, and San Francisco Bar Association may be appropriate as a back-up form of notification in situations in which we cannot be confident that we have identified all of the affected parties. Such blanket notification shall be limited to a statement that Brady material may exist, with defense counsel to either contact the District Attorney's Office and request information regarding a specific identified case, or make a motion for disclosure. Blanket notification shall not be made of information obtained from peace officer personnel files.
- 2. If, after determining what disclosure, if any, is appropriate, and the information pertains to the credibility of a peace officer, the Brady committee shall send written notification to the officer and the head of the employing law enforcement agency and shall provide a copy of the materials regarding the officer that will be provided to the defense. (There might be instances where providing notice and material is not immediately practicable or possible and that decision will be made by the Brady committee, Chief of Special Prosecution, Chief Assistant, or the District Attorney.)
- 3. The peace officer shall then have an opportunity to respond in writing or request a meeting with the Brady committee whenever practicable to discuss the allegation and supporting materials. An attorney or any representative may accompany the officer to the meeting. In the event that the officer requests further time and no urgency exists to complete the evaluation, the Brady committee may extend the time for a written response or meeting for a reasonable period of time.
- 1. In some cases, after the initial review, the Brady committee may conclude that the District Attorney's Office is not in possession of sufficient information to

conclude that conduct coming within Brady has occurred, but that further investigation is appropriate.

- Absent extraordinary circumstances, the District Attorney's Office will not seek to 1. interview the officer or other employees of the officer's agency. In such cases, the matter shall be referred to the employing law enforcement agency to conduct an investigation in accordance with the Public Safety Officers Procedural Bill of Rights.
- If, after conducting this investigation, the employing law enforcement agency concludes 2. that the complaint is unfounded, exonerated or not sustained (see Penal Code §§ 832.5, 832.7(c)), then disclosure may not be warranted because the information is "preliminary, challenged, or speculative." (U.S. v. Agurs, supra.)
- If the employing law enforcement agency sustains the complaint, the District Attorney's 3. Office shall, when the officer is a material witness in a case, make a motion under Pitchess for the court to examine the information in-camera and determine whether disclosure must be made under Brady. (See section IV, below.)
 - 4. This policy shall not limit the authority of the District Attorney's Office to conduct criminal investigations.

IV. IN CAMERA REVIEW

A. The District Attorney's Office may submit potential Brady evidence to a judge for incamera review to determine if discovery to the defense is required. (U.S. v. Agurs, supra, 427 U.S. at p. 106; U.S. v. Dupuy (9th Cir. 1985) 760 F2d 1492, 1502.) The option of submitting the Brady material for in-camera review shall be considered in all cases, in consultation with the Brady committee.

- B. If the Brady committee concludes that disclosure of material regarding a law enforcement officer may be required under Brady, the in-camera procedure shall be employed regarding the following:
- Any materials contained in or obtained from a peace officer's personnel file, 1. including information of which the District Attorney's Office became aware through Pitchess motion in a different case that was released without a protective order, or which is more than five years old.
- 2. Material regarding any incident that is the subject of a pending internal investigation by the employing law enforcement agency.
- 3. Material that is remote in time or has questionable relevance to the present case.
 - Any potentially privileged materials.
- 5. When it is unclear whether the law requires the information to be disclosed.
- C. Non-sworn employees of law employment agencies have a qualified right to privacy in their personnel files. (Cal.Const. Art. I, §1; Board of Trustees v. Superior Court (1981) 119 Cal.App.3d 516, 525-526.) Materials contained in the personnel file of a non-sworn employee shall be sought only with consent of the employee or when authorized by a court following in-camera review. (Evid. Code §§ 1040, 915(b); see Johnson v. Winter (1982) 127 Cal.App.3d 435.)
- D. The District Attorney's Office shall, in appropriate cases, request that the court issue a protective order limiting or prohibiting the disclosure of the material in other cases.
- E. If material regarding the credibility of a law enforcement employee is discovered to the defense pursuant to Brady after an in-camera review, the assigned deputy district attorney shall provide the Brady committee with a copy of the material ordered by the judge to be discovered. The Brady committee shall then include this material in the administrative file maintained for that law enforcement employee, unless the court has made a limiting order regarding disclosure of the material. If the materials to be disclosed include materials from an officer's personnel file, the fact that such materials were disclosed shall be noted, but neither the materials themselves nor the substance

of those materials shall be retained in the administrative file.

ADMINISTRATIVE FILES V.

- A. The materials reviewed and memoranda of conclusions reached shall be maintained in a separate Brady administrative file that will be maintained in a secure location in the District Attorney's executive office area. In those cases where the review determined the misconduct allegations are subject to discovery under Brady, the discoverable materials shall be included in the file for purposes of complying with discovery obligations in future cases.
- B. The information contained in these administrative files shall only be accessed for case-related purposes, and a written record shall be maintained as to the name of each employee who accesses the information and the case for which access was obtained. Only the Brady materials relevant to the particular case will be disclosed or otherwise discovered. The substance of the information in the administrative files shall not be included in any computerized database.
- C. Upon written request, the District Attorney's Office shall inform any law enforcement employee and/or the employing law enforcement agency whether or not a Brady administrative file exists regarding that employee. The employing law enforcement agency, and the affected law enforcement employee and/or his or her attorney or other representative, shall have the right to inspect the officer's Brady administrative file at a time mutually convenient to the parties after receipt of a written request for inspection. The District Attorney's Office retains the right to exclude from inspection materials protected by the attorney-client, work-product, deliberative process, official information privileges, or due to an on-going investigation...
- D. The District Attorney's Office should not retain confidential personnel records from other agencies, and shall not provide such records to the defense absent an in-camera review and a court order. (See Penal Code §832.7, subd. (a).) The employing law

enforcement agency is the appropriate custodian of these records.

PROVIDING BRADY DISCOVERY TO THE DEFENSE VI.

- A. A database list ("Brady List") has been created of law enforcement officers and employees including police lab experts for whom administrative files have been created based on possible Brady material, as described above. Because discovery of a Brady packet may be required for material witnesses on a pending case, deputy district attorneys must review the Brady list during case preparation to determine whether a Brady packet exists for each case in which the employee is subpoenaed by or will testify on behalf of the prosecution. The Brady list is accessible only to attorneys using a shared computer drive on a read-only basis and will only identify the individual by name, star number (if applicable), and employing agency.
- B. Disclosure of law enforcement employee misconduct is not required in a particular case if the evidence would not impact the employee's credibility in that case. For example, if the misconduct relates to a bias against a particular racial group, discovery may not be required in cases that do not involve members of that group. The Brady committee shall be consulted on all Brady issues regarding the credibility of law enforcement employees. If the assigned deputy district attorney is of the opinion that the Brady packet shall not be provided in a particular case, after consultation with the Brady committee, this decision shall be documented in the administrative file for that officer. If it is not clear whether disclosure is required in a particular case, the matter shall be submitted to the court for in-camera review.
- C. Where discovery to defense counsel regarding law enforcement employee or expert witness misconduct or credibility is required, it shall be made by the deputy district attorney prosecuting the case by providing the Brady packet in discovery. Disclosure to the defense is required before trial but is not required before the defendant enters a plea. Fulfillment of the prosecution's obligation to provide discovery

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of Brady material is the sole responsibility of the individual deputy district attorney assigned to the case and shall be done without a defense request. In addition, the deputy district attorney shall note the date of disclosure on the blue sheet in his or her case file, and shall also retain a discovery receipt describing with particularity the materials discovered signed and dated by defense counsel in the file.

- D. Whenever Brady material is provided to the defense in a case, the Brady committee shall place in the administrative file for that witness a memorandum documenting that discovery was provided, including the name of the case, case number, name of defense counsel and the date the Brady packet was sent to the discovery unit.
- E. Deputy district attorneys reviewing declarations in support of arrest warrants and affidavits in support of search warrants shall consult the Brady list to determine if the declarant or affiant is an employee for whom the office has determined that Brady material must be provide. The attorney shall not approve the arrest warrant or search warrant unless it disclosed a summary of the Brady material so that the magistrate may consider it in assessing the credibility of the individual.

VII. **IMMEDIATE DISCLOSURE REQUIREMENTS**

A. The nature of the constitutional obligation created by the Brady doctrine and the statutory time limits for trial and for providing of discovery in criminal cases will, in certain instances, require immediate disclosure to the defense of information in the possession of or known to the District Attorney's Office. In such instances, it may not be possible or feasible before the information is provided to the defense to conduct the full review procedure described above, to provide the law enforcement officer with advance notice or an opportunity to provide comments, objections, or additional information, or to provide a written response or meet with the Brady committee. In such cases, immediate disclosure may be made to the defense.

B. Immediate disclosure regarding peace officer information shall only be made under the following conditions:

- 1. With the express consent of the Chief Assistant District Attorney or District Attorney or, if neither of them can be contacted within the time during which discovery is required, with the express consent of the Chief of the Criminal Division or Chief of Special Operations, or
 - After the information is submitted to a judge in-camera, and the judge 2. determines that disclosure is required.
- C. In cases in which "immediate disclosure" is required, peace officers will be afforded a more abbreviated opportunity to be heard if it is feasible to do so. Once the decision to disclose has been made, both the department and the officer will be notified of the disclosure and will be provided with a copy of the materials disclosed.

VIII. **ADMISSIBILITY OF EVIDENCE**

Discovery and admissibility are different and the assigned deputy shall decide if admissibility of matters discovered is to be challenged.

Appendix K

San Francisco District Attorney's Office

PROCEDURE FOR DISCLOSURE OF *BRADY* MATERIAL FROM LAW ENFORCEMENT PERSONNEL RECORDS

(EXTERNAL POLICY)

ISSUED: 8/13/2010

I. INTRODUCTION

A. Purpose of Policy

Repetitive requests by the District Attorney that the San Francisco Police Department (and other law enforcement agencies) check employee personnel files each time subpoenas are issued in a criminal case create unnecessary paperwork and personnel costs for both the Department and the District Attorney's Office. Instead, the San Francisco Police Department (SFPD) is adopting a procedure under which the Department advises the District Attorney's Office of the names of employees who have information in their personnel files that may require disclosure under *Brady*. (See SFPD Bureau Order No. 2010-01.) The District Attorney's Office then makes a motion under Evidence Code 1043 and 1045(e) for *in camera* review of the records, with respect to SFPD personnel.

With respect to other law enforcement agencies, until we develop procedures with them, we will continue to send letters to those agencies' legal contact (see attached list). Depending on their response, we may file Evidence Code 1043 and 1045 motions therein.

The purpose of this policy is to ensure that prosecutors and the defense receive sufficient information to comply with the constitutional requirements of *Brady* while protecting the legitimate privacy rights of law enforcement witnesses. This policy is not intended to create or confer any rights, privileges, or benefits to defendants or prospective or actual witnesses.

This External Policy is to be distinguished from the Office's Internal Policy. The External Policy governs matters contained solely in law enforcement personnel files, of which this Office is given limited notice, so that we can make the appropriate motion to the court to obtain case-specific information to use and provide to the defense. The Internal Policy governs matters known to our own Office, and in our possession, which contains sometimes significantly more materials, and which must be discovered in cases where such Internal listees may be witnesses.

B. Organization of this External Policy

The following sections will cover the procedure to follow for judicial review of those matters we are made aware of from SFPD personnel files, dealing with historical cases (postjudgments), procedures to follow regarding outside law enforcement agencies and what investigations or sources of information are specifically excluded from this external policy.

II. PROCEDURE FOR JUDICIAL REVIEW OF SFPD PERSONNEL RECORDS

A. Brady Material Defined

The District Attorney is obligated to provide the defense in criminal cases with exculpatory evidence that is material to either guilt or punishment. (Brady v. Maryland, supra, 373 U.S. 83, 87.) Reviewing courts define "material" as follows: "The evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." (People v. Roberts (1992) 2 Cal.4th 271, 330.) The evidence must raise "reasonable probability that, had [it] been disclosed to the defense, the result . . . would have been different [citation] – that is to say, a probability sufficient to undermine confidence in the outcome." (In re Sassounian (1995) 9 Cal. 4th 535, 543-544, n. 6.)

"Exculpatory" means favorable to the accused. This obligation includes "substantial material evidence bearing on the credibility of a key prosecution witness." (People v. Ballard (1991) 1 Cal. App. 4th 752, 758.) Such impeachment evidence must disclose more than "minor inaccuracies." (People v. Padilla (1995) 11 Cal.4th 891, 929, overruled on other grounds, People v. Hill (1998) 17 Cal.4th 800, 823, fn. 1.)

The government has no *Brady* obligation to "communicate preliminary, challenged, or speculative information." (*United States v. Agurs* (1976) 427 U.S. 97, 109 fn. 16.) However, "the prudent prosecutor will resolve doubtful questions in favor of disclosure." (*Id.* at p. 108.) See also *Kyles v. Whitley* (1995) 514 U.S. 419, 439, which warns prosecutors against "tacking too close to the wind" in withholding evidence.

Examples of evidence that may constitute "*Brady* material" are as follows:

- 1. The character of the witness for honesty or veracity or their opposites. (Evid. Code § 780 (e).)
- 2. A bias, interest, or other motive. (Evid. Code § 780 (f).)
- 3. A statement by the witness that is inconsistent with the witness's testimony. (Evid. Code § 780 (h).)
- 4. Felony convictions involving moral turpitude. (Evid. Code § 788; *People v. Castro* (1985) 38 Cal.3d 301, 314.) Discovery of all felony convictions is required regarding any material witness whose credibility is likely to be critical to the outcome of the trial. (Penal Code § 1054.1 (d); *People v. Santos* (1994) 30 Cal.App.4th 169, 177.)
- 5. Facts establishing criminal conduct involving moral turpitude, including misdemeanor convictions. (*People v. Wheeler* (1992) 4 Cal.4th 284, 295-297.)
- 6. False reports by a prosecution witness. (*People v. Hayes* (1992) 3 Cal.App.4th 1238, 1244.)
- 7. Pending criminal charges against a prosecution witness. (*People v. Coyer* (1983) 142 Cal.App.3d 839, 842.)
- 8. Parole or probation status of a witness. (*Davis v. Alaska* (1974) 415 U.S. 308, 319; *People v. Price* (1991) 1 Cal.4th 324, 486.)
- 9. Evidence undermining an expert witness's expertise. (*People v. Garcia* (1993) 17 Cal.App.4th 1169, 1179.)
- 10. Evidence that a witness has a racial, religious or personal bias against the defendant individually or as a member of a group. (*In re Anthony P.* (1985) 167 Cal.App.3d 502, 507-510.)

B. Brady Material in Police Officer Personnel Files

For purposes of SFPD Bureau Order No. 2010-01, potential "Brady material" in personnel files of police officers has been defined by the SFPD to include any of the following:

- 1 A sustained finding of misconduct that comes within the definition of *Brady* material set forth in Section II. A. A sustained finding of misconduct occurs when (1) if charges are filed at the Chief's level, the Chief of Police finds a complaint to be sustained, and if there is an appeal to the Police Commission, the Commission has issued a decision on the appeal that finds a complaint to be sustained, or (2) if charges are filed with the Police Commission, the Police Commission finds a complaint to be sustained. If the SFPD has notified the District Attorney's office of *Brady* information and the officer later successfully appeals the finding of misconduct to a court, the SFPD shall provide the District Attorney's Office with a copy of the decision and the District Attorney's Office will reevaluate the matter.
- 2. Charges of misconduct filed with the Police Commission, or sustained by the Chief and on appeal to the Commission, when the charged misconduct comes within the definitions of *Brady* material set forth in Section II.A, (i) if the officer resigns or retires after the charges are filed and before the misconduct case is decided, or (ii) if the officer is still active and likely will be called as a witness in a criminal case before the misconduct case is decided. If the complaint of misconduct is later not sustained, the SFPD shall inform the District Attorney's Office and the District Attorney's Office will revaluate the matter.
- 3. Any arrest, conviction or pending criminal charge for a felony or moral turpitude offense.

C. Brady Material in Civilian Personnel Files

For purposes of SFPD Bureau Order No. 2010-01, potential "Brady material" in personnel files of SFPD civilian employees has been defined by the SFPD to include any of the following:

1 Any finding of misconduct that comes within the definition of *Brady* material set forth in Section II.A. A finding of misconduct occurs when (1) the Chief of Police has found a complaint to be sustained or (2) if a grievance has been filed, the employee has exhausted all remedies provided by MOU that governs the employee and the complaint has

been sustained. If the SFPD has notified the District Attorney's office of *Brady* information and the civilian later successfully appeals the finding of misconduct to a court, the SFPD shall provide the District Attorney's Office with a copy of the decision and that the District Attorney's Office will reevaluate the matter.

- 2. Official charges of misconduct filed by the SFPD when the charged misconduct comes within the definition of *Brady* material set forth in Section II.A, (i) if the employee resigns or retires after the charges are filed and before the misconduct case is decided, or (ii) if the employee is still active and likely will be called as a witness in a criminal case before the misconduct case is decided.
- 3. Any arrest, conviction or pending criminal charge for a felony or moral turpitude offense.

D. SFPD Procedure For Notifying District Attorney's Office

The SFPD and the District Attorney's Office have adopted a procedure by which the SFPD informs the District Attorney's Office of the identity of officers and civilian employees who may testify as a material witness in a prospective or pending case and who have information in their personnel files that may require disclosure under *Brady*.

Upon the completion of an internal review within the SFPD, the Director of Risk Management or designee shall send a written memorandum to the Chief of the Criminal Division in the District Attorney's Office that states the following: "The San Francisco Police Department is identifying [name of employee, star number if applicable, and date of separation from the Department if not a current employee] who has material in his or her personnel file that may be subject to disclosure under *Brady v. Maryland* (1963) 373 U.S. 83."

E. Confidentiality of Files

All memoranda from the SFPD to the District Attorney's Office that identify an employee as having potential *Brady* material in his or her personnel file shall be considered confidential, shall be protected as a confidential personnel record, as official information, and by any other applicable privilege or legal protection, and shall be maintained in a secure file.

The SFPD is aware that the District Attorney's Office will create a list of SFPD employees who have potential *Brady* material in their personnel files. The list shall include only the name of the employee, star number, and date of separation from the SFPD if not a current employee, and not any other information. The list resides on a secure computer drive, accessible to Assistant District Attorneys, with a "read only" feature, precluding the copying, printing or transmission of the list (only the list administrators can alter any information on the list).

Assistant district attorneys must review the list during case preparation to determine whether a law enforcement employee who is subpoenaed by or who will testify on behalf of the prosecution is on the list. "Case preparation" refers to any hearing at which that witness may testify, including (but not exclusively) preliminary examination, motion to suppress, motion to revoke, and court/jury trial.

F. Motion For In Camera Review

When the District Attorney's office deems that a law enforcement officer, identified by the SFPD as having possible *Brady* material in their personnel file, is a material witness in a pending criminal case or intends to call that officer as a witness, the District Attorney shall make a "Brady" motion under evidence Code Sections 1043 and 1045(e) to the court for in camera review of the records. (See Alford v. Superior Court, supra, 29 Cal.4th at 1046, Brandon, supra, 29 Cal. 4th at p. 14 United States v. Agurs, supra, 427 U.S. 97, 106; U.S. v. Dupuy (9th Cir. 1985) 760 F.2d 1492, 1502). As to non-sworn employees, the request shall be made pursuant to Evidence Code sections 1040 and 915(b). (See Board of Trustees v. Superior Court (1981) 119 Cal.App.3d 516, 525-526; Johnson v. Winter (1982) 127 Cal.App.3d 435.) At the time of application, the defense, the involved employee and the employing law enforcement agency will be notified of the request for *in camera* review.

G. Disclosure

If following *in camera* review, the Court orders disclosure of personnel file information, disclosure of the information shall be made to all parties as ordered by the Court. The SFPD and District Attorney's Office will work with the Court on an efficient method for disclosure. The SFPD and District Attorney's Office will urge the Court to adopt a procedure under which all parties, the SFPD, the District Attorney's Office and the defense, receive the information at the same time in conjunction with a protective order. The prosecuting attorney shall request that the Court issue a

protective order against disclosure of the material in other cases pursuant to Evidence Code section 1045, subdivision (e). (See *Alford v. Superior Court, supra,* 29 Cal. 4th 1033.)

H. File Control

Upon completion of a criminal case, the District Attorney's Office shall return to the SFPD all material from employee personnel files obtained pursuant to this Procedure for Disclosure. The District Attorney's office shall not maintain a depository organized by officer name of information obtained from SFPD personnel files pursuant to *in camera* hearings. Instead, motions shall be made under *Brady* and Evidence Code sections 1043 and 1045(e) in each future case in which the officer is a material witness.

III. REVIEW OF HISTORICAL INFORMATION BY THE TRIAL INTEGRITY UNIT

The SFPD has potential *Brady* material in its personnel files concerning officers and employees that relates to conduct that has occurred in the past and thus may impact closed criminal cases.

In order for the District Attorney's Office to satisfy any *Brady* obligation that may apply in closed criminal cases, the SFPD will provide the employee's name, star number if applicable, date of separation if not a current employee, and the following information. For conduct that has resulted in criminal arrest or conviction, the SFPD will provide the District Attorney with the relevant dates and description of the criminal conduct. For other types of misconduct, the SFPD will provide the District Attorney with the relevant dates.

The SFPD is aware that the District Attorney's Office will then take appropriate legal action to ensure that notice is given to all affected parties, including, but not limited to, filing a motion with the Court, giving written notice to a defendant's counsel of record, or giving written notice to the defense bar.

This historical review is being done by the San Francisco District Attorney's Office's Trial Integrity Unit (TIU). Should assistant district attorneys have questions concerning a closed criminal case, they should contact the managing attorney of the TIU or the Chief of their Division.

IV. NON-SFPD PROCEDURES

Assistant district attorneys preparing cases for any hearing shall consult the external list maintained on the shared computer drive against any witnesses they propose to subpoena; should any such proposed witnesses who are on the list be employed as law enforcement or civilian employees of a non-SFPD law enforcement agency, the assistant district attorney will access the list of legal contact information attached hereto (and updated regularly on the shared drive, 'S') and will immediately send a letter to the designated contact person for that agency asking that agency if the proposed witness has any *Brady* information for which a motion need be made to the Court. If that agency responds in the positive for any witness(es), the assistant district attorney shall notify the defense attorney in his/her upcoming trial/hearing, and make a *Brady/1043* motion to the Court.

V. INVESTIGATIONS NOT COVERED BY THIS PROCEDURE

A. District Attorney's Authority Under Penal Code Section 832.7(a)

Nothing in this Procedure for Disclosure shall apply to or in any way limit the District Attorney's authority pursuant to the exception set forth in Penal Code Section 832.7(a).

B. Cases Covered by the SFDA Internal Policy

The District Attorney's Office sometimes learns of potential law enforcement employee misconduct outside of the procedure described in Section II, above, or outside of an *in camera* review procedure. For example, evidence of untruthfulness may come to light during a criminal trial, or from credible reports of other law enforcement employees based on sources other than personnel records. The procedure in such cases in described in a separate memorandum ("Internal Policy").

Appendix L

APPENDIX

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PROCEDURE FOR DISCLOSURE PERSONNEL RECORDS IN COM- 1043 ET SEQ				
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I. LEGAL BACKGROUND

- A. Peace officer and civilian personnel records. Law enforcement personnel records are protected from disclosure by the statutory procedure required by Bvidence Code Sections 1043-1047. (Pitchess v. Superior Court (1974) 11 Cal.3d 531; Bvid. Code §§ 1043-1047; Penal Code § 832.7.)

 Additional important protections regarding personnel records are contained in the Public Safety Officers Procedural Bill of Rights Act (Gov. Code §§ 3300 et seq.) and in the right to privacy under the California Constitution (Article I, § 1).
- B: Brady disclosures. The District Attorney has a constitutional obligation under Brady v. Maryland (1963) 373 U.S. 83 to provide criminal defendants with material exculpatory evidence, including substantial evidence bearing on the credibility of prosecution witnesses. In California, the statutory procedure for discovery of police officer personnel records under Evidence Code 1043-1047 operates "in parallel" with the prosecution's obligation under Brady. (City of Los Angeles v. Superior Court (Brandon) (2002) 29 Cal.4th 1, 14.) Like the defense, the prosecution has no automatic right to discovery of peace officer personnel files, but must make a motion under Evidence Code Sections 1043 and 1045(e). (Alford v. Superior Court (2003) 29 Cal. 4th 1033, 1046.) Otherwise, the "prosecutor does not have the right to possess and does not have access to confidential peace officer files." (People v. Gutterrez (2004) 112 Cal.App.4th 1463, 1475.)

Repetitive requests by the District Attorney that the Department check employee personnel files of Department employees who may be witnesses create unnecessary paperwork and personnel costs for both the Department and the District Attorney's Office. Instead, the Department is adopting a procedure

SFPD 427 (8/91)

under which the Department advises the District Attorney's Office of the names of employees who have information in their personnel files that may require disclosure under *Brady*. The District Attorney's Office then makes a motion under Evidence Code 1043 and 1045 for *in camera* review of the records by the court.

- C. Brady disclosure process. The Department and the District Attorney's Office have adopted a procedure by which the District Attorney's Office learns the identity of officers and civilian employees who may testify as a material witness in a prospective or pending case and who have information in their personnel files that may require disclosure under *Brady*. As set forth in Section IV.A., the District Attorney will file a *Brady* motion in that case to seek *in camera* review by the Court to determine if the personnel files contain *Brady* material. In response to the motion, the Department will gather *Brady* related personnel files and provide them to the Court. The Court will determine if the personnel files contain *Brady* material that must be provided to the defense. This approach reconciles a defendant's constitutional right to a fair trial with a law enforcement employee's right to confidentiality.
- D. District Attorney Policies. This procedure works in conjunction with policies issued by the District Attorney regarding *Brady* material.
- E. District Attorney's Authority Under Penal Code Section 832.7(a). Nothing in this Procedure for Disclosure shall apply to or in any way limit the District Attorney's authority pursuant to the exception set forth in Penal Code Section 832.7(a).

II. BRADY MATERIAL DEFINED

A. Brady Material. The District Attorney is obligated to provide the defense in criminal cases with exculpatory evidence that is material to either guilt or punishment. (Brady v. Maryland, supra, 373 U.S. 83, 87.) Reviewing courts define "material" as follows: "The evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." (People v. Roberts (1992) 2 Cal.4th 271, 330.) The evidence must raise a "reasonable probability that, had [it] been disclosed to the defense, the result . . . would have been different [citation] – that is to say, a probability sufficient to undermine confidence in the outcome." (In re Sassounian (1995) 9 Cal. 4th 535, 543-544, n. 6.)

"Exculpatory" means favorable to the accused. This obligation includes "substantial material evidence bearing on the credibility of a key prosecution witness." (People v. Ballard (1991) 1

SFPD 427 (8/91)

Cal.App.4th 752, 758.) Such impeachment evidence must disclose more than "minor inaccuracies." (*People v. Padilla* (1995) 11 Cal.4th 891, 929, overruled on other grounds, *People v. Hill* (1998) 17 Cal.4th 800, 823, fn. 1.)

The government has no *Brady* obligation to "communicate preliminary, challenged, or speculative information." (*United States v. Agurs* (1976) 427 U.S. 97, 109 fn. 16.) However, "the prudent prosecutor will resolve doubtful questions in favor of disclosure." (*Id.* at p. 108.) See also *Kyles v. Whitley* (1995) 514 U.S. 419, 439, which warms prosecutors against "tacking too close to the wind" in withholding evidence.

Examples of evidence that may constitute "Brady material" are as follows:

- The character of the witness for honesty or veracity or their opposites.
 (Evid. Code § 780 (e).)
- 2. A bias, interest, or other motive. (Evid. Code § 780 (f).)
- A statement by the witness that is inconsistent with the witness's testimony.
 (Evid. Code § 780 (h).)
- 4. Felony convictions involving moral turpitude. (Evid. Code § 788; People v. Castro (1985) 38 Cal.3d 301, 314.) Discovery of all felony convictions is required regarding any material witness whose credibility is likely to be critical to the outcome of the trial. (Penal Code § 1054.1 (d); People v. Santos (1994) 30 Cal.App.4th 169, 177.)
- Facts establishing criminal conduct involving moral turpitude, including misdemeanor convictions. (People v. Wheeler (1992) 4 Cal.4th 284, 295-297.)
- 6. False reports by a prosecution witness. (*People v. Hayes* (1992) 3 Cal.App.4th 1238, 1245.)
- Pending criminal charges against a prosecution witness. (People v. Coyer (1983) 142
 Cal.App.3d 839, 842.)
- Parole or probation status of a prosecution witness. (Davis v. Alaska (1974) 415 U.S.
 308, 319; People v. Price (1991) 1 Cal.4th 324, 486.)

SEPO 427 (8/91)

- Evidence undermining an expert witness's expertise. (People v. Garcia (1993) 17
 Cal. App. 4th 1169, 1179-80.)
- Evidence that a witness has a racial, religious or personal bias against the defendant individually or as a member of a group. (In re Anthony P. (1985) 167 Cal. App. 3d 502, 507-510.)
- B. Brady Material in Police Officer Personnel Files. For purposes of this procedure, potential "Brady material" in personnel files of police officers shall include any of the following:
 - 1. A sustained finding of misconduct that comes within the definition of Brady material set forth in Section II. A. A sustained finding of misconduct occurs when (1) if charges are filed at the Chief's level, the Chief of Police finds a complaint to be sustained, and if there is an appeal to the Police Commission, the Commission has issued a decision on the appeal that finds a complaint to be sustained, or (2) if charges are filed with the Police Commission, the Police Commission finds a complaint to be sustained. If the Department has notified the District Attorney's office of Brady information and the officer later successfully appeals the finding of misconduct to a court, the Department shall provide the District Attorney's Office with a copy of the court's decision and the District Attorney's Office will reevaluate the matter.
 - 2. Charges of misconduct filed with the Police Commission, or sustained by the Chief and on appeal to the Commission, when the charged misconduct comes within the definitions of Brady material set forth in Section II.A, (i) if the officer resigns or retires after the charges are filed and before the misconduct case is decided, or (ii) if the officer is still active and likely will be called as a witness in a criminal case before the misconduct case is decided. In either case, before the Department notifies the District Attorney's Office of the officer's name, the Brady Committee (described in Section III) must determine that the seriousness of the misconduct and strength of the evidence warrants notification under Brady. If the complaint of misconduct is later not sustained, the Department shall inform the District Attorney's Office and the District Attorney's Office will reevaluate the matter.
 - 3. Any arrest, conviction or pending criminal charge for a felony or moral turpitude offense.

SEPD 427 (8/91)

- C. Brady Material in Civilian Personnel Files. For purposes of this procedure, potential "Brady material" in personnel files of Department civilian employees shall include any of the following:
 - 1. Any finding of misconduct that comes within the definition of *Brady* material set forth in Section II.A. A finding of misconduct occurs when (1) the Chief of Police has found a complaint to be sustained or (2) if a grievance has been filed, the employee has exhausted all remedies provided by Memorandum of Understanding that governs the employee and the complaint has been sustained. If the Department has notified the District Attorney's Office of *Brady* information and the civilian later successfully appeals the finding of misconduct to a court, the Department shall provide the District Attorney's Office with a copy of the court's decision and the District Attorney's Office will reevaluate the matter.
 - 2. Official charges of misconduct filed by the Department when the charged misconduct comes within the definition of Brady material set forth in Section II.A, (i) if the employee resigns or retires after the charges are filed and before the misconduct case is decided, or (ii) if the employee is still active and likely will be called as a witness in a criminal case before the misconduct case is decided. In either case, before the Department notifies the District Attorney's Office of the employee's name the Brady Committee must determine that the seriousness of the misconduct and the strength of the evidence warrants notification under Brady. If the complaint of misconduct is later not sustained, the Department shall inform the District Attorney's Office and the District Attorney's Office will reevaluate the matter.
 - 3. Any arrest, conviction or pending criminal charge for a felony or moral turpitude offense.

III. NOTIFICATION TO DISTRICT ATTORNEY

A. SIPD procedure for identifying potential Brady Material. The Department may become aware of *Brady* material based on an internal administrative investigation, a criminal investigation, in response to a request for information from the District Attorney in a pending case, or otherwise. Before the Department identifies an officer or a civilian employee to the District Attorney's Office as having *Brady* material in his or her personnel file or otherwise, the following procedures shall occur:

SFPD 427 (8/91)

- 1. The Department shall create a synopsis identifying the employee, the conduct that may give rise to a *Brady* obligation to report, and the documents and information that potentially should be disclosed. The Department shall create a form that includes spaces for the synopsis, the Brady Committee's recommendation, a notation as to whether the employee has submitted any responsive information, and the Chief's determination.
- 2. A "Brady Committee" shall meet, review the synopsis and recommend to the Chief of Police on the form whether disclosure of the employee's name should be made to the District Attorney. The Committee shall consist of the Assistant Chief of the Office of Chief of Staff, the Director of Risk Management, the head of the Legal Division, the Director of Staff Services, and the author of the synopsis. The Department shall retain a retired judge with criminal law experience to serve as a member of the Committee.
- a letter to the affected employee to notify the employee that the Committee shall send a letter to the affected employee to notify the employee that the Committee has determined that the employee's file contains evidence of conduct that may be Brady material. The letter shall provide the employee with an opportunity to submit written information within 15 calendar days of the date of the letter as to why the conduct identified in the letter does not constitute Brady material. Upon reasonable notice and during business hours, the employee shall have the opportunity to review the form created by the Department. The Committee shall review any information submitted by the employee before making a final decision on its recommendation. Any information submitted by the employee shall be noted on and appended to the form.
- 4. The Committee shall forward the form containing its recommendation to the Chief of Police. The Chief's designee shall approve or disapprove in writing on the form the disclosure of an employee's name to the District Attorney's Office.
- The form and all accompanying documentation, including any response by the employee, shall be placed in the employee's personnel file.
- B. SFPD procedure for notifying District Attorney's Office. Upon the completion of the internal review within the Department, the Director of Risk Management or designee shall send a written memorandum to the Chief of the Criminal Division in the District Attorney's Office that states the

SFPD 427 (8/91) *

following: "The San Francisco Police Department is identifying [name of employee, star number if applicable, and date of separation from the Department if not a current employee] who has material in his or her personnel file that may be subject to disclosure under *Brady v. Maryland* (1963) 373 U.S. 83."

At the same time, the SFPD shall provide a copy of the written notification to the involved employee. The copy shall be appended to the form described in Section III.A, and as stated above, the form shall be placed in the employee's personnel file.

C. Confidentiality of Files. All Department internal documents that identify employees as having potential *Brady* material, including the form described in Section III.A above, any attachments and any correspondence to or from the employee or the employee's representative, shall be treated as confidential, protected as a confidential personnel record, official information, and by any other applicable privilege or legal protection and shall be maintained in a secure file.

All memoranda from the Department to the District Attorney's Office that identify an employee as having potential *Brady* material in his or her personnel file shall be considered confidential, shall be protected as a confidential personnel record, as official information, and by any other applicable privilege or legal protection, and shall be maintained in a secure file.

The Department is aware that the District Attorney's Office will create a list of Department employees who have potential *Brady* material in their personnel files. The list shall include only the name of the employee, star number if applicable, and date of separation from the Department if not a current employee, and no other information. The list resides on a secure computer drive, accessible to Assistant District Attorneys, with a "read only" feature, precluding the copying, printing or transmission of the list (only the list administrators can alter any information on the list).

IV. PROCEDURE FOR JUDICIAL REVIEW IN OPEN CRIMINAL CASES

A. Motion for in camera review. When the District Attorney's Office deems that a law enforcement officer, identified by the Department as having possible Brady material in their personnel file, is a material witness in a pending criminal case or intends to call that officer as a witness, the District Attorney shall make a "Brady" motion under Bvidence Code Sections 1043 and 1045(e) to the court for in-camera review of the records. (See Alford v. Superior Court, supra, 29 Cal.4th at 1046, Brandon, supra, 29 Cal.4th at p. 14; United States v. Agurs, supra, 427 U.S. 97, 106; U.S. v. Dupuy (9th Cir. 1985) 760 F.2d 1492, 1502;). As to non-sworn employees, the request shall be made pursuant to

SFPD 427 (8/91)

Byidence Code Sections 1040 and 915(b). (See Board of Trustees v. Superior Court (1981) 119 Cal.App.3d 516, 525-526; Johnson v. Winter (1982) 127 Cal.App.3d 435.) At the time of application, the defense, the involved employee and the employing law enforcement agency will be notified of the request for *in-camera* review.

- B. Handling of Personnel Files. The Department shall handle *Brady* motions in the same manner as motions under Evidence Code 1043 and 1045(e). The Department shall supply the material from personnel files to the Court for *in camera* review. Until there is a court order for disclosure, the Department shall not disclose personnel file material to the District Attorney's Office or to any other party to the case. The Department shall permit the employee to inspect the personnel file material upon reasonable notice and during business hours.
- C. Disclosure. If following in camera review, the court orders disclosure of personnel file information, disclosure of the information shall be made to all parties as ordered by the Court. The Department and District Attorney's Office will work with the Court on an efficient method for disclosure. The Department and District Attorney's Office will urge the Court to adopt a procedure under which all parties, the Department, the District Attorney's Office and the defense, receive the information at the same time in conjunction with a protective order. The prosecuting attorney shall request that the court issue a protective order against disclosure of the material in other cases pursuant to Bvidence Code Section 1045, subdivisions (d) and (e). (See Alford v. Superior Court, supra, 29 Cal. 4th 1033.)
- D. File Control. Upon completion of a criminal case, the District Attorney's Office shall return to the Department all material from employee personnel files obtained pursuant to this Procedure for Disclosure. The District Attorney's office shall not maintain a depository organized by officer name of information obtained from SFPD personnel files pursuant to *in-camera* hearings. Instead, *Brady* motions shall be made in each future case in which the officer is a material witness. In connection with each motion, the Department shall keep a record of the files produced for *in camera* review and the material ordered disclosed by the Court.

V. HISTORICAL INFORMATION

The Department has potential *Brady* material in its personnel files concerning officers and civilian employees that relates to conduct that has occurred in the past and thus may impact closed

SFPD 427 (8/91)

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp or meeting date

I hereby submit the following item for introduction (select only one):	or meeting date
1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendmental Amendmental Committee).	ent)
2. Request for next printed agenda Without Reference to Committee.	
 ☑ 3. Request for hearing on a subject matter at Committee.	
4. Request for letter beginning "Supervisor	inquires"
5. City Attorney request.	
☐ 6. Call File No. from Committee.	
7. Budget Analyst request (attach written motion).	
8. Substitute Legislation File No.	
9. Reactivate File No.	
10. Question(s) submitted for Mayoral Appearance before the BOS on	
☐ Planning Commission ☐ Building Inspection Commission Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Sponsor(s):	
Clerk of the Board	
Subject:	
Hearing - Committee of the Whole - Findings and Recommendations Regarding Law Enforcement November 15, 2016	nt Practices -
The text is listed below or attached:	
Hearing of the Board of Supervisors sitting as a Committee of the Whole on November 15, 2016, hear and receive updates on the final reports, findings, and recommendations of the Blue Ribbon Transparency, Accountability, and Fairness in Law Enforcement; the Department of Justice Initia Report of the San Francisco Police Department; the President's Task Force on 21st Century Polic Grand Jury's Report, entitled "Into the Open: Opportunities for More Timely and Transparent Inv San Francisco Police Department Officer-Involved Shootings."	Panel on Il Assessment ing; and the Civil
Signature of Sponsoring Supervisor:	
For Clerk's Use Only:	