

**From:** [Gabriel Martinez](#)  
**To:** [REDACTED]  
**Subject:** Recommendation 29.3  
**Date:** Monday, September 13, 2021 12:21:48 PM

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Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 29.3 that were submitted to us as part of the collaborative reform process. This package focused on SFPD ensuring training on bias investigations. After reviewing the package and information provided by the Department, the California Department of Justice finds as follows:

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.

Response to 29.3: Both the Department of Police Accountability (DPA) and SFPD have roles in investigating allegations of bias. DPA has jurisdiction over on-duty complaints of officer misconduct from the public, including complaints of bias. SFPD's Internal Affairs Division (IAD) has jurisdiction over allegations of off-duty misconduct by officers and allegations of on-duty misconduct made by officers, including complaints of bias.

On December 23, 2020, SFPD issued Unit Order 20-07, "Guidelines for Investigations Into Bias Related Complaints." The Unit Order directs SFPD's Internal Affairs Division (IAD) investigators to gather and review documents, body-worn-camera video, and arrest reports in addition to witness interviews in bias investigations. Additionally, if the complaint alleges an officer's selective enforcement of the law, the Unit Order directs investigators to review other enforcement actions by the officer during that day. Similarly, the Unit Order directs investigators to review prior Stop Data Collection System data and arrest reports for possible patterns of bias. The Unit Order lists questions for a complainant interview as well as for the subject officer. On January 13, 2021, IAD conducted training on Unit Order 20-07 and bias investigations and had scheduled a refresher course for July 21, 2021.

On August 19, 2020, SFPD issued Unit Order 20-04, "Internal Affairs Division and Department of Police Accountability Trainings and Seminars." Unit Order 20-04 establishes protocols between IAD and the Department of Police Accountability (DPA) to attend each other's trainings and states that IAD should attend DPA's trainings bi-annually. As DPA investigates public complaints of bias against officers, IAD can learn DPA's investigative techniques on bias investigations by attending DPA trainings.

Additionally, SFPD's Supervisory Investigation Manual contains a section on Discrimination and Harassment that explains the steps for receiving a complaint of discrimination, harassment, retaliation, or slur. Similarly, all SFPD personnel must complete the City of San Francisco's "Preventing Workplace Harassment Training," which provides information on employees' and supervisors' rights and responsibilities regarding harassment (mandated by Department Bulletin 18-084, Preventing Workplace Harassment Training, April

20, 2018). And some SFPD roll-call trainings have a separate section for supervisors. The Procedural Justice trainings provide supervisors with options for officer interventions preceding any complaint, such as officer counseling sessions, supervisor mentoring of the officer, and referral of the officer to a tactical communications course.

Additionally, on May 5, 2021, SFPD issued Department Notice 21-076, “Dashboard Review System (DRS).” DRS is a new review system using various types of data to identify disparities in policing among officers that aims to go above and beyond the requirements of the recommendation. The goal is for DRS to compare demographics of an officer’s data with other officers, however the current rollout provides generalized information (comparing shifts and stations) and is still being tested. Currently, district station captains receive generalized reports quarterly. District station captains and lieutenants received initial training on the DRS system in May 2021. The district station captains submitted memoranda in August 2021 documenting their reviews of the quarterly data and their training of sergeants on the DRS system. While currently providing useful information, as DRS develops to include individual officer data it can become a powerful tool in understanding and remedying disparities, and has the potential to become a national best practice.

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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Hillard Heintze File Review Recommendation # 29.3

|                     |  |
|---------------------|--|
| <b>Finding # 29</b> | Allegations of biased policing by community members have not been sustained against an officer in more than three years. |
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|------------------------------|---|
| <b>Recommendation # 29.3</b> | The SFPD should work with the City and County of San Francisco to ensure quality bias investigation training to all oversight investigators |
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|------------------------------|--------------------|---------------------------|--------------------|
| <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 San Francisco Police Department ensured personnel attend education and training classes on bias and how to recognize bias; these classes included collaboration with the Department of Human Resources for the City and County of San Francisco.

The department considered models from other jurisdictions for investigating bias complaints and determined the department's investigative approach was sufficient to ensure a quality investigation. In addition, according to department policy, allegations of bias will be investigated on a priority basis.

Department IAD investigators are required to receive POST IAD training. In addition, the IAD training coordinator ensures IAD personnel attend training on bias and implicit bias as offered by the department.

| Compliance Measures  | Status/Measure Met   |
|--|--|
| 1 SFPD should collaborate with City and County of San Francisco.         | √ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| 2 Develop and/or ensure delivery of quality bias investigation training. | √ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| 3 Engage in training with all oversight investigators.                   | √ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

**Administrative Issues**

**Compliance Issues**

Updates to the recommendation package are needed prior to submitting to Cal DOJ:

- 1) Amend the IAD SOP to require investigators to attend bias and implicit bias courses.
- 2) Develop an internal checklist to ensure bias investigations use similar terminology and questions, as applicable.



## Collaborative Reform Completion Memorandum

**Finding # 29:** Allegations of biased policing by community members have not been sustained against an officer in more than three years.

**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.

**Response Date: 04/13/21**

### **Executive Summary:**

The SFPD should implement policy and procedures to identify biased based police practices when reviewing investigatory stop, arrest, and use of force data; 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; to evaluate Complaints of improper pedestrian stops for potential biased police practices.

The Training Division has developed curriculum based on the revised policies concerning "Implicit Bias" and implemented Procedural Justice and Implicit Bias training, which was put into service as an integral part of AO/CPT as of January, 2017.

The SFPD also has existing measures in place that all members of the department shall comply with that fall within the department's policy and procedures:

- DGO 1.06 Duties of Superior Officers;(I.A.4)
- DGO 2.04 Citizen Complaints Against Officers
- DGO 3.01 Written Communication System
- Written Directives Unit Order 20-01
- DGO 5.17 Bias-Free Policing Policy
- DGO 11.07 Prohibiting Discrimination, Harassment, and Retaliation
- DB 19-240 "Not on My Watch" Pledge
- Department Manual 16— Supervisory Investigations Manual (Sections "C" — Citizens Complaints; Section "E" - Discrimination and Harassment; Section "N" — Misconduct — On Duty; and Section "T" — Use of Force Investigations)

(see Attachment #1: DGO 1.06 Duties of Superior Officers; see Attachment #2: DGO 2.04 Citizen Complaints Against Officers; see Attachment #3: DGO 3.01 Written Communication System; see Attachment #4: Written Directives Unit Order 20-01; see Attachment #5: DGO 5.17 Bias-Free Policing Policy; see Attachment #6: DGO 11.07 Prohibiting Discrimination Harassment, and Retaliation; see Attachment #7: "Not on My Watch" Pledge; see Attachment #8: Department Manual 16: Supervisory Investigations Manual)



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SFPD has partnered with the Department of Human Resources (DHR) to provide the following Bias related training:

- CREATING AN INCLUSIVE ENVIRONMENT (2-Day Training)
- MANAGING IMPLICIT BIAS: RAISING AWARENESS AND CREATING INCLUSION (1-DAY TRAINING)

*In the prescreen notes, it was requested that "SFPD will reframe the package to specifically focus on the efforts of the Department has made to show a good faith effort to engage with its outside investigators on bias investigation trainings and, to that end, will provide detail [...] as discussed above.*

### Compliance Measures

#### **1) SFPD should collaborate with City and County of San Francisco.**

Since 2013, DHR has presented the "Preventing Workplace Harassment Training". The training assisted in identifying and avoiding conduct that could constitute discrimination, harassment and retaliation under federal, state and local law. The training also provided information on employees' and supervisors' rights and responsibilities with regard to equal employment opportunity, and provides important information on City policy regarding the treatment of co-workers and the public. The training had initially been mandated for sworn and non-sworn supervisors. As of 2018, the department has required all members to complete the course. The training is online and self-paced, with an approximate length of two to two and half hours. (See Attachment #9: DB 18-084 Preventing Workplace Harassment Training)

Beginning in 2016 and ongoing, DHR provides an online Implicit Bias course for employees of CCSF (See Attachment #10: Supporting Diversity, Equality, and Inclusion course slides.)

Between August 2016 and 2017, DHR had provided Bias Awareness training to all SFPD senior management. (See Attachment #11: 2016 Memorandum Scheduling Captains and Lieutenants for Bias Awareness Training.)

From September 2017 through July 2018, SFPD collaborated with DHR in the presentation of "Creating an Inclusive Environment". The class was designed for Sergeants, Inspectors, and civilian supervisors. (See Attachment #12: Course Announcement for Creating an Inclusive Environment and slides)

The goal of Creating an Inclusive Environment was to raise and increase awareness about the value of creating inclusion and celebrating the unique qualities, traits, skills, gifts, and talents each of us contributes to the communities in which individuals live and work, while enabling them to establish the same understanding and conclusions



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about others.

In August 2019, SFPD and DHR collaborated on the "Managing Implicit Bias: Raising Awareness and Creating Inclusion" Course. This class replaced "Creating an Inclusive Environment Class" and was mandatory for officers and is currently ongoing. (See **Attachment #13: Course Announcement for Managing Implicit Bias.**)

The goal of Managing Implicit Bias is assist members in understanding the common types of biases that may impact daily policing decisions. Also, to examine how law enforcement may be perceived by the community, how this in turn may affect members' perception of the communities they serve, and ultimately how members perceptions can influence their effectiveness in those communities.

SFPD collaborated with the Department of Police Accountability (DPA) routinely. For example, per the newly revised DGO 3.01, when a General Order requires initiation or amendment the member assigned to the DGO shall: *Meet with a representative of the Department of Police Accountability to exchange views on the proposed order and attempt to resolve any differences, as outlined in Police Commission Resolution 27-06.*(section F, 5.) (See again **Attachment #3: DGO 3.01 Written Communication System.**)

Written Directive provides a further example of SFPD's collaboration with DPA in Unit Order 20-01 (See again: **Attachment #4: Written Directives Unit Order 20-01**), which states in part that DPA will provide policy and procedural recommendations via a "recommendations grid" during the working group process for DGOs.

### **2) Develop and/or ensure delivery of quality bias investigation training.**

The Internal Affairs Division prioritizes bias related cases and utilizes the same investigative techniques used in all administrative investigations. These techniques require the investigator(s) to gather evidence beyond mere statements from the complainant and the subject member, producing a thorough investigation. (IAD's investigations incorporates similar techniques to the DPA's LAPD bias model, but is broader in scope. While there are several "best practices" for teaching the subject of implicit bias, there does not appear to be an agreement on the methodology for conducting investigations regarding allegations of biased policing. (See **Attachment #14: IAD Unit Order 17-02.**)

After discussions with Chief Scott regarding IAD also utilizing LAPD's bias investigation model, it was determined that it would not be necessary. IAD's current investigatory protocol is sufficient to conduct a thorough bias related investigation.



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In order to provide quality bias investigations, all members need a solid foundation in recognizing bias both implicit and explicit. The following represents that ongoing foundational education.

The SFPD Training Division has created a list of courses that make up the departments Bias training curriculum. (See [Attachment #15: SFPD Bias Related Training.](#))

The bias related courses are:

### Ongoing Academy Classes (required per 13519.4 PC)

- Principled Policing 2016 - 2018 (ongoing for all new employees)
- Procedural Justice and Implicit Bias (8-hour course, including a 3-hour block of Implicit Bias and Black Crime Association)
- Cultural Diversity Training (part of SFPD Basic Academy Training)
- Biased Based Policing (2-hour course). Museum of Tolerance Certified Instructors.
- Racial Profiling (4-hour course). Museum of Tolerance Certified Instructors.

### AO/CPT-Mandatory Classes

- Critical Mindset and Coordinated Response (CMCR) – 8 hours
- Force Options - 4 hours
- Arrest and Control - 4 hours
- Communication: Keeping your Edge (Post Learning Portal) - 2 hours
- BSU/Officer Wellness - 2 hours
- Crisis Intervention Training (CIT) - 40 hours - over 50% Department-wide (60% Patrol). 2-hour component on bias within this course.
- CIT Team Concepts (Field Tactics and Use of Force DGO 5.01) - 20 hours. Bias related training is infused throughout the course (meaning that there is no specified block of hours, but it is present within).

Roll Call Trainings (RC) presented by the department to members that touch upon Bias and inclusion: (See [Attachment #16: Roll Call Trainings](#))

RC 2017-001, Autism Awareness for Law Enforcement  
RC 2017-002, Procedural Justice – Principle #1: Voice  
RC 2017-002, Procedural Justice – Principle #2: Neutrality  
RC 2018-001, Sanctuary City Policy  
RC 2018-003, SFPD Strategic Plan  
RC 2019-003, Lessons 1-3 reviewed the correct use of names and pronouns for Transgender, Gender Variant, and Non-Binary individuals and search procedures.  
RC 2019-004, Procedural Justice — Principle #3: Respect



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RC 2019-006, Procedural Justice – Principle #4: Trust  
RC 2020-004, 21st Century Policing

The bias specific training that members receive from the SFPD and DHR provide a guiding principle for members to carry out all their duties in a manner free from bias. This guiding principal, as discussed in the newly adopted Department General Order (DGO) 5.17; Bias Free Policing Policy, is aligned with SFPD's goal of eliminating implicit bias in all areas (See again [Attachment #5: DGO 5.17 Bias Free Policing](#)).

In July 2020, the Training Division conducted a "Bias Training Audit" for compliance and found that 98% of the department's members had taken courses meeting the Bias Training criteria. (See [Attachment #17: Bias Training Audit](#))

Per the Audit:

*Out of 38 personnel noncompliant,  
15 personnel are currently in training as recruit officers.  
23 (0.97%) remaining personnel are noncompliant.*

Various types of leave, including: vacation, family leave, maternity leave, military deployment, medical disability, and other forms of separation from the Department can account for the inability to reach 100% compliance in an audit.

SFPD officers are required to sign off on Department Bulletins/Department Notice via PowerDMS to ensure compliance. On 08/10/2020 the SFPD implemented the web-based software system PowerDMS as a replacement for HRMS. Power DMS is now used for signing off on all Department Bulletins (DB). Members now have access to Power DMS to search DGOs, DBs/DNs, Manuals, Bureau/Unit Orders, and forms. With Power DMS, members also have easy access to a keyword searchable database. The SFPD distributed training manuals for Power DMS in Department Notice 20-122, including a user guide that provided general instructions for logging in, completing training, signing policies, and navigating through Power DMS. (See [Attachment #18: Department Notice 20-122 Power DMS Live Announcement](#)).

The Bias related trainings are designed to teach members to be introspective and recognize their own biases. By recognizing their biases, members are instructed how to avoid these biases while performing law enforcement actions. The information is also utilized for the investigation of bias cases.





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### 3) Engage in training with all oversight investigators.

*In the prescreen, "Hillard Heintze asked SFPD to include additional information on how it collaborates with DPA to make sure that the package reflects that there is training for SFPD's IA investigators and other internal investigators on bias (that is, how to look out for bias in criminal investigations and how to investigate bias complaints). The package should reflect that there is training for SFPD's own investigators and/or explain how the list of general bias trainings already included in the package is relevant to the bias investigations conducted by IA. The package should also describe how the department's [sic] current policies require complaints of bias to be investigated on a priority basis."*

DHR had provided training to all SFPD senior management from August 2016 through 2017. (See again Attachment #11: 2016 Memorandum Scheduling Captains and Lieutenants for Bias Awareness Training.)

In 2017, the Bias Awareness Training was updated and became the Creating an Inclusive Environment Course. The course has continued to be provided to SFPD oversight investigators (i.e. all SFPD Sergeants, Inspectors, and civilian supervisors) (See again Attachment #12: Course Announcement for Creating an Inclusive Environment).

The Department of Police Accountability (DPA) conducts administrative investigations of SFPD officers regarding civilian complaints (including bias allegations) for on-duty conduct. As part of their training program, DPA staff has taken "Managing Implicit Bias: Raising Awareness and Creating Inclusion" presented by DHR. In addition to this training, DPA has adopted the LAPD policy for investigating bias-based complaints. (See again Attachment #13: Course Announcement for Managing Implicit Bias).

Per DGO 2.01, rule 7 MAINTAINING KNOWLEDGE, members are required to have and maintain a working knowledge of all information required for their duties. Therefore, members tasked with oversight shall be aware of update policies and procedures regarding Bias. (See Attachment #19: DGO 2.01 General Rules of Conduct)

Per IAD Unit Order #20-04, the IAD Training Coordinator will be responsible for seeking Internal Affairs related trainings/seminars and ensure members of IAD attend on a bi-annual basis. The IAD Training Coordinator will also provide the Department of Police Accountability with a list of available Internal Affairs related trainings/seminars for DPA members to attend. (See Attachment #20: IAD Unit Order #20-04)

Additionally, all IAD investigators are required to attend the POST certified Internal Affairs course (24 hours) (See Attachment #21: Internal Affairs Course Announcement)

In collaboration with the San Francisco Police Commission and DPA, SFPD drafted the revised *Disciplinary Penalty & Referral Guidelines or Sworn Members of the San*



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Francisco Police Department. Due to the SFPD's unwillingness to tolerate biased policing from its members, a sustained allegation of "Knowingly engaged in Biased Policing (DGO 2.01, Rules 9, 10, 14; DGO 5.17)" was prescribed a discipline recommendation of Termination. The guideline has been submitted to the Police Commission, but has yet to be approved. (See Attachment #22: Disciplinary Penalty & Referral Guidelines for Sworn Members of the San Francisco Police Department (Draft)).

On March 30<sup>th</sup>, 2021 the SFPD received an email from Hillard Heintze stating that their review of documentation provided for Recommendation 29.3 is final, however they requested updates on two topics. Hillard Heintze asked that these updates be made prior to submitting to the Cal DOJ for review. Hillard Heintze requested the following:

"Updates to the recommendation package are needed prior to submitting to Cal DOJ:

1. Amend the IAD SOP to require investigators to attend bias and implicit bias courses.
2. Develop an internal checklist to ensure bias investigations use similar terminology and questions, as applicable."

In response to Hillard Heintze, and to address item one, the SFPD has policy in place under Department General Order (DGO) 5.17; Bias-Free Policing Policy, section III, C; Training (See again Attachment #5: DGO 5.17 Bias Free Policing). This policy addresses training for all members, including IAD investigators, who are required to attend bias and implicit bias courses. Within this DGO, the following is written:

*"1. The California State legislature has enacted Penal Code § 13519.4 mandating additional training for all California law enforcement officers to foster mutual respect and cooperation between law enforcement and members of all racial, identity and cultural groups. To comply with this mandate, the Training Division shall develop training that is informed by contemporary, evidence-based best practices that includes, but is not limited to:*

- a. Identification of key indices and perspectives that make up racial, identity and cultural differences among residents;*
- b. Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest, detention and incarceration rights, and wrongful convictions;*
- c. The history and role of the civil and human rights movement and struggles and their impact on law enforcement;*
- d. Specific obligations of peace officers in preventing, reporting and responding to discriminatory or biased practices by fellow peace officers;*



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- e. Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations; and
- f. The prohibition against racial or identity profiling.

2. The Training Division shall ensure that both sworn and civilian members of SFPD attend training that is consistent with legislative, Peace Officer Standards and Training (P.O.S.T.) and SFPD requirements, including but not limited to:

- a. Equal Employment Opportunity/Harassment
- b. Principled Policing and Procedural Justice
- c. Racial and Cultural Diversity and Racial Profiling
- d. Creating an Inclusive Environment
- e. Managing Implicit Biases
- f. Bias by Proxy”

Additionally, there is the directive by the Mayor of San Francisco which requires the Department of Human Resources (DHR) to complete mandatory training for all City employees. (See Attachment #23: Mayor Breed Executive Directive - Sept 2018) This directive was established in September of 2018 and specified the following four actions to be taken:

1. The Department of Human Resources (DHR) will hire two full-time staff members to focus on diversity recruitment, who will serve as a centralized resource to all City departments to support diversity recruitment and ensure outreach efforts are coordinated and effective.
2. DHR will significantly expand its harassment prevention, implicit bias, and cultural communications training to include significantly more City employees.
3. All City departments will begin reporting instances of disciplinary action to DHR so potential problematic areas, divisions, or problem areas can be quickly identified and addressed.
4. DHR will convene a group of stakeholders which represent City departments, labor unions, and stakeholders to continue a discussion of ways the City can improve diversity and equity in the workplace.

In response to Hillard Heintze, and to address item two, the SFPD IA Division completed a Unit Order to codify the steps for investigating bias complaints (See Attachment #24: IAD Unit Order #20-07). [REDACTED]



## **Collaborative Reform Completion Memorandum**

### **Evidence Gathering:**

- Gather and review all documents related to the incident, including but not limited to, FI cards, arrest reports, traffic citations, and any audio/video recordings (e.g. BWC footage, surveillance camera video) of the incident.
- If applicable and/or feasible, determine final outcome of any related traffic citation or legal proceeding, which complainant alleges was a result of biased policing.
- If the complainant alleges officer(s) selectively enforced the law, allowing persons of other minority or non-minority status to avoid similar enforcement, examine enforcement activities for the day around time of incident and document results.

### **Complainant Interview Questions:**

- Why does the complainant believe he/she was the subject of biased policing? Probe for specific articulation.
- What behaviors on the part of the officer(s) does the complainant believe support his/her allegation(s) of biased policing? Probe for specific articulation.
- Actions of officer(s) at scene before, during and subsequent to the stop?
- Could the officer have seen the complainant's race or other applicable bias category prior to the stop? Direction of approach of officer?
- Was the complainant searched? Location(s) searched? Type of search? Scope of search?
- Length of detention?

### **Subject Officer Questions:**

- Location of the officer relative to complainant when they first encountered the complainant?
- Did the officer(s) know the race or other factor of alleged bias prior to the stop or detention?
- What was the reason for the stop, search, detention and/or other law enforcement actions?
- If officers provide conclusory statements such as, "officer safety," "uncooperative," "high crime area" or "consensual encounter", ask clarifying questions to illicit specific details.
- Was race or any bias category (religion, color, gender, etc.) a factor in the stop or detention? If the answer is "yes," have the officer(s) explain.
- Was race or any bias category a factor in the law enforcement contact and/or other law enforcement actions? If "yes," have the officer(s) explain.
- If there was a search associated with the stop or detention, ask the officer(s) to articulate the reason(s), scope, type and intent of the search."