

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Captain Bailey,

Our office has completed its review of the materials related to Recommendation 63.1 that have been submitted to us as part of the collaborative reform process. This package focused on SFPD defining Internal Affairs Division (IAD) authority, requiring officer collaboration, and ensuring department coordination with IAD. After reviewing the package and information provided by SFPD, the California Department of Justice finds as follows:

**Recommendation 63.1:** The SFPD should clearly define the authority of IAD and reinforce that cooperation and collaboration with IAD is mandatory.

**Response to 63.1:** On May 15, 2019, SFPD published DGO 2.04, Complaints Against Officers, which outlines the policies and procedures for receiving, investigating and processing complaints against officers. The DGO defines the scope of IAD investigations: "Internal Affairs shall investigate complaints of members made by any Department member or Law Enforcement Agency, and all off-duty alleged misconduct." The DGO also explains the roles of other agencies that handle complaints, including the Department of Police Accountability.

SFPD has supplemented the DGO to reinforce IAD's authority and remind members of their required cooperation. On December 16, 2019, SFPD published Department Notice 19-244, clarifying that IAD works under the authority of the Police Chief and reiterating that all officers are required to cooperate in IAD investigations. The Notice emphasizes that "[b]oth Named and Witness Members are required to answer truthfully and cooperate fully with IAD." The Notice also provides illustrative examples of investigations that fall within IAD's responsibility. Additionally, SFPD has included information on the importance of officer compliance with IAD in its Principled Policing training. Chief Scott has also buttressed this messaging in his October 2019 Video Message, recognizing that IAD is critical to maintaining SFPD's integrity, credibility, and effectiveness.

If any officer does not cooperate with IAD during any phase of an investigation, the officer in charge may add insubordination as an allegation if warranted. These incidents will also be reviewed by the Disciplinary Review Board, which will make recommendations on changes to policies, procedures, and trainings as needed.

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 these further. Thank you.

Tanya

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

20-61

<b>Finding # 63</b>	<b>The SFPD does not fully support members performing internal affairs functions.</b>
<b>Recommendation # 63.1</b>	The SFPD should clearly define the authority of IAD and reinforce that cooperation and collaboration with IAD is mandatory.

<b>Recommendation Status</b>	<b>Complete</b>	<b>Partially Complete</b>	<b>In Progress</b>
	<b>Not Started</b>	<b>No Assessment</b>	

**Summary**

The department submits several documents in support of this recommendation: a MOA between SFPD and the DPA which describes roles and responsibilities; and DGO 2.04, effective 5/5/19, that outlines the conduct of internal investigations. Both prioritize the need to cooperate with investigations and outline the standards that apply. Additional support is provided through the inclusion of Department Notice 19-244 dated 12/16/19. This provides specific recognition that IAD investigators work for the Chief and that their duties shall not be purposefully delayed or interfered with. Rule 21 of the Rules of Conduct identify that members shall cooperate with investigations. The department reinforces that DGO 2.01.21 *Cooperation in Investigations* has already reinforced that cooperation was mandatory. Further, on December 16, 2019 Chief Scott issued a Department Notice further clarifying the authority of the IAD.

As for compliance measures 1 and 2 – the department meets substantial compliance in light of the various orders and other policies contained within the file. The Principled Policing curriculum focuses on the goal and role of IAD and why it is important to the SFPD. As for compliance measure 3 – the department has met substantial compliance based upon the requirement to cooperate with IAD. The SFPD further states that per the OIC of IAD, no member has failed to cooperate with any IAD investigation since the adoption of DGO 2.04 and Department Notice 19-244. While this has not occurred, the department identifies the role of the Disciplinary Review Board has the authority and responsibility to track patterns and to identify any changes in policy necessary to address any issues.

Compliance Measures		Status/Measure Met
<b>1</b>	Policy and protocols emphasize the role of IAD and its importance to the organization.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>2</b>	Establish policy and protocols that require cooperation by members of the department.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3</b>	Review/improvement loop to ensure IAD investigators are receiving cooperation.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

**Administrative Issues**

The rules of conduct do not have applicability here – this recommendation is about identifying the role and support for the IAD investigators.

**Compliance Issues**

The SFPD meets substantial compliance, however the Chief’s Video Message October 2019 hits the crux of this

## Hillard Heintze File Review Recommendation # 63.1

recommendation. While policies defining the role and requirements to cooperate with IAD are well established, the organizational support for IAD and the role is not as deep. The curriculum from PP supports this concept and is a welcome step forward.



## Collaborative Reform Completion Memorandum

**Finding # 63:** The SFPD does not fully support members performing internal affairs functions.

**Recommendation # 63.1:** The SFPD should clearly define the authority of IAD and reinforce that cooperation and collaboration with IAD is mandatory.

**Response Date: 12/23/2019**

### Executive Summary:

In order to fully support members performing internal affairs functions, it was important to clearly define the authority of the Internal Affairs Division (IAD) and important to reinforce that cooperation and collaboration with IAD by members is mandatory.

Several meetings were held with the Department of Police Accountability (DPA). Both the SFPD and the DPA agreed that the existing *DGO 2.04 Complaints Against Officers* needed to be updated.

The SFPD and DPA worked closely together to draft the new *DGO 2.04 Complaints Against Officers* (Attachment 1).

*DGO 2.04 Complaints Against Officers* and *MOU Between the DPA and the SFPD DGO 2.04, Complaints Against Officers* (Attachment 2) were approved by the SFPD Police Commission and were made Department policy effective 5/15/19.

DGO 2.04 is pertinent to Recommendation 63.1 as it established the role of IAD in the complaint process and clearly defined the authority of IAD.

The policy of mandatory cooperation and collaboration with IAD by members was *previously established in DGO 2.01.21 Cooperation in Investigations*.

To further provide support to members performing internal affairs functions, *Department Notice 19-244* (Attachment 3) was issued on 12/16/19. This is pertinent to Recommendation 63.1 as it reinforces both what the authority of IAD is (*DGO 2.04 Complaints Against Officers*) and that cooperation and collaboration is mandatory by members of the Department during an [AD investigation (*DGO 2.01.21 Cooperation with Investigations*, Attachment 4).



## Collaborative Reform Completion Memorandum

### Compliance Measures:

- 1) Policy and protocols emphasize the role of IAD and its importance to the organization.**

DGO 2.04 *Complaints Against Officers* (Attachment 1) was updated and issued on 5/15/19. This General Order defines the role of IAD.

DGO 2.04.05: *"Internal Affairs shall investigate complaints of members made by any Department member or Law Enforcement Agency, and all off-duty alleged misconduct. Additionally, all EEO complaints shall be referred to IAD's EEO Liaison, who shall in turn forward the complaints to the Department of Human Resources."*

The Professional Development Unit (PDU) added a section to the current Principled Policing class that emphasizes the importance of the Internal Affairs Division. This class is given to Basic Recruit Class (BCR) Police Service Aides (PSA), and civilians. The block of instruction focuses on the need for accountability, the importance of officer's compliance with the law and the Department's policies, and the importance of transparency.

The Principled Policing curriculum (Attachment 5) specifically addresses the importance of IAD as a component of SFPD's legitimacy in the eyes of the public. The discussion is part of Module 4 of the class. The slides for this part of the course are attached as a supporting document (Attachment 5).

Chief of Police Scott added a segment in his Chief's October 2019 Video Message (Attachment 6) to the Department about the importance of the Internal Affairs Division within the Department.

*"Finally, I want to give a special acknowledgement this month to the men and women of our Internal Affairs Division.*

*They have a tough job that's often subject to misconceptions and resentment. Simply put, their mission is to gather evidence in order to fairly investigate alleged misconduct. It's important to recognize that IAD is critical to maintain the integrity, credibility and effectiveness of our organization. And to ensure we maintain the high standards we expect from ourselves and the public expects from us. We value our hard working IAD members and they deserve our full support and thanks."*

The Chief's October 2019 Video Message transcript (Attachment 6) is attached as a supporting document (Attachment 6).

In addition, a still photograph taken from the Chief's October 2019 Video Message depicting Chief Scott addressing the importance and role of the Internal Affairs Division segment is attached as a supporting document (Attachment 7).



## **Collaborative Reform Completion Memorandum**

The Chief's message is distributed to all members by the Written Directives Unit via their work email address. A copy of the email sent by the Written Directives Unit to all members of the San Francisco Police Department: SFPD [POL] on October 21, 2019 titled Chief's October 2019 video is attached as a supporting document (Attachment 8).



## Collaborative Reform Completion Memorandum

### **2) Establish policy and protocols that require cooperation by members of the department.**

Policy requiring cooperation by members with IAD was previously established in *Department General Order 2.01 General Rules of Conduct (08/11/05, Attachment 4)*.

DGO 2.01.21 Cooperation with Investigations: *"Members shall, when questioned on matters relating to their employment with the Department by a superior officer or by one designated by a superior officer, or by a member of the Office of Citizen Complaints, answer all questions truthfully and without evasion. Prior to being questioned, the member shall be advised of and accorded all his or her rights mandated by law or Memorandum of Understanding (see DGO 2.08, Peace Officers' Rights)."*

*Department Notice 19-244 (Attachment 3)* was issued on 12/16/19 to reinforce and remind officers of the existing policy.

*"Department investigators assigned to IAD work under the authority and direction of the Chief of Police. Their duties shall not be interfered with or purposely delayed."*

### **3) Review/improvement loop to ensure IAD investigators are receiving cooperation.**

In the event a member does not cooperate with IAD during any phase of an investigation, the incident is documented in the investigation's case file. The case file is then reviewed by the OIC of the unit who determines if the behavior rises to the level of insubordination and if so this insubordination will be an added allegation.

Per the OIC of IAD, no member has failed to cooperate with any IAD investigation since the adoption of DGO 2.04 and Department Notice 19-244. As a result, no remedial action has been necessary. If an incident whereby a member fails to cooperate with any IAD investigation does arise the failure will be addressed using this process.

In addition the OIC will keep track of all incidents involving any member who fails to cooperate with an IAD investigation. This information will be presented for review on a quarterly basis to the Assistant Chief who oversees the Disciplinary Review Board. The Disciplinary Review Board shall review and discuss the information provided to determine if there are any patterns. If any patterns are found the Disciplinary Review Board shall consider whether any policy, procedures or training needs to be revised, added or re-issued if it relates to the matter reviewed. The Disciplinary Review Board will make written recommendations that include the manner in which the recommendation shall be implemented and a timeline for completion based upon identified priority level and complexity of recommendation (see attachment # 1 copy of DGO 2.04 pages 8 & 9 specifically).