

[REDACTED]

From: Tanya Koshy [REDACTED]
Sent: Thursday, August 5, 2021 2:22 PM
To: [REDACTED]
Subject: Recommendation 25.2

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Dear Acting Captain Altorfer:

Our office has completed its review of the materials related to Recommendation 25.2 that have been submitted to us as part of the collaborative reform process. After reviewing the package and information provided by the Department, the California Department of Justice finds as follows:

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.

Response to Recommendation 25.2:

As a threshold matter, the California Department of Justice and Hillard Heintze agree that SFPD’s decision to release a roll call training document, as opposed to a video, suffices for substantial compliance for this recommendation. At the time the US Department of Justice made this recommendation, SFPD’s roll call trainings were sporadic and inconsistent and there was no record that these trainings occurred; given this, the US DOJ recommended a roll call training in video format to ensure consistency. Since this recommendation was issued, SFPD has taken steps to ensure that roll call trainings are conducted in a consistent manner. Importantly here, SFPD now places all roll call trainings online in a cloud-based database and SFPD can keep track of which members have or have not viewed the roll call training.

In this instance, SFPD issued two roll call trainings, one that discusses Department General Order (DGO) 5.17 (Bias-Free Policing Policy) and DGO 11.07 (Prohibiting Discrimination, Harassment, and Retaliation). The roll call training on DGO 5.17 describes various terms that are referenced in the DGO, including “bias policing,” “implicit bias,” and “bias by proxy.” Similarly, the roll call training on DGO 11.07 describes terms referenced in the DGO including “hostile work environment.” It also reminds supervisors and managers of their duties upon learning of conduct that would violate the DGO. In both roll call trainings, SFPD states at the outset that its goal in providing this training is to promote fair and impartial policing.

SFPD uploaded these two roll call trainings to its cloud-based database and conducted an audit to ensure that members have read them. The audit concluded that, as of April 6, 2021, all but 10% of members have reviewed the roll call training on DGO 5.17 (about 50% of the noncompliant members are non-sworn) and all but 7% of members have reviewed the roll call training on DGO 11.07 (about 40% of the noncompliant members are non-sworn). SFPD has an existing process in place to notify members’ supervisors of any training noncompliance. This process is described in more detail in the package for Recommendation 73.2.

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.

Tanya

Tanya S. Koshy (she/her)

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[REDACTED]

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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 # 25.2	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 Status	Complete	Partially Complete	In Progress
	Not Started	No Assessment	

Summary

The department provided roll call training to explain and support the introduction of DGO 5.17 Bias Free Policing and DGO 11.07 Prohibiting Discrimination, Harassment, and Retaliation. Department General Order 5.17 Bias Free Policing was adopted by the Police Commission on August 12, 2020 and published to the department on August 21, 2020. DGO 11.07 Prohibiting Discrimination, Harassment, and Retaliation was promulgated May 5, 2020.

An audit of training records demonstrates that more than 90% of department members have completed roll call training that explains the duties and responsibilities expected of members pursuant to each DGO.

***Reminder: when discussing training attendance compliance, include a statement that explains what action will be taken to correct non-compliance of the members who have not completed training.**

Compliance Measures		Status/Measure Met
1	Upon completion of Recommendation 25.1, create and release a roll-call video that clearly explains the updated DGO 5.17 - Prohibiting Biased Policing. Video must include messaging that having a bias-free department is a priority.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Create and release roll-call video that clearly explains the updated DGO 11.07 - Discrimination and Harassment. Video must include messaging that having a bias-free department is a priority.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues

Compliance Issues



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Finding # 25: The SFPD's General Orders prohibiting bias policing, discrimination, harassment, and retaliation are outdated and do not reflect current practices surrounding these key areas.

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.

Response Date: April 12, 2021

Executive Summary:

In 2016, the Bias working group began the process of updating Department General Order 5.17- Bias Free Policing Policy (formally Policy Prohibiting Biased Policing) and DGO 11.07- Prohibiting Discrimination, Harassment and Retaliation. After a pause in work where the State Department of Justice took over from the Federal DOJ, the working group was re-established in 2018. Upon returning to work the following two revisions occurred:

1. Commission approval for meet and confer of DGO 5.17- May 20, 2020 (Attachment #1: Police Commission agenda)
2. Commission voted to adopt DGO 11.07- May 20, 2020 (Attachment #1, Police Commission agenda)

DGO 5.17 was adopted by the Police Commission on August 12th, 2020. A Department Notice including DGO 5.17 was distributed to all members on August 21st, 2020 (Attachment #2: Department Notice #20-125; DGO 5.17 "Bias-Free Policing Policy" Update packet #67).

DGO 11.07 was adopted by the Police Commission on May 20th, 2020. A Department Notice including DGO 11.07 was distributed to all members on June 12th, 2020 (Attachment #3: Department Notice #20-102; DGO 11.07 "Prohibiting Discrimination, Harassment and Retaliation" Update Packet #65).

During a phone consult with Mike Dirden, Hillard Heintze, we requested the use of written training as apposed to a video to conducting Roll Call Training. The following response (Attachment #4: Hillard Heintze email) was provided:

"The recommendations were made in 2016 during the original USDOJ review. At the time of the review the SFPD's roll- call training was found to be sporadic and sketchy; and there were no records to support that any training occurred. Consequently, during the discussion of the compliance measures the department's representative, Deputy Chief rank, agreed and accepted that a video message would be the most consistent way of ensuring the bias message was communicated with accuracy & clarity without individual instructors giving their own, sometimes negative interpretation of message content. It appears the department is now informing us that the original concerns about roll-call training have been rectified and



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that there is a plan that would ensure the message is delivered in a manner consistent the recommendation's intent. If so, please submit the recommendation response with documents demonstrating your current method of compliance, which ultimately is what we all are trying to achieve."

During this time, the Department changed the process of roll call training. It is now accessed through PowerDMS via department computers. In this training, members are provided the policy and then a short testing process. It is required to receive 100% on this test or you have not completed the training, (Attachment #5 , DN 20-122- PowerDMS Live Announcement)

A recent audit was conducted of roll call training for 5.17 and 11.07, and approximately 90% of the department has been trained. We are unable to reach 100% compliance due to COVID and various types of leave. Many non-sworn members have not returned to work since Covid. Such as, retired members that are "960's", Cadets, reserve officers, and retired members assigned to training. Sworn members that are on various types of leave such as military leave, disability leave, family leave, disciplinary leave and retired members, have not completed this training. (Attachment #6; Audit of Roll-Call Training 5.17 and 11.07)

Compliance Measures:

- 1. Upon completion of Recommendation 25.1, create and release a roll-call video that clearly explains the updated DGO 5.17- Prohibiting Biased Policing. Video must include messaging that having a bias-free department is a priority.**

The San Francisco Police Department has made it a priority to have a bias-free department as stated in DGO 5.17:

A guiding principle of the San Francisco Police Department is its commitment to treating all people with dignity, fairness and respect. It is crucial for members to carry out their duties in a manner free from bias and eliminate any perception of policing that appears biased.

Roll Call Training has been created to not only present the updated policy but also to bring about discussion and questions regarding application of the Department General Order. The following areas are highlighted for discussion in this training for the revised policy, 5.17 (Attachment #7: DGO 5.17; Roll Call training):

- What is Bias Free Policing?
 - Racial & Identity Profiling
 - Biased Policing
 - Implicit Bias



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- What is Bias by Proxy?
 - Discussion: How can you handle this call for service if you suspect bias by proxy is occurring?
- Member Responsibility
 - Why do you have a duty to act and report bias behavior?
 - Create dialogue for discussion
 - Deteriorates Public Trust
 - Deteriorates trust within the work place
 - There is no place in law enforcement for Bias
 - Provide your name, star number and assignment upon request
- Preventing Perceptions of Biased Policing
 - Be courteous and professional
 - When stopping individuals explain the why before asking for identification
 - Ensure that the stop is not longer than necessary and that you are communicating with the individual of the reason for the delay
 - Answering question of the individual from reason for the stop and possible follow-up regarding a citation or traffic citation
- Member's Responsibility and Compliance

All members are responsible for knowing and complying with this policy. Any member who becomes aware of biased policing or any other violation of this policy shall report it in accordance with established procedure

2. Create and release roll-call video that clearly explains that updated DGO 11.07- Discrimination and Harassment. Video must include messaging that having a bias-free department is a priority.

Roll Call Training has been created to not only present the updated policy but also to bring about discussion and questions regarding application of the Department General Order.

This policy is guided by City and State law regarding Equal Opportunity Employment. The following area's are highlighted for discussion in this training for the revised policy, 11.07 (Attachment #8: DGO 11.07; Roll-Call training):

- Protected Categories:



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Race	National Origin	Sex	Parental Status	Age (40 or older)	Medical Condition (Cancer Related)
Color	Ancestry	Sexual Orientation	Political Affiliation	Marital/Domestic Partner Status	AIDS/HIV or AIDS-Related Conditions
Genetic Information	Religion/Creed	Gender, Gender Identity or Expression	Height/Weight	Disability	Any Other Basis Protected by Law (i.e. Pregnancy; Veteran or Military Status)

Action taken against members or association with a person who is, or is perceived to be, a member of any of the protected categories listed above.

- **Retaliation** against a member for objecting to, reporting (etc.), or assisting in reporting discrimination, harassment, or retaliation is prohibited.
- **Discrimination** against a member (or perceived member) of the previously listed categories is also prohibited.
- **Harassment**, is the unwelcome, offensive or intimidating conduct that is directed at an individual or group of individuals because of their actual or perceived membership in one or more of the protected categories listed above, and that is, or if repeated or allowed to continue might become, sufficiently severe or pervasive as to alter the condition of the individual's employment and create an abusive working environment. It includes but isn't limited to: Verbal, visual and physical conduct in addition to sexual harassment.
- **Sexual Harassment** includes but is not limited to any unsolicited and unwelcome sexual advance, request for sexual favors, and other verbal, physical, visual, or written conduct of a sexual nature directed to persons of the same or opposite sex when certain conditions have been met.
- **Hostile Work Environment(s)** may exist when a person's inappropriate and unwelcome behavior within a workplace creates an environment that is intimidating, abusive or offensive for another person because of the person's membership in one or more protected categories.



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Supervisors and Managers Upon learning about a the conduct directly from a complaining member; indirectly through another member; by personal observation of the conduct; or by other means shall immediately report the matter in writing by: placing the complaint, or their report of the matter, in a sealed envelope clearly marked "confidential" and hand carry the envelope to the Commanding Officer of the Risk Management Division or the EEO Liaison if the Commanding Officer is not available, by the end of their tour of duty. If the Risk Management Office is closed, the sealed complaint shall be placed in the drop box labeled "SFPD EEO Mailbox" located near the front counter window of Southern Station's lobby. If the envelope is too large to fit in the mailbox, supervisors and managers shall maintain custody of the envelope in a locked location until 0900 hours on the next business day when the supervisor or manager shall hand deliver the envelope to the Commanding Officer of the Risk Management Division, or the EEO Liaison if the Commanding Officer is not available. Confidential EEO complaints shall NOT be placed in Department mail.

Where to file:

- **Internal Filing:** With any supervisory officer or manager, whether in or out of the member's chain of command., the SFPD EEO Liaison, or the EEO Division of the City's Department of Human Resources (DHR)
- **External Filing:** The U.S. EEO Commission, the California Department of Fair Employment and Housing, and or consulting with a private attorney or union representative.
- **Time Limits:** Shall be reported in a timely fashion. If reported with SFPD or DHR, shall be filed 180 days from the date of the alleged violation or no later than 180 days from the date the member should have first become aware of the violation. A complaint is considered filed on the date it is received by the City, whether that is to the Department, or directly to DHR. If filed with the state, the timelines differ. Refer to their guidance.

Complaint Process and Review:

Upon receiving the complaint, the Captain of the Risk Management Office (RMO) shall forward the complaint to DHR's EEO Division within five business days.

DHR EEO will review the complaint and do one of the following actions: Further investigation, Resolution through mediation, Administrative closure for lack of evidence. The complaining member will be notified of the action taken.

Complaint Resolution:



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The Human Resources Director shall determine the charges, and shall issue a letter of determination to the complainant and the Chief of Police.

Appeal of Human Resources Director Action:

Appeals may be made by the complaining party, the accused and/or the Department and must be received by the Executive Officer of the Civil Service Commission within thirty (30) calendar days following the postmarked mailing date of the determination.

Responsibilities:

All members are responsible for knowing and complying with this General Order, and shall: conduct themselves professionally treating other members professionally, with courtesy, dignity and respect; report discriminatory, harassing or retaliatory behavior, whether directed at themselves or co-workers; cooperate with the investigation of any discrimination complaint, and be truthful in such investigation; refrain from discussing the complaint and/or the investigation except where members must consult with legal counsel/recognized representatives. Each member is prohibited from using peer pressure or otherwise attempting to discourage or dissuade any member from making a complaint under this General Order.

Supervisory Officers and Managers

All supervisory members are required to know, comply with, and enforce this General Order. A supervisory officer or manager who observes or learns of a possible discrimination (etc.), shall take immediate corrective action to stop the conduct and provide some initial remedy, as appropriate. Supervisors shall also report the matter, in writing to the Commanding Officer of Risk Management Division by the end of their tour of duty.

Discipline

Any member found to have engaged in, or any supervisory officer who fails to report, unlawful discrimination, harassment or retaliation may be subject to disciplinary action, which may include written reprimand, demotion, suspension or termination of employment. Any member who violates this General Order, interferes with its implementation, fails to cooperate, and/or answer truthfully during an investigation shall be subject to appropriate corrective or disciplinary action (counseling, retraining, education, mediation, admonishment, demotion, or discipline up to and including suspension or termination of employment).



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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 #25.2: 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.

Response Date: 07/08/2021

ADDENDUM

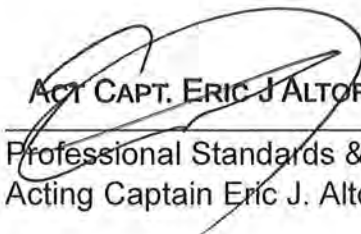
The SFPD received notification that the review of Recommendation 25.2 was substantial compliance however Hillard Heintze requested additional information that 25.2 be added to the recommendation.

Hillard Heintze noted: ***Reminder: when discussing training attendance compliance, include a statement that explains what action will be taken to correct non-compliance of the members who have not completed training.*

SFPD Department Notice 20-150 (All Department Members Shall Acknowledge Every Department Document Requiring an Electronic Sign-Off) states:

"All required department policy sign-offs shall be completed within 30 days of issuance. The Staff Inspection Unit will conduct compliance checks to ensure members have reviewed and signed off on all department policies. Members not in compliance with this Department Notice may be subject to discipline."

This above policy applies to both the training for DGO 5.17 and 11.07 as the roll-call trainings were given to Department members via PowerDMS. SFPD DGO 3.01 (Written Communication System) states that the Commanding Officer or Officer-in-Charge of each unit shall conduct periodic audits to ensure that members of their command are compliant with this policy (see Addendum Attachment #1).


ACT CAPT. ERIC J. ALTORFER #151

Professional Standards & Principled Policing
Acting Captain Eric J. Altorfer