

From: [Gabriel Martinez](#)
To: [REDACTED]
Subject: Recommendation 32.2
Date: Monday, September 13, 2021 12:25:36 PM

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Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 32.2 that were submitted to us as part of the collaborative reform process. This package focused on SFPD improving its search and seizure training. After reviewing the package and information provided by the Department, the California Department of Justice finds as follows:

Recommendation 32.2: The SFPD needs better training on the Fourth Amendment and applicable state laws on search and seizure.

Response to 32.2: SFPD has improved several of its Fourth Amendment Basic Academy classes during the course of collaborative reform. SFPD improved its Laws of Arrest class by updating sections on consensual encounters (including what may elevate a consensual encounter to a non-consensual encounter and the consequences), the scope and condition for warrantless searches during a detention, and recognizing reasonable suspicion, among other sections. The training has also been amended to include a quiz on consensual encounters and detentions, classroom discussion on officer conduct during an arrest, and scenarios with discussions for procedural justice concepts. The class also expanded from twelve hours to fourteen hours.

SFPD improved its Search and Seizure course by updating sections on plain view, warrantless searches (pat search, search incident to arrest), and vehicle searches, among other sections. The training now includes discussions on officer trustworthiness during searches and the balance of officer safety and individual rights. Upon graduation from Basic Academy, recruits also take a search and seizure review class covering the various types of searches and the standards for those searches, and includes a quiz to test understanding and a discussion of quiz results.

SFPD also improved its Advanced Officer Search and Seizure training by updating sections on the totality-of-the-circumstances standard, entering residences, and searches of transgender individuals, among other sections. And the Force Options training expanded its discussion of Fourth Amendment seizures when using force and now shows video of Fourth Amendment considerations during progressive uses of force.

SFPD has also created additional courses on search and seizure. This includes a forty-hour seminar for supervisors called "Search and Seizure, Warrants, and Rebookings Sergeants Seminar," a four-hour course for plainclothes officers called "Plainclothes Operations/Undercover Operations Search and Seizure," and legal updates provided by the Field Training Office.

SFPD issues Department Bulletins, Department Notices, and roll-call trainings to notify officers of new Fourth Amendment case law, such as Department Bulletin 19-136, "Consent Searches of Private Residences," Department Notice 21-012, "Entering Residences," and SFPD's roll-call training on searching transgender, gender variant, and nonbinary persons. SFPD also provides officers an annual notice on legislative and legal updates which includes any case law affecting search and seizure.

To improve trainings, SFPD collects instructor and course evaluations at the end of each course. The instructors, lieutenant responsible for the course, and commanding officer of the Training Division review evaluations for improvements. Additionally, under Unit Order 20-02, "Academy Instructor Evaluations," subject matter experts must periodically attend trainings, and in practice have contributed to several of the improvements to search and seizure trainings identified above. Four months after trainings, SFPD sends additional evaluations to officers regarding the trainings (Unit Order 20-01, "Follow Up Training Impact Evaluations"). Additionally, the commanding officer of the training division is responsible for reviewing stop data related to searches and seizures on a quarterly basis to identify any training issues or needs. And on March 30, 2020, SFPD hired a staff attorney with expertise in Fourth Amendment search and seizure law. On a quarterly basis, the attorney reviews Department of Police Accountability and Internal Affairs Division complaints regarding search and seizure, reviews stop data related to search and seizure, and reviews criminal cases that were discharged due to search and seizure issues. The attorney discusses findings with the commanding officer of the training division and subject matter expert to make training recommendations. From Cal DOJ's review of trainings during the collaborative reform initiative, we recommend SFPD consider reinforcing search and seizure training regarding unhoused persons as well as for persons sharing living spaces.

Based upon all of the above, the Department of Justice finds that SFPD is in substantial compliance with this recommendation. Please let us know if you have any questions or would like to discuss further. Thank you.

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

Response Date: February 1, 2021

Executive Summary:

Members of the SFPD's Professional Standards Unit participated in conference calls with Hillard Heintze (HH) and the California Department of Justice (Cal DOJ) for the purpose of recommendation prescreening. The SFPD prescreened Bias Recommendation 32.2 on August 13, 2020. To achieve substantial compliance for recommendation 32.2, Cal DOJ and HH made the following suggestions, which were communicated via email by Cal DOJ to the SFPD after this prescreen meeting:

"For Recommendation 32.2, Cal DOJ thought that SFPD could expand on how some attachments (DGOs, Bulletins, Legislative Updates) were incorporated into search and seizure trainings as well as whose responsibility it is to update search and seizure trainings with new materials. Cal DOJ thought Lt. Perdomo's description on the call of how evaluations were used to revise search and seizure training was helpful and would be useful to put in writing in the SFPD package. Similarly, Cal DOJ requested more detail on how SFPD evaluates stop data review and EIS information to address any deficiencies or gaps in its search and seizure training. Cal DOJ suggested that SFPD send a Word document of the 2001 so that Cal DOJ could give clear feedback on its suggested revisions."

In response to the feedback from Cal DOJ and HH, the SFPD made changes to this document under Compliance Measures 1, 2 and 3.

Compliance Measures:

1) Improve curriculum for 4th Amendment training.

In November 2016, the San Francisco Police Department (SFPD) assembled a working group to review California Police Officer Standards and Training (POST) mandated courses. During this comprehensive review, the group paid particular attention to POST's training standards regarding the Fourth Amendment – search and seizure – to determine whether the SFPD was meeting the requirements of POST training. The working group determined that SFPD's training of Fourth Amendment search and seizure practices not only met POST standards but exceeded them. (Attachment #1,



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SFPD PSPPB Form 1001, dated 2/23/2017). While SFPD's Fourth Amendment training goes beyond the POST mandated minimum requirements, since 2016 the SFPD has continued to make improvements to its Fourth Amendment curriculum in several ways.

A. The SFPD has made improvements to its existing Fourth Amendment courses:

1. Basic Academy class – LD 15, Laws of Arrest. All training materials have been updated since 2016 with particular attention to the following items related to search and seizure and review of any new case law: (Attachment #2 – sections of the expanded course outline and sampling of PowerPoint slides, including slides with embedded videos):

- Improved section on recognizing conduct that may elevate a consensual encounter
- Improved section on recognizing consequences of elevating a consensual encounter
- Improved section on differentiating between a detention and a consensual encounter
- Improved section on recognizing reasonable suspicion
- Improved section on recognizing appropriate peace officer action during a detention
- Improved section on recognizing the scope and condition for warrantless searches and seizures during a detention
- Improved the section on recognizing the requirements for entry into a dwelling to make an arrest
- Required Learning Activities now include group quiz and oral explanation for the correct answer: consensual encounters and detentions.
- Required Learning Activities now include video with classroom discussion on officer conduct during an arrest
- Required Learning Activity that includes foundation and concepts of procedural justice by presenting scenarios depicting possible unprofessional or unlawful conduct by police officers and having a classroom discussion.
- The SFPD increased the total number of hours in LD 15 from the required 12 hours to 14 hours.

2. Basis Academy class – LD 16, Search and Seizure. All training materials have been updated since 2016 with particular attention to the following items related to search and seizure and review of any new case law: (Attachment #3 – sections of the expanded course outline and sampling of PowerPoint slides, including slides with embedded videos).

- Improved section on what constitutes plain view



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- Improved section on recognizing the scope and necessary conditions for conducting warrantless searches: pat searches, consent searches, searches pursuant to exigent circumstances, searches incident to an arrest and probation/parole searches
- Improved section on recognizing the scope and necessary conditions for conducting searches on vehicles: probable cause searches, seizures of items in plain view, protective searches, consent searches, searches incident to custodial arrest, and instrumentality searches
- Improved section on recognizing the legal framework for establishing a peace officer's authority to seize physical evidence from a subject's person with and without a warrant
- Improved Required Learning Activity that includes discussion on fairness, trustworthiness, and respect as they relate to officer's duties during searches and seizures
- Improve Required Learning Activity that includes discussion on an officer's ability to balance officer safety with the protection of individual rights and preservation of property

3. AO/CPT Search and Seizure training. All training materials have been updated since 2016 with particular attention to the following items related to search and seizure and review of any new case law: (Attachment #4 – PowerPoint slides, including slides with embedded training videos).

- Improved training on testifying and report writing/review to ensure standards for search and seizure are included
- Review of principles of Probable Cause and Reasonable Suspicion,
- Review of types on non-searches, warrantless searches, and warrant searches, and exceptions
- Improved section for review of "totality of the circumstances" to achieve armed or dangerous standard
- Review of DGO 5.03, Investigative Detentions
- Training on Department Bulletin (DB) 20-20, Response to Well-Being Checks
- Training on DB 19-136, Consent Searches of Private Residences
- Training on DB 19-036, Legislative Updates
- Training on DB 19-037, Case Law Updates
- Training on DN 21-012, Entering Residences
- Training on DB 19-145, Verifying Identities when Booking
- Training on DB 18-195 and DGO 5.22, TNG Searches



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4. Force Options Simulator training. All training materials have been updated since 2016 with particular attention to the following items related to search and seizure and review of any new case law: (Attachment #5 – sections of expanded course outline and sampling of PowerPoint slides, including slides with embedded training videos)

- Expanded training and discussion on 4th Amendment seizures when using force
- Expanded use of videos for discussion on the progression of use of force incidents with 4th Amendment Seizure considerations

B. The SFPD has developed several new courses designed to enhance and improve its members' understanding of Fourth Amendment law:

1. The SFPD Academy implemented a four-hour search and seizure review class for Basic Academy Recruits to take upon graduation but prior to starting the Field Training Program. The curriculum for this new course covers, in part:

(Attachment #6 – expanded course outline) and (see again Attachment #4 and PowerPoint slides, including slides with embedded training videos)

- Review and discussion of types of searches for a person and vehicles: consent, exigency, search warrant, probable cause, Terry pat search (person), protective sweep (vehicles), vehicle inventory, and search incident to an arrest (person)
- Review and discussion of types of searches for a residence: consent, probation, parole, exigency, and search warrant
- Use of the same PowerPoint presentation used in the AO/CPT
- Use of thirty-three question quiz to test understanding of concepts
- Discussion of the correct answer for each of the thirty-three questions, with opportunities to clear up any misunderstandings

2. The SFPD's Fourth Amendment Subject Matter Experts ("SME") designed a forty-hour seminar for supervisors titled, "Search and Seizure, Warrants, and Rebookings Sergeants Seminar." The curriculum for this new course covers, in part: (Attachment #7 – course outline and Power Point slides).

- Discussion of Fourth Amendment search and seizure principles including
- Discussion on testifying and report writing/review to ensure standards for search and seizure are included
- Discussion of principles of Probable Cause and Reasonable Suspicion,
- Discussion of types of non-searches, warrantless searches, and warrant searches, and exceptions
- Discussion on "totality of the circumstances" needed to articulate armed or dangerous standard
- Discussion of new case law relating to search and seizure principles.



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- Discussion of community's perspective on police search and seizures.
- Practical exercise of review sample police reports for accuracy and completeness, including whether the officer articulated the basis for a search or seizure consistent with 4th Amendment standards.
- Provide examples of various types of warrants and discussion on how to prepare them

3. The SFPD's Fourth Amendment SMEs designed a four-hour Plainclothes Operations/Undercover Operations Search and Seizure course. This class is mandatory for all plainclothes assignments. The curriculum for this new class covers: (Attachment #8 – expanded course outline) and (see again portions of Attachment #7 – PowerPoint slides).

- Discussion of Fourth Amendment search and seizure principles including
- Discussion on testifying and report writing/review to ensure standards for search and seizure are included
- Discussion of principles of Probable Cause and Reasonable Suspicion,
- Discussion of types of non-searches, warrantless searches, and warrant searches, and exceptions
- Discussion on "totality of the circumstances" needed to articulate armed or dangerous standard
- Discussion of new case law relating to search and seizure principles.
- Discussion of community's perspective on police search and seizures.
- Practical exercise of review sample police reports for accuracy and completeness, including whether the officer articulated the basis for a search or seizure consistent with 4th Amendment standards.
- Provide examples of various types of warrants and discussion on how to prepare them
- Use of the same PowerPoint presentation used in the Search and Seizure, Warrants, and Rebookings Sergeants Seminar

4. The Field Training Office ("FTO") hosts courses to review the information contained in the yearly published Legal Updates. This course discusses the new laws related to search and seizure, including discussion on community perspectives in relation to the execution of the law. The curriculum for this new class covers: (Attachment #9 – course outline and Legal Updates Handout) and (See again Attachment #4 – page 3 of PowerPoint presentation listing Department policies discussed during class)

- Improved training on testifying and report writing/review to ensure standards for search and seizure are included



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- Review of principles of Probable Cause and Reasonable Suspicion,
- Review of types on non-searches, warrantless searches, and warrant searches, and exceptions
- Improves section for review of "totality of the circumstances" to achieve armed or dangerous standard
- Review and discussion of types of searches for a person and vehicles: consent, exigency, search warrant, probable cause, Terry pat search (person), protective sweep (vehicles), vehicle inventory, and search incident to an arrest (person)
- Review and discussion of types of searches for a residence: consent, probation, parole, exigency, and search warrant
- Review of DGO 5.03, Investigative Detentions
- Training on Department Bulletin (DB) 20-20, Response to Well-Being Checks
- Training on DB 19-136, Consent Searches of Private Residences
- Training on DB 19-036, Legislative Updates
- Training on DB 19-037, Case Law Updates
- Training on DN 21-012, Entering Residences
- Training on DB 19-145, Verifying Identities when Booking
- Training on DB 18-195 and DGO 5.22, TNG Searches

5. The SFPD's Training Division now hosts sessions of the Robert Presley Institute of Criminal Investigations ("ICI") Core Course, which includes an eight-hour Search Warrants & Search/Seizure review class. The curriculum for this class covers, in part: (Attachment #10 – portions of the expanded course outline) and (See again Attachment #7 - PowerPoint slides, including slides with embedded training videos).

- Discussion of types of searches for a person and vehicles: consent, exigency, search warrant, probable cause, Terry pat search (person), protective sweep (vehicles), vehicle inventory, and search incident to an arrest (person)
- Discussion of types of searches for a residence: consent, probation, parole, exigency, and search warrant
- Discussion of principles of Probable Cause and Reasonable Suspicion,
- Discussion of "totality of the circumstances" needed to articulate armed or dangerous standard
- Use of the same PowerPoint presentation used in the Search and Seizure, Warrants, and Rebookings Sergeants Seminar



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- C. The SFPD continues to use Department Bulletins/Notices ("DB/DN") and Roll Call Trainings ("RCT") to provide its members immediate notification of changes to Fourth Amendment law resulting from new case law decisions or to provide members a review of common Fourth Amendment laws and procedures. The DB/DNs and RCT are also incorporated into the appropriate search and seizure course(s):
1. The SFPD issued Department Bulletin 19-136; Consent Searches of Private Residences (Attachment #11 - DB 19-136). This DB provides officers with a review of Fourth Amendment law and the requirements needed for a consent search of a private residence. The DB reminds officers that courts will determine whether the consent was given freely and voluntarily and whether the subject had actual or apparent authority to consent to the search. The DB is accompanied with a Permission to Search (sfpd form #468) form. This DB was incorporated into the Basic Academy LD 16, Basic Academy four-hour review course, Plainclothes Operations class, ICI, Sergeant's Seminar, FTO Legal Update classes, 8-hour course, and AO/CPT. (Attachment #12 – List of classes incorporating Department Bulletins related to search and seizure) and (see again Attachment #4 – page 3 of PowerPoint presentation listing Department policies discussed during class)
 2. The SFPD issued Department Notice 21-012; Entering Residences (Attachment #13 – DN 21-012). This DB provides officers with a review of Fourth Amendment law and the limitations imposed on officers when entering a residence when they do not have a warrant and no exigency exists. The DB lists the limited circumstances when an officer can enter a residence without a warrant or exigent circumstances:
 - consent,
 - the resident has a search condition,
 - fresh pursuit, and
 - entry is required to freeze the scene to obtain a search warrant when there is probable cause to believe evidence will be lost or destroyed if entry is delayed.

This DB was incorporated into the Basic Academy LD 16, Basic Academy four-hour review course, Plainclothes Operations class, ICI, Sergeant's Seminar, FTO Legal Update classes, 8-hour course, and AO/CPT (See again Attachment #12 – List of classes incorporating Department Bulletins related to search and seizure) and (see again Attachment #4 – page 3 of PowerPoint presentation listing Department policies discussed during class)

3. The SFPD issued SFPD Roll Call Training Lesson: TGN Searches (Attachment #14 – RCT TGN Searches and DB 18-195 – announcing issuance of DGO 5.22 update packet). This Roll Call Training provides officers with an overview of DGO 5.22, Interacting with Transgender, Gender-Variant, and Nonbinary Individuals,



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and information on protocols regarding searching TNG subjects. The Roll Call Training contains the Strip Search and/or Body Cavity Authorization form and the Voluntarily Gender Identity Statement of Preference Form for Strip Searches of Transgender, Gender-Variant, or Nonbinary Individuals. This RCT was incorporated into the Basic Academy LD 16, Basic Academy four-hour review course, Plainclothes Operations class, ICI, Sergeant's Seminar, FTO Legal Update classes, 8-hour course, and AO/CPT (See again Attachment #12 – List of classes incorporating Department Bulletins related to search and seizure) and (Attachment #15 – portions of PowerPoint slides on Interacting with Transgender Individuals in the Workplace training)

While DB 18-195, Interacting with Transgender, Gender-Variant, and Nonbinary Individuals DGO update notification, is expired, it is included in the package to show when DGO 5.22 was adopted in the SFPD. The SFPD does not reissue DBs that announce the adoption of a new DGO; instead the material is incorporated into existing training.

D. Annual Legislative and Legal Updates are provided to all members through a Department Notice and are incorporated into training. The Legislative and Legal Updates address, in part, new statutes and case law affecting 4th Amendment and California state search and seizure principles. The following is the 2020 Winter Legal Update:

- Department Notice 20-181 Winter Legal Updates (Attachment #16 – portions of DN 20-181). The 2020 Winter Legal Updates provides summaries for four cases that were handed down that impact Fourth Amendment laws, including cases regarding:
 - exigent circumstances exceptions to warrant requirements,
 - Situations that contribute to reasonable suspicion to detain an individual,
 - guidance on an officer's use of deception in obtaining evidence without a warrant, and
 - when consent is considered implied or expressed.

This Legal Update has been incorporated into FTO Legal Updates classes and AO/CPT upon its issuance.

2) Evidence of revised/improved training on state search and seizure laws.

In addition to the improvements made to training involving Fourth Amendment law, the SFPD improved its training on California search and seizure laws.

A. The SFPD issued Department Notice 20-20, Response to Well-Being Checks Not Involving Crisis Intervention, (Attachment #17 – DN 20-20) immediately after the California Supreme Court issued its ruling that "community caretaking" searches are



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unconstitutional. DB 20-020 was incorporated into Basic Academy four-hour review course, Plainclothes Operations class, ICI, Sergeant's Seminar, FTO Legal Update classes, 8-hour course, and AO/CPT. (See again Attachment #12 - List of classes incorporating Department Bulletins related to search and seizure)

- B. The SFPD issued Department Bulletin 19-145, Verifying Identities when Booking or Citing Subjects (Attachment #18 – DB 19-145). This DB provides officers guidance on the verification of a subject's identity and the conditions from the California Penal Code under which a subject shall be taken into custody for failing to provide satisfactory identification. This DB was incorporated into the Basic Academy LD 15, Basic Academy four-hour review course, Plainclothes Operations class, ICI, Sergeant's Seminar, FTO Legal Update classes, 8-hour course, and AO/CPT. (See again Attachment #12 - List of classes incorporating Department Bulletins related to search and seizure)
- C. Annual Legislative and Legal Updates are provided to all members through a Department Notice and are incorporated into training. The Legislative and Legal Updates address, in part, new laws and case law affecting 4th Amendment and California state search and seizure principles. The following is the 2020 Legislative Updates:
- Department Bulletin 20-133; 2020 Legislative Update (Attachment #19 – portions of DB 20-133). The 2020 Legislative Update contains a specific section related to changes in search and seizure laws and explains the impact of California Penal Code section 1524(a)(19)(A) which expands the list of crimes for which a search warrant may be issued and provides an example of when the section should be used in a vehicular manslaughter case. This Annual Legal Update has been incorporated into the Basic FTO Legal Update classes and AO/CPT. (See again Attachment #12 - List of classes incorporating Department Bulletins related to search and seizure)

3) Continuous improvement loop regarding efficacy of training.

Since 2016, the SFPD has implemented several new procedures for evaluating the efficacy of training associated with search and seizure law.

- A. The Training Division has implemented procedures to collect instructor and course evaluation data for the Academy's Professional Development Unit and the Basic Recruit Training Office to use when determining how to improve training. (Attachment #20 – Unit Order 20-02, Academy Instructor Evaluations) and (Attachment #21 – Unit Order 20-01, Follow Up Training Impact Evaluations)



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1. At the conclusion of each block of instruction, each student (in-service member, recruit officer, or other) completes the instructor/course evaluation form (see again Attachment #20 – Unit Order 20-02 section III, 2nd paragraph) that captures data on the officer's opinion on 1) whether the course objectives were clearly stated, 2) whether instruction was clear, 3) whether teaching aids were effective, 4) whether the instructor was knowledgeable, 5) whether the instructor encouraged discussion and questions, 5) whether a mix of instructional techniques were and appropriate, 6) whether the instructor incorporated community policing concepts and related it to the material, and 7) whether incorporated ethics in the presentation and related to the course material. (Attachment #22 – sampling of evaluation sheets from the 270th Recruit Class for the Search and Seizure block of instruction.)
2. These forms are reviewed by 1) the instructors responsible for providing the course of instruction, 2) the lieutenant responsible for the course of instruction, and 3) the commanding officer of the training division. The instructors and lieutenants use the evaluation forms to evaluate both the efficacy of the course content and the course instructor and determine if any changes or improvements are needed with either. (see again Attachment #20 – Unit Order 20-02 section III, 3rd paragraph) and (see Attachment #23 – sample Evaluation Cover Sheet showing sign-off from instructor, lieutenant, and commanding officer.)
3. The forms are also reviewed to determine the effectiveness of teaching methods used in the class, including PowerPoints, videos, group exercises, discussion, handouts, and lecture. The feedback has led to changes in the way search and seizure courses are taught. Instructors now use more adult learning concepts, including practical exercises involving simulated car and pedestrian detentions, review of Body Worn Camera footage, review of police incident reports, and class discussions on current developments in search and seizure law. (see again Attachment #20 – Unit Order 20-02 section III, 3rd paragraph)
4. SMEs are required to periodically monitor courses to ensure compliance with the approved lesson plans. (see again Attachment #20 – Unit Order 20-02 section III, 4th paragraph) As a result of monitoring classes, SMEs have made changes to search and seizure blocks of instruction by:
 - improving training materials,
 - increasing the number of search and seizure courses,
 - increasing the number of hours in search and seizure courses,
 - increasing the number of practical exercises, and
 - including a writing and reviewing of police incident reports related to articulating search and seizure principles.
5. To obtain additional data regarding the efficacy of any training, four months after the course is given, the Training Division sends a follow-up "training impact evaluation" form to gather additional data to determine whether any changes are



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needed to improve the course, to determine officers' retention rates of the subject matter, and to determine how effective officers are in using what they learned during the Basic Academy during their work assignment. (see again Attachment #21 – Unit Order 20-01, Follow Up Training Impact Evaluations, Section III, B.)

- B. In 2018, the SFPD implemented a new data collection system, Stop Data Collection System (SDCS), to comply with AB953. (Attachment #24 – DB 18-105, SDSC Implementation, and DB 18-247, SDSC Implementation supplement). SFPD also uses portions of the SDSC data to comply with the reporting requirements of SF Admin Code 96A. Officers are required to enter data into the SDSC system for all stops, including but not limited to pedestrian, bicycle and vehicle stops, prior to the end of their shift.

While DB 18-105 and DB 18-247 are both expired, they are included to confirm the implementation date of the SDSC program. DN 20-141, SDSC Implementation, (Attachment #25 – SDSC Implementation) was issued on October 7, 2020 as a reissuance of both DB 18-105 and DB 18-247 combined.

On a quarterly basis, the Commanding Officer of the Training Division is responsible for reviewing, in part, the SDSC data related to searches and seizures in the 96A report to determine the efficacy of training and determine whether any changes to training are needed. (Attachment #26 – SFPD protocols for dissemination of SF Administrative Code 96A quarterly report ("96A report") and (Attachment #27 – sample email from the Chief's Office to the Commanding Officer of the Training Division directing them to review the data in the 96A report to assess whether there are opportunities to improve training)

- The analysis of the 3rd Quarter 2020 96A report, which shows a decrease in the number of overall searches among all identity groups (Attachment #28 – portions of 3rd Quarter 2020 96A report), suggests the decrease may be due, in part, to the improved Fourth Amendment training and officers having a better understanding of search and seizure laws.

- C. On March 30, 2020, the SFPD hired a staff attorney whose expertise is in Fourth Amendment search and seizure law (Attachment #29 – portions of Personnel Order #7 showing the hiring of Kara Lacy). The staff attorney conducts analysis in several areas to determine if the SFPD's Fourth Amendment training is effective and whether that training needs improvement. The IAD staff attorney's job description, in part, calls for the following: (Attachment #30 – document outlining staff attorney's responsibilities relative to search and seizure review)

1. On a quarterly basis, analyze the Department of Police Accountability (DPA) complaints and SFPD's Internal Affairs' complaints related to search and seizure to identify the areas of Fourth Amendment training that may need improving.



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2. On a quarterly basis, analyze the SDCS data and the 96A report data related to searches and seizures to identify any patterns that may indicate SFPD's Fourth Amendment training needs improving.
3. On a quarterly basis, review SFPD criminal cases that were discharged by the District Attorney's Office for search or seizure issues and identify any patterns to address through training improvements.
4. On a quarterly basis, discuss the findings of the analysis with the Commanding Officer of the Training Division and the SFPD's Fourth Amendment SME and make recommendations for improvements to Fourth Amendment training, if needed.



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

- Improve curriculum for 4th Amendment training.
- Evidence of revised/improved training on state search and seizure laws.
- Continuous improvement loop regarding efficacy of training.

Response Date: 07/13/2021

ADDENDUM

The SFPD received notification that the review of Recommendation 32.2 was substantial compliance however Hillard Heintze requested additional information that 32.2 be added to the recommendation.

Hillard Heintze noted: **This recommendation review was held pending a final decision on hiring a person responsible for structuring Fourth Amendment training. Prior to forwarding to Cal DOJ, please add an addendum explaining the duties and responsibilities of the staff attorney/analyst who was hired to improve Fourth Amendment training, addressing all compliance measures for this recommendation. The duties and responsibilities of the attorney/staff analyst provide more clarity and specificity regarding the department's efforts to improve Fourth Amendment training.*

The above requested information was included in the original recommendation submission. Compliance measure #4 noted that on March 30th, 2020 the SFPD hired a staff attorney whose expertise is in Fourth Amendment search and seizure law. Attachment #29 documented the official hiring of the IAD Staff Attorney, Kara Lacy. Attachment #30 further documented the duties and responsibilities relative to Staff Attorney's search and seizure review.

Since her hiring in 2020, IAD Attorney Lacy has assisted the department in the creation, revision or updating of the following General Orders, Department Bulletins and Department Notices:

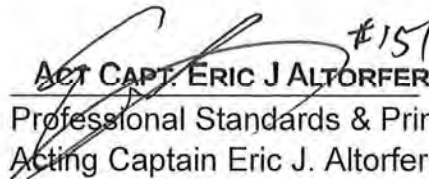
- 20-133 – 2020 Legislative Updates
- 20-153 – California Election Laws
- 20-181 – 2020 Legal Updates
- 21-001 – Warrantless Searches of Vehicles
- 21-012 – Entering Residences
- 21-018 – Stalking Investigations



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- 21-048 – 2021 Legislative Updates
- 21-054 – SFPD Statement of Incompatible Activities
- DGO 5.03 – Bias Free Policing
- DGO 5.16 – Obtaining Search Warrants
- DGO 7.01 – Policies and Procedures for Juvenile Detentions

In addition to assisting with the legal updates and legal requirements of official SFPD policies, IAD Attorney Lacy is working with the Training Division to building out search and seizure trainings for sworn members of the department (see Addendum Attachment #1: Emails from Kara Lacy including responses.)

 #151
ACT CAPT. ERIC J ALTORFER #151
Professional Standards & Principled Policing
Acting Captain Eric J. Altorfer