

[REDACTED]

To: Walsh, Peter; Tran, Jimmy (POL)
Subject: FW: Recommendation 23.1

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Commander Walsh and Officer Tran,

Please see below for Cal DOJ's evaluation of recommendation 23.1.

Thank you,

Lindsay Morgan
Director, Operations

[REDACTED]

From: Gabriel Martinez <[REDACTED]>
Sent: Tuesday, July 2, 2019 6:45 PM

[REDACTED]

Dear Lieutenant Dorantes,

Our office has completed its review of the materials related to Recommendation 23.1 that have been submitted to us as part of the collaborative reform process. This package focused [REDACTED] at moving vehicles. After reviewing the package and information provided by the Department, the California Department of Justice finds as follows:

Recommendation 23.1.: The SFPD should immediately implement this provision of the draft policy (prohibiting firing at moving vehicles).

Response to 23.1. On December 21, 2016, the Police Commission approved Department General Order (DGO) 5.01, Use of Force. DGO 5.01 Section VI (G)(2)(e) provides that an officer "shall not discharge a firearm at the operator or occupant of a moving vehicle" or "from his or her moving vehicle" unless there is an immediate threat of death or serious bodily injury by means other than the vehicle. On December 27, 2016, Department Bulletins 16-219 and 16-221 issued, announcing the adoption of DGO 5.01, including the prohibition against shooting at moving vehicles.

[REDACTED]

SFPD reviews all officer involved shootings (OIS). The 2017 and 2018 OIS audit found twelve OIS incidents, one of which involved firing at a vehicle. Department records indicate the employee who was found to have shot at a moving vehicle was in violation of policy. The employee was released from the department.

Based upon all of the above, the Department of Justice finds that the Department is in substantial compliance with this recommendation. The Department notes that the OIS 2017-2018 report contains a field indicating "Vehicle Involved Y/N." That field could be clarified to describe whether or not the OIS involved shooting at or from a moving vehicle (e.g., "OIS at or from vehicle").

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

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Collaborative Reform Completion Memorandum

Finding # 23.1: The SFPD allows members to shoot at moving vehicles under certain circumstances pursuant to Department General Order 5.02 – Use of Firearms. SFPD policy provides for a variety of exceptions that allow officers to shoot at a moving vehicle, which effectively nullifies the general statement that officers are prohibited from discharging their firearm at the operator or occupant of a moving vehicle. The department’s pending draft order on use of force allows shooting at vehicles when there is an immediate threat of death or injury by means other than the vehicle.

Recommendation # 23.1 The SFPD should immediately implement this provision of the draft policy.

Response Date: 05/09/2019

Executive Summary: On December 21, 2016, the Police Commission approved use of Force, Department General Order 5.01. DGO 5.01, Section: (VI) (G) (2) (e) states the following:

“MOVING VEHICLES. An officer shall not discharge a firearm at the operator or occupant of a moving vehicle unless the operator or occupant poses an immediate threat of death or serious bodily injury to the public or an officer by means other than the vehicle. Officers shall not discharge a firearm from his or her moving vehicle.”

On December 27, 2016, Department Bulletin (DB) 16-219, “Department General Oder 5.01, ‘Use of Force’ Update Packet #54,” was issued. The purpose of DB 16-219 is to announce the adoption of revised DGO 5.01, Use of Force. The order contains significant updates to the Department’s Use of Force policy, which prohibited the shooting of moving vehicles and the use of the carotid restraint.

On December 27, 2016, DB 16-221, “Rescinding of Department General Order 5.02, ‘Use of Firearms,” was issued. The DB notified department members that DGO 5.01, Use of Force, has been updated, and that key elements of DGO 5.02, Use of Firearms, have been incorporated into the new use of force policy.

Compliance Measures:

- 1) Prohibit firing at moving vehicles.
-Yes. Please refer to Department General Order 5.01 (VI) (G) (2) (e) (Firing upon moving vehicles).



Collaborative Reform Completion Memorandum

- 2) Implement prohibition immediately.
-Yes. Please refer to Department General Order 5.01 (VI) (G) (2) (e) (Firing upon moving vehicles).

- 3) Audit Compliance.
-Yes. Please refer to report, "SFPD OIS Cases 2017-2018," prepared by Sgt. C. Franco #1443 on 04/29/2019.

- 4) Evidence of remedial action if deficiencies are found.
-Yes. Please refer to Memorandum regarding On-Duty Shooting; Firing upon Moving Vehicle (issued 03/18/2019)

Other Attachments:

- Form 1000 (Team Members)
- Form 1001 (Previous Version of Executive Summary)
- Form 1003 (Signature Page)
- DB 16-219
- DB 16-219 Audit Sign-off Report, prepared 5/7/2019
- DB 16-221
- DB 16-221 Audit Sign-off Report, prepared 5/7/2019
- DB 15-141
- DB 15-141 Audit Sign-off Report, prepared 5/7/2019
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- Memorandum-Use of Force-Shooting at Vehicles
- Training Power-point Slides
- SFPD Chronological
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