



Recommendation 19.2

Gabriel Martinez [Redacted]

Tue 10/20/2020 9:58 AM

[Redacted]

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Dear Lt. Altorfer,

Our office has completed its review of the materials related to Recommendation 19.2 that have been submitted to us as part of the collaborative reform process. This package focused on SFPD creating a template for officer-involved shooting files. After reviewing the package and information provided by the Department, the California Department of Justice finds as follows:

Recommendation 19.2: The SFPD needs to create a template for all officer-involved shooting files. This template should detail report structure and handling of evidence. SFPD should refer to Officer Involved Shootings: A Guide for Law Enforcement Leaders.

Response to 19.2: On May 4, 2019, SFPD entered a memorandum of understanding with the San Francisco District Attorney's Office regarding officer-involved shootings. Pursuant to the agreement, the District Attorney's Office will immediately respond to the scene of, and lead the criminal investigation into, officer-involved shootings, in-custody deaths, and uses of force resulting in serious bodily injury. The MOU outlines SFPD's responsibilities at the scene of an officer-involved shooting, SFPD's briefing to the District Attorney's Office, and SFPD's role during civilian and SFPD witness interviews. Under the MOU, SFPD will lead the administrative (non-criminal) investigations and any ancillary criminal investigations regarding non-law enforcement personnel.

As SFPD no longer leads criminal investigations of officer-involved shootings, Cal DOJ and HH agree that it reviews SFPD for substantial compliance with this recommendation with respect to its administrative investigations. For the administrative investigations, SFPD's Internal Affairs Division (IAD) administratively investigates whether any SFPD personnel violated any general order, regulation, policy, or other workplace rule during an officer-involved shooting. In addition to the memorandum of understanding, SFPD has memorialized its officer-involved-shooting protocols in unit orders. On July 20, 2020, SFPD issued IAD Unit Order 20-01, "Officer Involved Shooting Scene Protocol." Attached to the Unit Order is the "Officer Involved Shooting Protocol Checklist." These documents inform IAD personnel of the protocols for administratively investigating officer-involved shootings. The checklist includes fifteen actions for SFPD officers to complete from arriving at the scene to departure, including reporting to the incident commander, the initial briefing, and the scene walk through.

Additionally, SFPD issued IAD Unit Order 19-03, "Internal Affairs Division OIS/ICD Case Closure Procedures and Checklist" on January 15, 2019. This policy requires the investigator to ensure that all supporting documents, reports, photos, recordings, and videos are contained in the investigative file and the file has been scanned and uploaded. The Officer in Charge of IAD will review each case file and ensure that it contains the relevant supporting documents. The checklist attached to the Order includes



[REDACTED]

yes/no boxes for items such as the summary report, administrative business statements, and training/tactical assessments. Additionally, the Order requires annual training on the case closure checklist. This training occurred this year on July 21, 2020. As required by the Order, the training was documented in a memorandum. Finally, the Order requires annual audits of completed case files. The audits also occurred this year on July 21, 2020, and the two case files that were audited were used as examples in the annual training.

In creating its officer-involved shooting protocols, SFPD reviewed the US DOJ Community Oriented Policing Services (COPS) Guide for Officer Involved Shootings and the San Jose Police Department Internal Affairs Manual. SFPD borrowed practices from these documents, such as adding a conflict of interest statement for the IAD investigator, to ensure SFPD was aligned with established local and national procedures for investigating officer-involved shooting incidents. SFPD reviewed the US DOJ COPS Guide for Unit Orders 19-02, 19-03, and 20-01, incorporating information and recommendations regarding pre-incident preparations, incident scene procedures, incident scene walk throughs, incident scene responsibilities, and administrative investigations.

Based upon all of the above, the California 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.

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| | |
|------------------------------|---|
| Finding # 19 | The SFPD does not maintain complete and consistent officer-involved shooting files. |
| Recommendation # 19.2 | The SFPD needs to create a template for all officer-involved shooting files. This template should detail report structure and handling of evidence. SFPD should refer to Officer-Involved Shootings: A Guide for Law Enforcement Leaders. |

| | | | |
|------------------------------|-----------------|--------------------|-------------|
| Recommendation Status | Complete | Partially Complete | In Progress |
| | Not Started | No Assessment | |

Summary

This recommendation required the San Francisco Police Department to create a template for officer-involved shooting investigations. However, the Department signed a Memorandum of Understanding with the District Attorney’s Office of the City and County of San Francisco wherein the District Attorney’s Office, not the San Francisco Police Department, is responsible for the criminal investigation of officer-involved shooting incidents.

However, in order to comply with the spirit of the recommendation the department created policy and templates for the administrative investigation of officer-involved shooting incidents. Unit Order 20-01 Officer Involved Shooting Protocol and Unit Order 19-03 Internal Affairs Division OIS/ICD Case Closure Procedures & Checklist ensures the internal affairs investigation of an officer-involved shooting will be thorough and consistent with nationally recommended practices and standards.

The Department’s response to this recommendation is designated as Complete, however the team will continue to monitor the Department to ensure the described policy and supportive practices are institutionalized.

| Compliance Measures | | Status/Measure Met |
|---------------------|---|--|
| 1 | Create OIS file template. | ✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| 2 | Use OIS Guide as reference for template development. | ✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| 3 | Template details report structure and handling of evidence. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A |
| 4 | Provide training on template. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A |
| 5 | Audit/review OIS files for adherence to template. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A |

Administrative Issues

Compliance Issues



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Finding #19

The SFPD does not maintain complete and consistent officer-involved shooting files.

Recommendation # 19.2: The SFPD needs to create a template for all Officer-involved shooting files. This template should detail report structure and handling of evidence. SFPD should refer to Officer-involved Shootings: A guide for Law Enforcement Leaders.

Response Date: 07/23/2020

Executive Summary:

On May 21, 2020 in a phone conference between SFPD, CAL DOJ and Hillard Heintze, [REDACTED] provided a historical context of Finding 19 and its associated recommendations. [REDACTED] stated that the recommendations were developed for SFPD when the Homicide Detail was still tasked with being the lead investigator on Officer-Involved Shooting (OIS) incidents. Since the *Collaborative Reform Initiative-An Assessment of the San Francisco Police Department* report was released in October 2016, the **San Francisco Police Department and the District Attorney's Office entered into a Memorandum of Understanding (MOU) [Attachment #1]**, establishing protocol for the investigation for Officer-Involved Shootings, In-Custody Deaths, and Uses of Force Resulting in Serious Bodily Injury. According to the MOU, the SFDA's office took lead in investigating OIS incidents, effective May 4, 2019.

As a result of this new protocol, the following documents referenced in this recommendation only pertain to the Internal Affairs Division administratively investigating whether any involved "SFPD personnel violated any general order, regulation, policy, or other workplace rule" during an OIS, per the MOU.

In response to this recommendation, IAD members:

1. Revised existing procedure related to organizing OIS case files
2. Implemented a new annual training requirement
3. Implemented an annual audit program to ensure complete case files.

The first annual training and audit has been completed as of the preliminary submittal of this recommendation (7/21/20).



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Recommendation Guidance and Policy Development Process

On Thursday, May 28th, 2020, SFPD IAD members participated in a conference call with members of Hillard Heintz and the California Department of Justice. In this call, Commander Robert O'Sullivan and Sergeant Graig Wells presented the strategy to address this recommendation in light of the SFDA/SFPD MOU. [REDACTED]

[REDACTED]



(Email excerpt detailing policy development meeting. Att. #2)



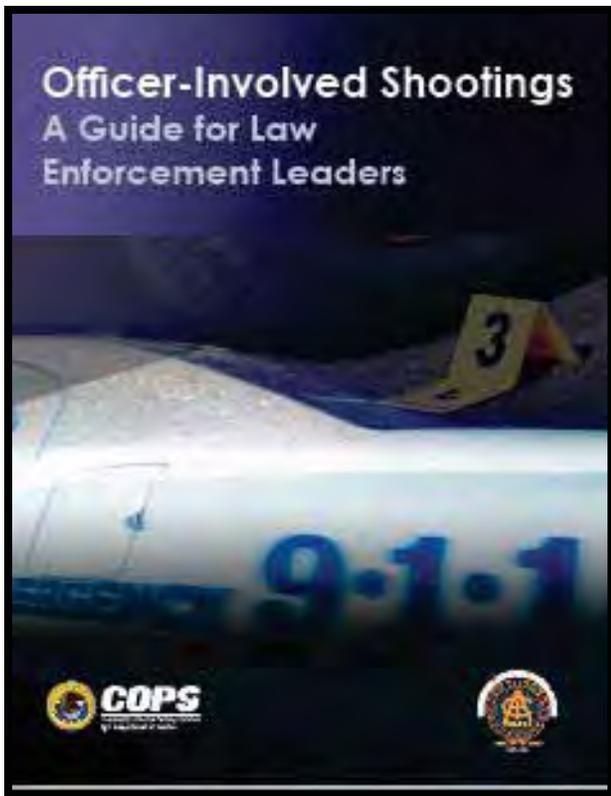
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Based on the guidance provided by Hillard Heintz and California DOJ personnel during this process, IAD:

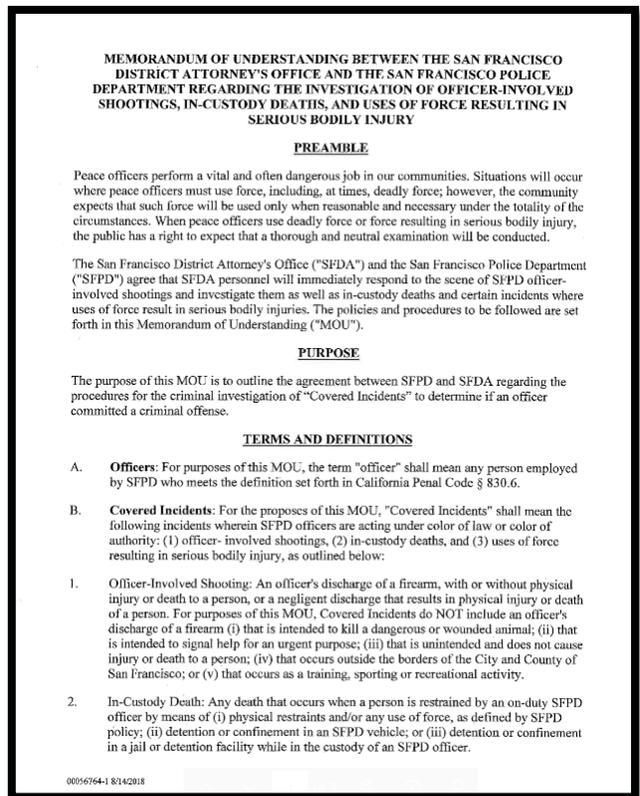
- A. Researched best practices related to OIS case investigations.
- B. Utilized resources such as the DOJ Officer-involved shooting guide to consider new and emerging trends in OIS investigations.
- C. Updated policy regarding the contents of case files (Standardizing contents, itemizing the specific documents contained in the investigative reports, and codifying the review process).

Source Document Review

Sources and reviewed during the research phase of this recommendation included:



(DOJ/COPS, Att. #3)



(SFPD / SFDA MOU, Att. 1)



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Compliance Measure #1:

1) Create OIS File Template

Responsive Document:

A. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4)

As a result of this review, the SFPD examined existing policy related to OIS case files. IAD Unit Order 19-03, titled, “Internal Affairs Division OIS / ICD Case Closure Procedures and Checklist” directly addresses the compliance measure to “Create a case file template.” Unit Order 19-03 was originally authored on January 15th, 2019, and was updated as part of this recommendation. Unit Order 19-03 was revised and signed into IAD policy on June 24th, 2020, mandating the use of the case filing system.

Unit Order 19-03

| | | |
|---|--|---------|
| UNIT ORDER | UNIT INDEX NUMBER | 19-03 |
| | DATE ISSUED | 1/15/19 |
| | DATE REVISED | 6/24/20 |
| SUBJECT: Internal Affairs Division OIS/ICD Case Closure Procedures & Checklist | | |
| ISSUED TO: Internal Affairs Division Officer-Involved Shooting Team | ISSUED BY: Commander Robert O'Sullivan, Jr. #44 Office of Chief of Staff | |
| <p>The Internal Affairs Division (IAD) is responsible for completing and maintaining administrative investigation files for all Officer-Involved Shootings (OIS) and In-Custody Death (ICD) cases. It is imperative in these cases that all relevant documents are contained in the case file prior to final closing of the case.</p> <p>Case File Closure Procedures</p> <p>1. Investigator Responsibilities</p> <p>Upon completion of an OIS or ICD investigation (completion is defined by final disposition following the Chief's letter to the Police Commission), the IAD investigator shall prepare the case file for closure. Prior to submission of the case file to the Officer in Charge (OIC) of IAD, the investigator shall ensure that all supporting documents, reports, photos, recordings and videos are contained in the file and the file has been scanned and uploaded into the IAD electronic file. Investigators shall utilize the attached checklist to confirm all documents are included in the case file.</p> | | |

(Partial page 1 of 2, Attachment #4)



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(Compliance Measure #1, continued)

Unit Order
(continued): _____

Date of Incident: _____ Location: _____

Case#: _____ IAD#: _____

Lead Admin Investigator: _____

| Section | Documents in Case File | Yes | No |
|-----------|---------------------------------|-----|----|
| A | ADMINISTRATIVE SUMMARY REPORT | | |
| B | ADMINISTRATIVE CHRONOLOGICAL | | |
| C | SFPD FORM 83 / SUMMARY | | |
| D | PERSONNEL HISTORY | | |
| E | FORMS / LOGS / REPORTS | | |
| F | COMPELLED STATEMENTS(S) | | |
| G | ADMIN. WITNESS STATEMENT(S) | | |
| H | RETURN TO DUTY DOCUMENTS | | |
| I | TRAINING / TACTICAL ASSESSMENTS | | |
| J | ADMIN EXPERT REPORTS / ANALYSIS | | |
| K | APPLIED LAW / POLICY | | |
| L | OIS PROTOCOL | | |
| M | MISCELLANEOUS MEDIA | | |
| N | MISCELLANEOUS DOCUMENTS | | |
| Comments: | | | |

(OIS Case file template. Page 2 of 2, Attachment #4)

Unit Order 19-03 details the requirements for each OIS case file, and establishes an audit and training program (compliance measures #4 and #5).

End of Compliance Measure #1



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Compliance Measure #2:

2.) Use OIS Guide as reference for template development.

Responsive Documents:

- A. **Unit Order 19-02** – “Officer Involved Shooting Investigative Report” (attachment #6)
- B. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4)
- C. **Unit Order 20-01** – “Officer-involved Shooting Scene Protocol” (attachment #5)

Summary:

The DOJ OIS Guide is “...intended to provide guidance for preparing officers and departments prior to an officer-involved shooting, suggested incident scene actions and procedures, recommended procedures for conducting criminal and administrative investigations, suggestions for working with the media, and mental health and wellness considerations and procedures (OIS Guide Introduction, pg.1).”

The DOJ OIS guide was utilized as a reference document during the revision of Unit Order 19-02, 19-03, and 20-01.

- A. **Unit Order 19-02** – “Officer Involved Shooting Investigative Report” (attachment #6)

Internal Affairs Unit Order 19-02, “Officer-Involved Shooting Investigative Report” (Attachment #3), establishes format and content of an Officer-Involved Shooting Investigative report. The report requirements include information regarding the Subject; Focus of Investigation; Incident Summary; Department of Emergency Management Records and Recordings (DEM); Crime Scene Investigation; Criminal Investigation; Criminal Investigation Conclusion; Administrative Investigation; Conclusion/Recommendation; and Policy and Procedure. Once the investigative report is complete, it is then forwarded to the Officer-In-Charge of the Internal Affairs Division for review and approval. The approved report will be maintained in the Administrative Investigations Binder (Section A) with other 832.7 PC- Confidential Material.

- B. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4)

Internal Affairs Unit Order 19-03, “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” lists the case file closure procedures that are required on the



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OIS investigator and Officer in Charge. The requirements are listed in an attached checklist that is included in the completed case file.

Unit Order 19-03 also requires annual audits of completed OIS case files by the Officer in charge of IAD, to determine completeness of OIS case files. The OIC is also required to complete annual training with members of the OIS unit on Unit Order 19-03 to ensure all members are familiar with the case file requirements. At the conclusion of the annual audit and training period, the OIC is to author a memorandum to the Captain of Risk Management reporting results and completion.

C. Unit Order 20-01 – “Officer-involved Shooting Scene Protocol” (attachment #5)

The OIS protocol was designed as an on-scene checklist for OIS investigators and was based in-part on practices detailed in the DOJ OIS Guide, particularly:

1. Pre-Incident Preparations (Policies and Procedures) [Pg. 3]
2. Incident Scene Procedures (pg. 7-11)
3. Public Safety Statements (pg. 11)
3. Incident Scene Walkthrough (pg. 12)
4. Incident Scene Responsibilities (pg. 15)
5. Administrative Investigations (pg.16)

Additionally, the OIS Protocol contains a conflict of interest (COI) statement on the face page. This statement was included after consultation with Mr. Dirden during the research phase of this project. The conflict of interest statement is intended to minimize actual or perceived bias related to OIS investigators assigned to an OIS case.

End of Compliance Measure #2



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Compliance Measure #3:

3. Template details report structure and handling of evidence

Responsive Documents:

- A. Unit Order 19-02 – “Officer Involved Shooting Investigative Report” (attachment #6)**

Summary:

Internal Affairs Unit Order 19-02, “Officer-Involved Shooting Investigative Report” (Attachment #3), establishes format and content of an Officer-Involved Shooting Investigative report. The report requirements include information regarding the Subject; Focus of Investigation; Incident Summary; Department of Emergency Management Records and Recordings (DEM); Crime Scene Investigation; Criminal Investigation; Criminal Investigation Conclusion; Administrative Investigation; Conclusion/Recommendation; and Policy and Procedure. Once the investigative report is complete, it is then forwarded to the Officer-In-Charge of the Internal Affairs Division for review and approval. The approved report will be maintained in the Administrative Investigations Binder (Section A) with other 832.7 PC- Confidential Material.

End of Compliance Measure #3



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Compliance Measure #4:

4. Provide Training on template.

Responsive Documents:

- A. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4)
- B. Memorandum titled, “**Annual Officer Involved Shooting Case File Audit and OIS Team Training**,” dated 07/21/2020 (attachment #7)

Summary:

- A. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4) requires annual training on the case closure checklist. The training is to include all IAD OIS unit members, and is to be documented in a memorandum.

In addition, within thirty days of the end of the calendar year, the Officer in Charge of IAD shall take the following actions to ensure compliance with this Unit Order:

1. Conduct a review of all OIS and ICD case files closed in the calendar year, utilizing the attached checklist to audit each file for completeness.
2. Conduct training with all members of the IAD OIS unit on this unit order and the attached checklist, with emphasis on the importance of complete and thorough case files.
3. Once this annual review and training has been completed, the Officer in Charge of IAD is to document the following via memorandum to the Captain of Risk Management Office:
 - The results of the annual audit and any corrective action taken.
 - The date, time, and content of the annual training conducted on this unit order.

(Unit Order 19-03, page 1)



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- B. Memorandum titled, “Annual Officer Involved Shooting Case File Audit and OIS Team Training,” dated 07/21/2020 (attachment #7).

Annual Training on the template is to be documented in a memorandum, authored by the OIC of IAD. The training is intended to serve as a refresher for existing OIS unit personnel, as well as to train new members on the proper case file procedure.

On Tuesday, July 21st, 2020 at approximately 0900 hrs., IAD personnel convened in the main IAD conference room for the first annual training on the case file procedure checklist. Training was administered by Lt. Wilhelm on Unit Order 19-03, and all members participated in the case file audit that is also required in unit order 19-03. The results were documented in a memorandum (excerpt below).

| <h1>Memorandum</h1> | |
|--|--|
| San Francisco Police Department | |
| To: | Captain Mark Cota Commanding Officer Risk Management |
| From: | Lieutenant Angela Wilhelm #716 Internal Affairs Division |
| Date: | Tuesday, July 21, 2020 |
| Subject: | Annual Officer-Involved Shooting Case File Audit and OIS Unit Training |
| <p>The purpose of this memorandum is to document the results of IAD's annual OIS case file audit, and to document training that was provided to IAD-OIS members as required by Unit Order 19-03 (see attached)</p> | |



APPROVED: YES NO

Lieutenant Angela Wilhelm #716

Commander Robert O'Sullivan, Jr. #44
Risk Management Division

3-21-20

YES NO

End of Compliance Measure #4



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Compliance Measure #5:

5. Audit / review OIS files for adherence to template.

Responsive Documents:

- A. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4)
- B. Memorandum titled, “**Annual Officer Involved Shooting Case File Audit and OIS Team Training,**” dated 07/21/2020 (attachment #7)

Summary:

- A. **Unit Order 19-03** – “Internal Affairs Division OIS/ICD Case Closure Procedure and Checklist” (attachment #4) requires an annual audit on all OIS/ICD cases completed in the previous calendar year. Completion is defined by final disposition following the Chief’s letter to the Police Commission. The intent of the audit is to ensure compliance with the case closure procedure and checklist outlined in unit order 19-03.
- B. Memorandum titled, “**Annual Officer Involved Shooting Case File Audit and OIS Team Training,**” dated 07/21/2020 (attachment #7)
The OIC of IAD is required to conduct annual audits of completed case files for completeness per 19-03. The audit results are to be documented in a memorandum to the Captain of Risk Management. On Tuesday, July 21st, 2020 at approximately 0900 hrs., IAD personnel convened in the main IAD conference room for the first annual audit on the case file procedure checklist. The audit was administered by Lt. Wilhelm on IAD Case #17-005 and 18-003. All IAD OIS unit members observed the case file audit to facilitate the learning process. The results were documented in a memorandum (attachment #7).

End of Compliance Measure #5