

Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 4.2 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 4.2:

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

Response to 4.2:

As background, shortly after the United States Department of Justice (USDOJ) issued its Collaborative Reform Initiative report in 2016, SFPD revised its use of force policy (Department General Order (DGO) 5.01). To ensure that DGO 5.01 was informed by best practices, SFPD reviewed the use of force policies of other law enforcement agencies and reviewed state and local laws on collective stop data (the California Racial and Identity Profiling Act of 2015 (AB 953) and San Francisco Administrative Code 96A). SFPD amended DGO 5.01 to include, among other things, a section describing the levels of resistance and the levels of force, and a chart describing how a suspect's actions or resistance correspond to an officer's level of force.

SFPD requires that supervisors complete a Supervisory Use of Force Evaluation Form following any incident involving a reportable use of force. This requirement is codified in Department Bulletin 17-006, which explains the reporting and evaluation process and includes a step-by-step form completion guide. The Department updated Department Bulletin 17-006 on October 3, 2018, with Department Bulletin 18-171.

In the Supervisory Use of Force Evaluation Form, supervisors must include the sequence of resistance by the subject as well as the sequence of force used by the officer. Relatedly, DGO 5.01 also includes a chart that lists the level of force an officer could possibly use in response to a subject's level of resistance; for example, if a subject is only showing "passive non-compliance" (that is, the subject "does not respond to verbal commands but also offers no physical form of resistance"), the chart indicates that possible force options could be using the "officer's strength to take physical control..." or "pain compliance control holds, takedowns and techniques to direct movement or immobilize." The DGO 5.01 chart, coupled with the supervisor's sequencing of resistance and force used in the Supervisory Use of Force Evaluation Form, enables SFPD leadership up the chain of command to determine whether the use of force used was reasonable under the circumstances.

SFPD's IT Division is working on integrating the Supervisory Use of Force Evaluation Form into its Crime Data Warehouse and expects this project to be completed in the first quarter of 2021. This will enable real-time access to use of force data and make it easier for SFPD command staff to evaluate the reasonableness of use of force in any incident.

Based on the all of the above, the California Department of Justice finds SFPD in substantial compliance with this recommendation.

Please let us know if you have any questions or would like to discuss this further. Thank you.

Tanya

Tanya S. Koshy (she/her)
Deputy Attorney General
Civil Rights Enforcement Section
California Department of Justice
1515 Clay Street, Suite 2100
Oakland, CA 94612

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.

Finding # 4	The Use of Force Log captures insufficient information about use of force incidents.
Recommendation # 4.2	In developing an electronic reporting system, the SFPD must review current practice regarding reporting use of force, including reporting on level of resistance by the individual, level and escalation of control tactics used by the officer, and sequencing of the individual's resistance and control by the officer.

Recommendation Status	Complete	Partially Complete	In Progress
	Not Started	No Assessment	

Summary

The Department has taken appropriate steps to complete this recommendation. Department policies require reporting on the level of resistance by the individual, level and escalation of control tactics by the officer, and sequencing of the level of forced used relative to the individuals' level of resistance. Although not fully developed, the Department is working on an electronic reporting system that collects use of force metrics for department analysis.

Compliance Measures		Status/Measure Met
1	Review and align current practice regarding reporting use of force in light of contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Review and align current practice on reporting level of resistance by the individual in light of contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3	Review and align current practice on reporting escalation of control tactics used by the officer, including level of force, in light of contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4	Review and align current practice on reporting level of force used in response to resistance, in light of contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
5	Review and align current practice of reporting the sequencing of the individual's resistance and control by the officer in light of contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
6	Use the review to develop an appropriate use of force reporting system concurrent with Rec #4.1, that is informed by contemporary policing best practices.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues

Compliance Issues



Collaborative Reform Completion Memorandum

Finding #4: The Use of Force Log captures insufficient information about use of force incidents. The SFPD does not have a separate use of force report for personnel to complete after a use of force incident. Rather, the specific articulable facts leading to the force incident are documented in the narrative of a regular incident report form and a paper use of force log, making it difficult to collect accurate and complete data or analyze aggregate use of force data. In addition, it requires staff to manually log the information into the Early Intervention System.

Recommendation #4.2: In developing an electronic report system, SFPD must review current practice regarding reporting use of force, including reporting on level of resistance by the individual, level and escalation of control tactics used by the officer, and sequencing of the individual's resistance and control by the officer.

Response Date: 10/14/2020

Executive Summary:

The San Francisco Police Department's Use of Force policy, Department General Order (DGO) 5.01 [REDACTED] is one of the most comprehensive and progressive use of force policies in the law enforcement community. The website, 8cantwait.org, a project by Campaign Zero, analyses policing practices across the country and conducts research to identify effective solutions for police use of force incidents. According to the website, of one-hundred law enforcement agencies examined, only the SFPD and Tucson Arizona Police Department have enacted use of force policies that require the following:

- De-escalation;
- Duty to Intervene;
- Bans Chokeholds and Strangleholds;
- A Warning Before Shooting;
- Bans Shooting at Moving Vehicles;
- Exhaust Alternatives Before Shooting;
- Use of Force Continuum;
- Comprehensive Force Reporting.



Collaborative Reform Completion Memorandum

SAN FRANCISCO, CA Last Updated 10/1/2020

Mayor London Breed

Since 8CantWait's launch, California passed a law banning carotid and chokeholds statewide and 1 new policy adopted in San Francisco. City currently meets all 8 standards.

- ✓ Bans Chokeholds and Strangleholds ?
- ✓ Requires De-escalation ?
- ✓ Requires Warning Before Shooting ?
- ✓ Requires Exhaust All Alternatives Before Shooting ?
- ✓ Duty to Intervene ?
- ✓ Ban Shooting at Moving Vehicles ?
- ✓ Has Use of Force Continuum ?
- ✓ Requires Comprehensive Reporting ?

Resources
Policy

Click to learn more about these policies in this city.

Source: <https://8cantwait.org/>

Department General Order 5.01 was enacted two months after the United States Department of Justice Collaborative Reform Initiative (CRI) report on the San Francisco Police Department was published (October 2016). In the development of DGO 5.01, SFPD reviewed the use of force policies of numerous other metropolitan police departments to learn of the best practices in uses of force.

On October 14, 2020, Sgt. Kilshaw attested her involvement with an internal SFPD working group tasked with revising the department's use of force policy, DGO 5.01, in 2016. In her **Memorandum for Record** [REDACTED] Sgt. Kilshaw articulated the manner in which the working group researched and reviewed use of force policies from approximately 20 different agencies.

In addition, the working group worked with the U.S. Department of Justice - COPS Office during the revision of DGO 5.01. The SFPD provided the COPS Office draft copies of its Use of Force policy, Use of Force Reporting Policy, and Use of Firearms policy. On May 4, 2016 the **US DOJ - COPS Office sent a memorandum** [REDACTED] to the SF Police Commission and then Chief of Police Gregory Suhr which included a set of policy recommendations based on nation-wide Use of Force best practices at that that time.



Collaborative Reform Completion Memorandum

The use of force working group reviewed then newly passed California Assembly Bill 953 – the Racial and Identity Profiling Act of 2015, and San Francisco Administrative Code 96A. Both the Racial and Identity Profiling Act and Administrative Code require law enforcement agencies to collect demographic and other detailed data during pedestrian and traffic stops.

After reviewing other law enforcement agencies' policies, the recommendations from the US DOJ – COPS Office, the requirements of AB 953 and SF Administrative Code 96A, the working group determined the SFPD needed to include additional information in DGO 5.01 to ensure the policy aligned with current use of force best practices. These changes included, in part:

- Adding a section on Levels of Resistance
- Adding a section on Levels of Force
- Expanding the section on Force Options to explicitly state officers are not required to use force options based on a continuum
- Adding a chart illustrating how a suspect's resistance/actions can correlate to the force applied by the officer

As a result of the additions made to DGO 5.01, the working group determined the SFPD's system for reporting and evaluating officers' uses of force was insufficient, both as a means to assist the SFPD in collecting and analyzing data related to the new sections in DGO 5.01, and as a means to comply with AB 953 and San Francisco Administrative Code 96A. SFPD's use of force reporting system at the time required an officer to document his or her use of force in an incident report or statement form, and required a supervisor to complete a use of force log. The old SFPD use of force log captured limited information, including the following:

- 1) Date of incident
- 2) Case number
- 3) Officer's name
- 4) Supervisor's name reviewing the log
- 5) Type of force officer used
- 6) Whether the subject was injured or complained of pain
- 7) Whether the officer was injured
- 8) And any additional comments

The working group determined that SFPD needed to make three areas of improvement:

- 1) Change the use of force "log" – which mainly captured that a use of force occurred - to a supervisory use of force "evaluation" form, where the supervisor would be required to evaluate the appropriateness of the officer's use of force and document their conclusion
- 2) Require the supervisor to collect additional data on the entire incident, including the subject's name and demographic; the level of resistance used by the subject; the reason for using the force; the type of force used, including the sequence of the force used; description of any injuries to the subject and/or officer; and document whether the officer's use of force was in compliance with department policy, and,



Collaborative Reform Completion Memorandum

- 3) Require a supervisor to complete a separate Supervisory Use of Force Evaluation form for each incident and submit the form electronically by the end of their shift to the Training Division, Risk Management Office, and Field Operations Bureau.

The working group created a template for the SFPD's new Supervisory Use of Force Evaluation [REDACTED]

Between 2016 and 2018, SFPD amended the Supervisory Use of Force Evaluation Form to include more data sets regarding the incident based on "lessons learned" and in response to requests from the SF Police Commissioners. Refer to **Memorandum of Record for additional information** [REDACTED]

Because of all the improvements adopted, SFPD currently has a comprehensive and progressive use of force policy. [REDACTED]

Supervisory Use of Force Evaluation Form:

Department Bulletin **(DB) 17-006 (Supersedes DB 15-237, Amends D.G.O. 5.01)**

[REDACTED] mandated that supervisors complete a Supervisory Use of Force Evaluation form for each reportable use of force, and submit it through the chain of command before the end of their watch. The Supervisory Use of Force Evaluation form was disseminated department-wide on January 9, 2017. The Supervisory Use of Force Evaluation form existed as a method to collect data, and as a checklist to be use during a use of force investigation.

Included with DB 17-006 was a step-by-step guide which showed line-by-line how to fill out the form and where to get the information. This guide was attached to the Department Bulletin and was easily accessible to all Supervisors who referenced the DB on the proper procedures.

On October 11, 2018, **DB 18-171 (Supersedes DB 17-006, Amends D.G.O. 5.01)**

[REDACTED] was issued in order to reflect updated and improved changes on the Supervisory Use of Force Evaluation form. Included with DB 18-171 is a step-by-step guide which shows line-by-line how to fill out the form and where to get required information. The guide was attached to the Department Bulletin and is easily accessible to all Supervisors who reference the DB on the proper procedures. This shows a continual improvement loop as the department improves on procedures around Use of Force policies. Please see **Audit on DB 18-171** [REDACTED]

[REDACTED] Please refer to DB 18-171 for detailed information.



Collaborative Reform Completion Memorandum

- Heading
 1. CAD Advised Armed
 2. Weapon CAD Advised
- Subject
 1. SF Resident
 2. Sex of Subject - "U" Unknown and "X" Nonbinary
 3. Unrelated - Compliant of Pain/Injured
 4. Admitted - Medical Treatment
 5. Level of resistance- Sequenced
- Officer
 1. Admitted
 2. Verbal commands issued before force used
 3. Verbal Warnings issued before Firearm, Impact Weapon, ERIW and Chemical Agent
 4. Specify sequence of force used
 5. Determination Pending Investigation
- Preliminary Findings
 1. Supervisor Completing Evaluation
 2. Reviewing Supervisor
 3. Reviewed BWC
 4. Other Video Available

As of October 2020, DB 18-171 is in process to be re-issued in the 4th quarter of 2020. Please refer to memorandum [REDACTED] written by Sgt. Darwin Naval requesting the reissuance of DB 18-171.

DGO 5.01 is currently in the process of being amended. Once DGO 5.01 is amended, the current Supervisory Use of Force Evaluation form will be re-opened to reflect the changes of the new Use of Force policy. During that time, Sgt. Darwin Naval (Early Intervention System Unit) will use the opportunity to review Use of Force reporting systems from comparable metropolitan agencies to continuously ensure that SFPD's Use of Force reporting system is aligned with contemporary policing best practices.

[REDACTED]

[REDACTED]

[REDACTED]