

Recommendation 60.1

TK

Tanya Koshy [REDACTED]

Thu 12/17/2020 1:05 PM

To:

- McGuire, Catherine (POL);
- Scott, William (POL);
- [REDACTED]

+8 others

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Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 60.1 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 60.1:

The SFPD and DPA should jointly develop a case tracking system with sufficient security protections to assure independence that would identify each open investigation, where it is assigned, and the date the case expires for the purposes of compliance with California Government Code Section 3304(d)1, which requires the completion of an administrative investigation into misconduct within one year of the agency discovery [or otherwise, the agency is prohibited under state law from disciplining the accused officer].

Response to 60.1:

As a threshold matter, SFPD and the Department of Police Accountability [DPA] entered into a memorandum of understanding delegating DPA as the investigator of all complaints related to on-duty misconduct against sworn members acting under the color of authority. Under the MOU, SFPD is responsible for investigating any internal complaints made by a member against another member, as well as complaints against non-sworn members, complaints against a member related to off-duty conduct, and complaints by other agencies (such as the District Attorney's Office).

SFPD notes in the package for this Recommendation that the Department and DPA are unable to share a joint case tracking system because SFPD and DPA decided to use different software for case tracking. The California Department of Justice and Hillard Heintze agree that the decision

not to develop a shared database to support ongoing reconciliation should not be factored against the Department in determining substantial compliance with this recommendation. However, the California Department of Justice agrees with Hillard Heintze that this decision does render the working relationship between SFPD and DPA less efficient because of the added administrative burden of tracking cases across two separate systems.

SFPD has, however, developed other protocols to ensure the timely progression of cases. First, SFPD's software vendor imports DPA's data on a weekly basis onto SFPD's system. Second, SFPD issued a unit order (Risk Management Office Unit Order 20-02) detailing the protocol for tracking investigations. Under this unit order, the Internal Affairs Division (IAD) maintains a spreadsheet that tracks all IAD investigations and captures various categories of information on each administrative investigation, including the date the case was received, any tolling of the disposition deadline, the basis for tolling, and the case status. The unit order also requires the Investigative Services Detail (ISD) to do the same for investigations into allegations of officer criminal misconduct. Pursuant to the unit order, the Lieutenants in IAD and ISD review their respective spreadsheets as part of biweekly case review meetings with the Commander of the Risk Management Office; the Commander of the Risk Management Office further indicates that he also meets regularly with the Lieutenants during course of the week to discuss issues related to the timeliness of investigations. *See* September 10, 2020 memo from Commander O'Sullivan to Assistant Chief Moser. Pursuant to the IAD Standard Operating Procedures Manual, the Lieutenants in IAD and ISD also hold biweekly meetings together to ensure the timely transfer of cases to and from their respective offices.

As further noted in the IAD Standard Operating Procedures Manual, IAD has an internal commitment to complete investigations within 6 months. This internal deadline is intended to ensure that the case can be completely adjudicated well within a year. The reason for this internal deadline is that no officer can be subject to disciplinary action if the agency has not completed the investigation within one year of the agency's discovery of the allegations of misconduct. *See* Government Code § 3304(d)(1). Under Unit Order 20-03, IAD investigators collectively meet on a monthly basis with the IAD Lieutenant to provide case updates as part of the effort to ensure that investigations are completed within six months; however, during the COVID-19 pandemic, these meetings occur more frequently, on a weekly basis. *See* September 10, 2020 memo from Commander O'Sullivan to Assistant Chief Moser. The Commander of Risk Management further noted that the IAD Lieutenants meet individually with each investigator on a biweekly basis. *See* September 10, 2020 memo from Commander O'Sullivan to Assistant Chief Moser. Further, investigators must advise the IAD Lieutenant if any case cannot be completed within six months.

On top of these regular meetings, the Commander of the Risk Management Office also holds separate quarterly meetings with Lieutenants of IAD and ISD specifically to discuss the status and maintenance of their respective spreadsheets.

Third, SFPD's tracking software also automatically sends out 90, 60, and 30-day warnings to the investigator of an administrative investigation and the IAD Lieutenant, advising of the expiration of deadline to complete an investigation within one year.

The regularly meetings and automatic alerts significantly reduce the concern that administrative investigations will not be timely resolved.

Finally, under the DPA-SFPD MOU, DPA provides quarterly updates on its cases to IAD, which includes the expected completion dates of their investigations and any statutory deadlines. DPA must also notify the Chief of Police and IAD of all investigations that have passed the six-month mark (including those where the 1-year deadline is tolled). DPA also notifies the Chief of Police

when their investigation has passed the nine-month mark and provides (1) the basis for why it is unable to complete the investigation and (2) the expected completion dates.

These various protocols, both internally and with DPA, help to ensure the timely resolution of the investigations.

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

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Finding # 60	Internal Affairs case tracking is insufficient to ensure the timely progression of investigations and achieving key deadlines.
Recommendation # 60.1	The SFPD and DPA should jointly develop a case tracking system with sufficient security protections to assure independence that would identify each open investigation, where it is assigned, and the date the case expires for the purposes of compliance with California Government Code Section 3304(d)1, which requires the completion of an administrative investigation into misconduct within one year of the agency discovery.

Recommendation Status	Complete Not Started	Partially Complete No Assessment	In Progress
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Summary

The SFPD states it has explored the engagement of a shared protocol but has not reached agreement to do so based on individual agency needs and disparate systems. SFPD identified that they and DPA use non-compatible software for tracking complaints. SFPD continued with its early software supplier while DPA optioned to use another. The evidence provided does not identify whether there was a discussion to a shared system as a resource. SFPD does identify that DPA data is uploaded into its system. In the end, while this is primarily a fiscal decision for the City, the use of disparate systems does add to the administrative burden for both agencies to ensure tracking and sufficient focus on transfer of cases. While the actions regarding a discussion about the potential for shared system is essentially a *No Assessment* based on the lack of data, the award of substantial compliance is based upon the fact that the actions of the SFPD and those of DPA indicate no desire to share a system – regardless of how the decision was reached. The work of the SFPD for compliance measure 1 is complete.

While the SFPD and DPA using different systems, the internal controls demonstrated by SFPD are sufficient to support substantial compliance with compliance measure 2. The SFPD highlights the use of AIM to track cases and this has proved to be effective. It sends 60-90 day warnings for cases in progress. It also has a mechanism for tracking and bringing in DPA complaints for the SFPD to investigate. Finally, these processes are supported by routinely scheduled supervisory meetings. This supports compliance measure 2.

For compliance measure 3, the SFPD provided the protocol and tracking processes used internal to track and audit for timely completion of complaints. The factual support is limited but is supported by the statement that only 2 cases have tolled since 2018. There is a focus and process to ensure appropriate management within IA. However, the shared tracking of complaints remains under the control of the Police Commission and the SFPD refers to the Memorandum of Understanding (MOU) adopted on 5/21/2019. There are negotiated standards and responsibilities for the DPA under this MOU and agreed to by the SFPD and DPA. While not technically “shared” the MOU identifies the process and roles for ensuring timely completion of complaint investigations. As such, the evidence supports the compliance with compliance measure 3.

Compliance Measures		Status/Measure Met
1	Concurrent with Rec. 56.1, explore the options for a shared case tracking system.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Ensure internal SFPD controls over accurate case tracking consistent with California law.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

3	Establish a plan and protocol for shared tracking of complaints against officers as they move through the internal discipline system.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
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Administrative Issues

SB 1421 may have an impact on the fact that the systems are distinct and the possibility for inconsistent reporting.

Compliance Issues

SFPD agreed to insert additional information regarding compliance measure 1 –specifically evidence that there was a discussion about sharing systems to ensure consistency in the data - this was not received. For future files, data agreed to be inserted should be inserted in order to support substantial compliance.

There is very limited evidence of a shared focus on ensuring timely review and assurance that investigations are timely completed. While the MOU supports the overall process, no evidence was provided that the SFPD engages DPA on a routine basis to problem-solve and address potential toll issues. This may reflect the assertion of independence by both agencies – however, they both share a critical role in holding police officers to account for misconduct. Ideally there would be a shared vision of an effective system to ensure no tolling – either at DPA or SFPD.



Collaborative Reform Completion Memorandum

Finding # 60:

Internal Affairs case tracking is insufficient to ensure the timely progression of investigations and achieving key deadlines.

Recommendation # 60.1

The SFPD and DPA should jointly develop a case tracking system with sufficient security protections to assure independence that would identify each open investigation, where it is assigned, and the date the case expires for the purposes of compliance with California Government Code Section 3304(d)1, which requires the completion of an administrative investigation into misconduct within one year of the agency discovery.

Response Date: 08/31/2020

Executive Summary:

On May 21, 2019 Resolution 19-40 (Attachment #1) was adopted by the San Francisco Police Commission. This resolution memorializes approval of the memorandum of understanding between the Department of Police Accountability and the San Francisco Police Department in which General Order 2.04, Complaints Against Officers, is operationalized. (Attachment #2) This resolution sets the process for timelines and tracking of complaints submitted by the DPA to the San Francisco Police Department. The DPA shall quarterly complete and send updates on cases to IAD with expected completion dates and the statute of limitations deadline.

In Order to properly track these cases, the Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order 20-02 (Attachment #3) was adopted to formalize the policies, procedures, and practices of the Risk Management Office (RMO) to ensure that assigned internal Criminal and Administrative investigations are properly and promptly investigated and adjudicated.

This Unit Order establishes a formalized policy and procedure to unify both IAD and ISD by requiring constant communication between the members of IAD and ISD regarding their specific duties and responsibilities; the tracking of investigations forwarded, bifurcated, and/or contemporaneously being investigated; and establishes guidelines for a regularly scheduled biweekly meetings between the Lieutenants of each unit, the Captain of Risk Management, the Commander of Risk Management and the Assistant Chief - Chief of Staff to discuss cases.

The implementation of this Unit Order guarantees the flow of assigned criminal and administrative investigations to ensure that administrative violations are timely and properly addressed by requiring quarterly reviews by the Commander of RMO; weekly case review meetings between the Commander of RMO, the Captain of RMO, the Lieutenant ISD, and the Lieutenant of IAD. Furthermore, the adopted Unit Order requires in-person briefings from ISD investigators with IAD investigators while assigned contemporaneous or bifurcated investigations. It should be noted that some of these in-person briefings currently occur via telephone or video conferencing platforms due to the impacts of the COVID-19 Pandemic.



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Upon approval of the Unit Order, the Lieutenants of each respective unit, both IAD and ISD, trained their staff to ensure understanding and compliance with in-person briefings.

Compliance Measures:

- 1) Concurrent with Rec. 56.1, *The SFPD should work with the DPA and Police Commission to minimize obstacles to transparency as allowed by law to improve communications to complainants and the public regarding investigation status, timelines, deposition and outcome. Explore the options for a shared case tracking system.***

On Thursday September 24, 2020 SFPD Professional Standards members participated in a conference call with members of Hillard Heintze and the California Department of Justice. During the prescreening, suggestions and guidelines were discussed for this recommendation as described below.

SFPD will make clearer in the Form 2001 narrative for compliance measure 1 that SFPD explored options for a shared tracking system with DPA and provide the reasons why a shared system would not work.

In order to track these cases, the Department uses a computer application called Administrative Investigations Management (AIM) for internal case tracking. On Target Performance Systems (OTPS) is the vendor that provides the AIM software. DPA has recently transitioned to Salesforce, a cloud based software database system. Given the different tracking systems, SFPD and DPA are unable to share a joint case tracking system. However, the data from DPA is regularly imported into the SFPD database.

The Department uses Administrative Investigations Management (AIM) to import DPA's data which contains information regarding complaints filed against sworn members.

The data transfer is handled and coordinated by DPA and OTPS. DPA provides a data file which is automatically uploaded to AIM once a week on Wednesdays.

An EIS analyst runs a report once a week in AIM to confirm the DPA import was successful. In the event that the data transfer is unsuccessful, an EIS analyst will notify OTPS. OTPS will work with DPA to resolve import issues. (Attachment #4) SFPD Memorandum DPA Data Transfer.

- 2) Ensure internal SFPD control over accurate case tracking consistent with California Law.**

SFPD has provided Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (20-02) and IAD case tracking spreadsheet (Attachment #5). This tracking sheet, used in every aforementioned meeting, tracks every aspect to include follow up of both ISD and IAD investigations



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The Unit order dictates that the IAD spread sheet shall list all ISD investigations and note the following information:

- ISD case number
- IAD case number
- Accused member(s)
- Date case received from ISD
- Date case forwarded to ISD
- Tolling dates: start & end
- Reason(s) for tolling (i.e. criminal investigation, member unavailable, trail, etc.)
- Case status (i.e. active administrative, criminal trial pending, forwarded to ISD, member unavailable, closed, etc.)
- Case Disposition.
- Notes

In addition, the Lieutenant of ISD shall continually update and maintain an annual spread sheet. The ISD spread sheet shall list all ISD investigations and note the following information:

- ISD case number
- IAD case number (if applicable)
- Accused member(s)
- Criminal allegation(s)
- A "check box" if any Administrative allegation(s)
- Date case received
- Date case forwarded to IA Admin
- ISD investigator
- Case status (i.e. active ISD, criminal trial pending, Non-criminal case, forwarded to IAD, closed, etc.)
- Case Disposition.
- Notes

*** Due to both the Constitutional and Procedural rights of an accused Member, the SFPD will not provide an /SD tracking sheet as evidence. In lieu of the ISD tracking sheet, the SFPD has provided the aforementioned Unit Order as supporting evidence***

The aforementioned meetings, including the case tracking spreadsheet, in addition to government code requirements for Administrative investigations, ensure constant review, monitoring and case tracking for timely completion and resolution of all investigations.

These meetings and case tracking sheets are also used as mechanisms to monitor timely resolution of all investigations that are legally tolling as defined by California Government code 3304 (Attachment #6). An administrative investigation is allowed to "toll", meaning the one-year statute of limitations can be extended, for several reason as defined bellow



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- (2) (A) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
- (B) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.
- (C) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
- (D) If the investigation involves more than one employee and requires a reasonable extension.
- (E) If the investigation involves an employee who is incapacitated or otherwise unavailable.
- (F) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.
- (G) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.
- (H) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

In addition to the weekly meetings and the presentation of case status tracking, IAD uses a software program called AIM, which sends 30, 60, and 90-day "warnings" to the investigator and the Lieutenant of IAD when a case is nearing the expiration date as defined by Government Code 3304. See attached examples of 30, 60, and 90-day "warnings." (Attachment #7)

Numerous in place policies and procedures have been in place ensure timely resolution of cases. In summary, the magnitude and regularity of meetings coupled with Command Level involvement and oversight, the case tracking sheets, and RMO Unit Order 20-03 - Internal Affairs Division Procedures clearly demonstrate the exhaustive steps the Risk Management Office has taken to ensure the timely resolution of its cases.

Currently, the Administrative Investigations Management (AIM) system is designed to notify the Lieutenant of IAD and IA investigators when their assigned case is 90, 60, and 30 days out from the 1-year time allotment to complete an administrative investigation as defined by California Government Code 3304.

On Thursday September 24, 2020 SFPD Professional Standards members participated in a conference call with members of Hillard Heintze and the California Department of Justice. During the prescreening, suggestions and guidelines were discussed for this recommendation as described below.

For compliance measure 2, SFPD will note that when it gets a case from DPA, it documents that fact in AIM; Hillard Heintze explained that it would be important to include



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in the Form 2001 that SFPD tracks which cases are from DPA so that it's clear that SFPD is aware of whether DPA is the source of any delays.

DPA will refer cases to IAD via MCD/OCC Report Summary. (Attachment #8) The MCD OCC report summary is received with a DPA report number and assigned a MCDO case number by the IAD Clerk and is entered into AIM; a process codified by RMO Unit Order 20-03 - Internal Affairs Division Procedures (Attachment #9). The date in which the SFPD was first notified of the alleged misconduct is entered as opposed to the date in which the case was received as required by California Government Code 3304. This initial notification date begins the 1-year clock in which the administrative investigation has to be completed pursuant to California Government Code 3304.

After receipt, the case is entered in the IAD case tracking sheet (pursuant to RMO Unit Order 20-02), which consists of the following:

- IAD Case Number
- Assigned Investigator
- Allegations 1-3+
- ISD Case Number (if applicable)
- EEO Case Number (if applicable)
- Date of Occurrence
- 3304 date
- Date assigned
- 6-month date
- 3-month date (Passed Due)
- Notes

The IAD case status sheet is then used to track the entirety of the case from assignment to adjudication. The case status sheet is presented and reviewed in all the above-mentioned meetings (RMO I IAD & ISD / IAD Staff); specifically, the individual meetings between the IAD Lieutenant and IAD investigators in which dates of completion are addressed. This eliminates the potential of a case reaching a 30-day AIM notice without extensive prior knowledge of the entire RMO Command Staff and an implemented strategy in place to address the expiring investigation.

In the unlikelyhood that a case reaches the 30-day plateau, an AIM notice will automatically (electronically - produced by the software) be sent to both the investigator and the Lieutenant of IAD. Upon receipt of the notice, the IAD Lieutenant will notify both the Captain and Commander of RMO and coordinate with the investigator to ensure the case is completed prior to expiring. However, the SFPD will maintain that this situation is unlikely to occur based upon the multiple levels of documented redundancies in place to mitigate all scenarios in which an investigation is not identified well in advance nor completed prior to the receipt of a 30-day warning notice.



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3) Establish a plan and protocol for shared tracking of complaints against officers as they move through the internal discipline system.

Biweekly, the Commander of the RMO, the Captain of RMO, the Lieutenant of ISD, and the Lieutenant of IAD meet to review ISD and IAD assigned investigations. These meetings are scheduled by the Commander of RMO and occur every 3rd Tuesday (Attachment #10). These meetings do not require an agenda as their constant focus is reviewing the IAD & ISD case tracking sheets that concentrate on investigative strategies to ensure cases are adjudicated timely. In addition, these meetings emphasize topics such as briefings on newly received investigations; investigations transitioning from ISD to IAD; updates on any issues or directives from subsequent meetings; and serve as a platform to disseminate priorities and direction received from the Assistant Chief - Chief of Staff and any concerns of the Chief of Police.

The Lieutenant of ISD is first to present cases from the ISO case tracking spreadsheet. The Lieutenant of ISO is then excused to ensure that the criminal investigation is not tainted.

The Risk Management Office typically conducts criminal and administrative investigations contemporaneously which requires the strict necessity to keep the two investigations separate. The above described meeting ensures that the facts gathered in the criminal investigation can be shared with the administrative investigator. However, information gained through the administrative investigation, such as compelled statements, cannot be provided to the criminal investigator. For further explanation, please refer to (Attachment #11) - COPS: Standards and Guidelines for Internal Affairs)

After the IAD Lieutenant is excused, the Lieutenant from IAD then presents cases from the IAD case tracking spreadsheet (Attachment # 4). It should be noted that the attached tracking sheet has been redacted as to not subject the SFPD assumed liability for releasing legally protected and confidential information.

As required by the Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracing Sheets Unit Order the aforementioned tracking sheets were created requiring the Lieutenant of IAD to document all cases received from and cases forwarded to the ISO.

In the subsequent week aside from the RMOIAD-ISD meeting, the Lieutenant of ISD and the Lieutenant of IAD meet every other Thursday to discuss internal criminal cases as identified on the ISO case tracking spreadsheet for case status and appropriate IAD involvement. Evidence of both meetings occurring is shown in the attached Outlook calendar of the Lieutenant of IAD (Attachment #12).

These meetings are designed to inform the Lieutenant of IAD of potential prosecution timelines as well as pending case closures which would negate any criminal tolling provisions as defined by California Government code 3304; specifically, section



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3304(2)(A). In addition, these meetings identify any current ISD investigations that uncover administrative violations that need to be bifurcated - meaning that during the course of the ISD investigation, administrative violations were identified that do not have a nexus to the criminal investigation and thus should be investigated by IAD.

In addition to the bi-weekly RMO meetings, the bi-weekly IAD and ISD Lieutenant's meetings, the Lieutenant of IAD meets with the IA Unit collectively on every 3rd Tuesday of the month. In addition to the collective meetings, the Lieutenant of IAD individually meets bi-weekly with investigators in which they review their current case load. These meetings were in office and in person Pre-COVID-19. Since COVID-19, the Lieutenant of IAD meets with the collective unit every Wednesday (Attachment #13) to ensure constant communication as the Department adheres to the strict guidelines by offering telecommuting.

Finally, the Unit Order also delineates the procedures for In-person briefings between ISD and IAD investigators when working cases contemporaneously. These particular meetings are scheduled as needed and are individually documented in the IAD investigator's case chronological report attached to the case file.

The Memorandum of Understanding between the DPA and the SFPD, adopted May 21, 2019, outlines the process for timelines and tracking of complaints submitted by the DPA. (Attachment #1)

- 1. When there is sufficient evidence to proceed the complaint will be classified as an investigation and will be assigned to a designated DPA investigator, except those complaints which on their face clearly indicate the acts complained of were proper and those complaints lodged by other members of the Police Department.*
- 2. DPA shall quarterly complete and send updates on cases to IAD with expected completion dates and the statute of limitations deadline. (3304) govt. code*
- 3. DPA shall notify the Chief of Police and IAD of all cases that reach the six month mark inclusive of cases which may be tolling. (3304) govt. code.*
- 4. DPA shall use its best efforts to conclude investigations of complaints and, if sustained, transmit the sustained complaint to the Police Department within nine months of receipt thereof by DPA.*
- 5. If DPA is unable to conclude its investigation within such nine-month period, the Director, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter.*



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- a. *Completed or pending DPA case files sent to the Chief of Police or IAD, shall contain a copy of the original complaint, chronological of investigation, all audio or video evidence, transcripts, investigative notes, investigative summary, pending or final conclusions, and pending or final recommendations.*
 - b. *For all cases that the DPA fails to meet the nine-month deadline, the Director shall advise the Chief of Police of the specific reasons for said failure and expected completion date(s).*
6. *The DPA shall send completed investigations to IAD within thirty (30) days of the DPA Director's approval except those over the nine (9) month deadline which shall be sent immediately. In cases involving concurrent investigations, DPA shall not receive the IAD investigative conclusions and recommendations until IAD has received the completed DPA report. (Attachment #14)*
7. *Upon final disposition of an investigation of a complaint, the DPA shall issue a letter to the complainant and every named officer that includes the findings of each allegation in the complaint.*

DPA shall use its best efforts to conclude investigations of complaints and if sustained, transmit the sustained complaint to the Police Department within nine months of receipt thereof by DPA.

The DPA will transmit a Morning Report that will document the number and types of complaints, the district of occurrence, and officer information and if available identification of specific officer(s) involved. The Morning Report should have summaries of the incident and be sent weekly to IAD for review and analysis.

The DPA and the San Francisco Police Department have agreed to formulate consistent language to refer to categories of alleged misconduct

- A. When a complaint has been sustained by a preponderance of the evidence, and the DPA investigation has been completed, the DPA's complete case file and findings shall be transmitted to the Police Chief or the Chiefs designee for review and actions.
- B. The Chief or the Chief's designee shall complete his or her review and make an action recommendation within forty-five (45) days of receipt of a DPA case. (Section 4.136.(e))
- C. If, however, the Chief or Chief's designee cannot meet the deadline he/she shall seek an extension of time from the Police Commission. The Commission shall be advised of the reasons for the request for deadline extension, and accused officer(s), complainant(s) and witness(es) shall be informed of any delays and time extensions beyond the initial 60-day period.



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- D. DPA shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The Director, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the Director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the Director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or her designee fails or refuses to meet and confer with the Director on the matter, or (3) other exigent circumstances necessitate that the Director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343.
- E. In cases where the DPA has sustained a complaint by a preponderance of the evidence against the Chief of Police, the DPA shall transmit its complete case file and findings to the Police Commission for review and action.

In addition to the already mentioned meetings between Department members and representatives of the DPA occur in the course of regular business. For example, Department members meet with DPA regarding policy matters at monthly Sparks' report meetings.

With respect to disciplinary matters, the Department and DPA have established a formal process to review pending cases of mutual interest. (Attachment #2) DGO 2.04, specifically section 2.04.08 - Disciplinary Review Board—established a mechanism to ensure that the SFPD works with both the DPA and the Police Commission to minimize obstacles to transparency, improve communications to complainants and the public regarding investigation status, timelines, depositions and outcomes.

The DRB consists of the Assistant Chief of Staff, Deputy Chief of the Administration Bureau, a member of the Police Commission (advisory) and the Director of the Department of Police Accountability (advisory). The Disciplinary Review Board reviews and discusses:

- Aggregate trends related to DPA and Internal Affairs Division complaints, both alleged and sustained
- Policy failure or training failure cases closed in the prior quarter
- Select sustained cases from the previous quarter to determine the need for training or policy change
- SFPD and DPA Recommendations.

The DRB considers whether any policy, procedure or training needs to be revised, added, or re-issued if it relates to the subject matter reviewed. The DRB may make written



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recommendations that include the manner in which the recommendations shall be implemented and a timeline for completion based upon identified priority level and complexity of recommendation.

On February 11, 2020, the DRB met. Assistant Chief Moser, Commander O'Sullivan (RMO), Captain Mark Cota (RMO), Lieutenant Angela Wilhelm (IAD), Sarah Hawkins (DPA), and Samara Marion (DPA) were in attendance. During this meeting, several topics were discussed to include creating a chart to document sustained cases to identify trends, and types of cases that should be discussed (failure to investigate, inaccurate incident reports, and supervisor issues). For a more detailed account, please refer to the attached DRB Meeting Minutes. **(Attachment #15)**. The next meeting was scheduled for March 17, 2020, but was canceled due to the COVID-19 pandemic. The DRB will reconvene as appropriate upon the reduction of COVID-19 restrictions.

The DRB reports quarterly to the public and to the Commission those policy and training changes it recommends, and the measure of the success or failure of each change, in a manner consistent with individual police officer privacy rights. The DRB thus provides the public with a window into the disciplinary process and publicly highlights any changes—made with the goal of increased transparency and accountability in mind—that the Board recommends. The combination of regular police Commission meetings, routine meetings on policy and procedural matters, and a formal mechanism for Disciplinary review informs DPA, the Department, and the Police Commission on matters of mutual interest and facilitates clear communication to the public about the joint operations of these organizations.