

Recommendation 19.3

Tanya Koshy [REDACTED]

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To: McGuire, Catherine (POL) [REDACTED] Scott, William (POL) [REDACTED]
[REDACTED]
[REDACTED] Altorfer, Eric (POL)
[REDACTED]
[REDACTED]

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Dear Acting Captain Altorfer,

Our office has completed its review of the Recommendation 19.3 package that SFPD submitted as part of the collaborative reform process. Recommendation 19.3 is that SFPD should ensure that all officer-involved shooting (OIS) investigations are appropriately reviewed by all levels of supervision.

After reviewing the package and information provided by SFPD, the California Department of Justice finds as follows:

Response to 19.3 package: As a threshold matter, the SFPD and San Francisco District Attorney's Office (DA) entered into a memorandum of understanding in 2019 whereby the DA would handle the criminal investigations of all OISs. Given this, Cal DOJ and Hillard Heintze agree that this Recommendation now applies to SFPD's administrative investigations of OISs.

SFPD has a policy that all OISs will be administratively reviewed at all levels of supervision, starting with the Officer in Charge of the Internal Affairs Division (IAD) up to the Chief of Police. SFPD determined that the appropriate scope of review at each level will be the same: Each reviewer will review the entirety of the case file and make an independent assessment, based on the preponderance of the evidence, as to whether or not the evidence supports the investigative findings of the IAD investigator assigned to the case.

To ensure consistent standards, the IAD issued Unit Order 17-01, which created an Administrative IA Concurrence Form that each reviewer must sign after making their independent assessment as to whether or not they concur with the investigative findings. The IAD also issued Unit Order 19-02, which outlines the format and level of detail that each OIS investigative findings report must have.

To ensure an ongoing review of these standards, the IAD Officer in Charge must conduct a review, on an annual basis, of all the OIS case files to determine whether or not each case has been properly closed. The Officer in Charge will then provide a memorandum to the Captain of the Risk Management Office, describing the result of their review and any corrective action taken, if needed.

Based on 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.

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DOJ Request For Information (RFI) Sheet

Finding #19

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

Recommendation # 19.3 The SFPD should ensure that all officer-involved shooting investigations are appropriately reviewed by all levels of supervisions.

Response Date: 6/30/2020

Executive Summary:

On May 21, 2020 in a phone conference between SFPD, CAL DOJ and Hillard Heintze, (Hillard Heintze) provided a historical context of Finding 19 and its associated recommendations. 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 SF DA'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 investigating whether any involved "SFPD personnel violated any general order, regulation, policy, or other workplace rule" during an OIS, per the MOU.

Compliance Measures:

1) Establish and implement policy to require review at every level.

Per Hillard Heintze, this compliance measure has been met through **Internal Affairs Unit Order 17-01, "Protocol for Supervisory Review of all Officer Involved Shootings, Officer Involved Discharges and In-Custody Deaths."** (Attachment #2)

2) Develop policy and procedures that ensure appropriate review of officer-involved shooting investigations.

-Internal Affairs Unit Order 19-02, "Officer-Involved Shooting Investigative Report" (Attachment #3) This unit order explains the requirements which go into an Officer Involved Shooting investigation Report and act as a checklist for the investigator to ensure a thorough and complete report is submitted. Once the report is complete, it is forwarded through the chain of command as outlined in Unit Order 17-01. The approved Officer Involved Shooting Investigation Report shall be maintained in the Administrative Investigation Binder.



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- Internal Affairs Unit Order 17-01, "Protocol for Supervisory Review of all Officer Involved Shootings, Officer Involved Discharges and In-Custody Deaths." (Attachment #2)– The revised Unit Order states that all completed Officer Involved Shootings, In-Custody Deaths, and Officer Involved Discharges shall be reviewed through the chain of command. The file is then reviewed in its entirety by the Officer in Charge of the Internal Affairs Division, Captain of Risk Management, the Commander and Assistant Chief of the Chief of Staff. It is the job of each reviewer to make an independent assessment, based on the preponderance of evidence, whether or not the evidence supports the investigative finding(s). If a reviewer does not concur with the investigative findings, they shall attach a memorandum to the file explaining why. Any issues shall be discussed at the appropriate review board for recommendation and submittal to the Chief of Police for final determination.

3) Ensure consistent use of standards.

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.

Similar to IA Unit Order 19-02, Internal Affairs Unit Order 17-01, "Protocol for Supervisory Review of all Officer Involved Shootings, Officer Involved Discharges and In-Custody Deaths" (Attachment #2), establishes protocol on how administrative investigative files involving OIS shall be reviewed through the chain of command leading up to the Assistant Chief- Office of the Chief of Staff. The Chief of Police will provide the final approval of all OIS related investigations. To ensure that all members under the Assistant Chief- Office of the Chief of Staff review the case file, the lead investigator shall attach the Administrative IA Concurrence form to the file. Each reviewing member shall review the entirety of the case file, and will make an independent assessment, based on the preponderance of evidence, whether or not the evidence supports the investigative finding(s). Upon completion of review of the investigative file, each member of the chain of command shall indicate whether he or she concurs with the investigative finding(s) by checking the appropriate box on the *Administrative IA Concurrence* form. If a reviewer does not concur with the investigative finding(s), he/she shall attach a memorandum to the file to express his/her concerns with the finding.



DOJ Request For Information (RFI) Sheet

4) Ongoing audit/review.

-Internal Affairs Division- OIS Team Unit Order 19-03, "Internal Affairs Division OIS/ICD Case Closure Procedures & Checklist (Attachment # 4) has been revised to include additional language, requiring that "within 30 days of the end of the calendar year, the Officer in Charge of IAD shall conduct a review of all OIS and ICD case files closed in the calendar to determine whether the case closure procedure has been completed. The Officer in Charge of IAD is to submit their finding via memorandum to the Captain of the Risk Management Office."

Requested Documents	Responsive Documents
Evidence of procedures that provide guidance regarding review of OIS investigation, e.g., Unit Standard Operating Procedures, manuals, or checklist.	-Unit Order 19-02 (Attachment #3)
Evidence that investigative Standards are used when reviewing OIS investigations.	-Unit Order 17-01 (Attachment #2) (Revised Unit Order states "each reviewer makes an independent assessment, based on preponderance of evidence, whether or not the evidence supports the investigative finding.")
Evidence that ongoing review is occurring.	-Unit Order 19-03 (Attachment #4) (Revised Unit Order states "within 30 days of the end of the calendar year, the Officer in Charge of IAD shall conduct a review of all OIS and ICD case files closed in the calendar to determine whether the case closure procedure has been completed. The Officer in Charge of IAD is to submit their finding via memorandum to the Captain of the Risk Management Office.")