

## Recommendation 60.3

TK

Tanya Koshy [REDACTED]

Thu 12/17/2020 1:03 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 60.3 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 60.3:

Supervisors should be held accountable for ensuring timely transfer of cases to SFPD Internal Affairs Administrative Investigations from SFPD Internal Affairs Criminal investigations when appropriate.

### Response to 60.3:

SFPD has developed a protocol that (1) ensures the timely transfer of cases from the Investigative Services Detail (ISD) to the Internal Affairs Division (IAD) and (2) takes into account the statutory requirement that the Department cannot impose discipline on an officer if the investigation is not completed within one year of the agency's discovery of the allegations of misconduct. See Government Code § 3304(d)(1). As part of that protocol, SFPD issued a unit order (Risk Management Office Unit Order 20-02) detailing the protocol for tracking investigations and the various obligations of supervisors. Under this unit order, both IAD and ISD must maintain separate spreadsheets of their respective investigations, which capture various categories of information on each administrative investigation, including the date the case was received, any tolling of the disposition deadline date, the basis for tolling, and the case status. Unit Order 20-02 also obligates the Lieutenants of IAD and ISD to maintain these spreadsheets, which includes monitoring the cases captured on the spreadsheet for timeliness. Pursuant to the

Unit Order, the Lieutenants may be subject to disciplinary action if they fail to meet this obligation.

Pursuant to Unit Order 20-02, the Lieutenants in IAD and ISD are required to 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 Officer 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. As noted in the IAD Standard Operating Procedures Manual, the Lieutenants in IAD and ISD also meet together on a biweekly basis for the purpose of ensuring timely transfer of cases between the two offices.

Under Unit Order 20-03, IAD investigators collectively meet on a monthly basis with the IAD Lieutenant to provide case updates, to ensure that investigations are completed within six months; 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 individually with each investigator on a biweekly basis. See September 10, 2020 memo from Commander O'Sullivan to Assistant Chief Moser.

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). Given this statutory limitation, the SOP Manual obligates investigators to advise the IAD Lieutenant if any case cannot be completed within six months or if there are any other issues that could cause a delay in the completion of the investigation (such as an inability to interview the accused member).

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

The regular meetings collectively ensure consistent internal review for timely transfer of cases. The Department has noted that since the implementation of the protocol in July 2020 as described above, no investigation already in progress has continued past 1-year statutory deadline. Between 2018 and the implementation of this protocol, two investigations exceeded the 1-year statutory deadline that would have permitted the Department to begin disciplinary proceedings. The package does not indicate whether there was any disciplinary action taken because these two investigations were untimely for the purposes of imposing discipline. However, SFPD notes that it instituted the protocol described above in response to these two untimely investigations.

Finally, SFPD's IAD staff were trained on the protocol described above in September 2020. The California Department of Justice agrees with Hillard Heintze's recommendation that this unit level training should occur on an annual basis.

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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[REDACTED]

[REDACTED]

Hillard Heintze File Review Recommendation # 60.3

<b>Finding # 60</b>	<b>Internal Affairs case tracking is insufficient to ensure the timely progression of investigations and achieving key deadlines.</b>
<b>Recommendation # 60.3</b>	Supervisors should be held accountable for ensuring timely transfer of cases to SFPD Internal Affairs Administrative Investigations from SFPD Internal Affairs Criminal Investigations when appropriate.

<b>Recommendation Status</b>	<b>Complete</b>	<b>Partially Complete</b>	<b>In Progress</b>
	<b>Not Started</b>	<b>No Assessment</b>	

**Summary**

SFPD has demonstrated consistent work and focus on ensuring the tracking of IA cases – and the adherence to deadlines. In support of CM #1, the Department provides the tracking process and the Investigative Services Division (ISD) procedures unit order and Risk Management Office (RMO) Standard Operating Procedures (SOP). These are supported by management requirements for review in addition to AIM tracking. The Department’s actions provide substantial compliance with CM #1.

In support of CM #2, the Department provides policy requirements for training of members assigned to IA. More relevant is the training provided and acknowledged by the members of the IAD on the IAD protocol. The unit training conducted on 9/30/20 provides substantial compliance with this compliance measure.

In support of CM #3, the protocols specifically require roles and responsibilities for supervisors, so there is substantial compliance based upon the reporting and review requirements established.

In support of CM #4, the Department identifies specifically the tracking sheet and the meetings between the units, in addition to the pre-identified policies and protocols. There is a sufficiently robust meeting and agenda process to provide substantial compliance with this compliance measure.

In support of CM #5, the Department identifies that no case has expired since the implementation of the policy and that since 2018, only 2 cases have tolled. The Department identifies that the tracking sheet is an outcome of the prior toll in the investigations. This provides substantial compliance for this compliance measure.

<b>Compliance Measures</b>		<b>Status/Measure Met</b>
<b>1</b>	Establish a protocol and policy regarding the transfer of cases including time constraints that allow investigation within the parameters of the requirement of California Government Code Section 3304(d)1.	✓ <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>2</b>	Ensure training on policy in a manner that will quickly and thoroughly inform members.	✓ <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>3</b>	Task supervisors with responsibility for ensuring timely transfer of cases.	✓ <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>4</b>	Conduct internal review and reporting around compliance with policy.	✓ <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>
<b>5</b>	Evidence of supportive and remedial action if deficiencies are found.	✓ <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>N/A</b>

### Administrative Issues

While training occurred on in September 2020 – it recommended that the unit level training occur annually – targeting issues identified through the year.

### Compliance Issues

One area that continues to gap is the shared perspective with DPA on timely transfer of cases. To date, SFPD identifies that there has not been an IAD time elapsed investigation since implementation. The lack of a joined-up system relies upon the work of each of the involved agencies, DPA and SFPD, to manage their own timelines. This will continue to be a potential weakness and needs to be continually managed. While not under the control of the SFPD, what is not clear is the engagement with DPA on this action item and what cases have tolled as a result of the pass-throughs to SFPD from DPA. In the end, this is and should be a concern for the SFPD as these are Departmental employees. Other work identifies that this is an area the Police Commission governs, but it would be beneficial to both DPA and SFPD to have a joined focus on ensuring that cases do not toll.



## Collaborative Reform Completion Memorandum

### Finding # 60:

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

### Recommendation # 60.3

Supervisors should be held accountable for ensuring timely transfer of cases to SFPD Internal Affairs Administrative investigations from SFPD Internal Affairs Criminal Investigations when appropriate.

**Response Date: 10/19/20**

### Executive Summary:

The Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1) and ISD Procedures Unit Order (Attachment # 2) were adopted to establish protocol and policy by formalizing the policies, procedures, and practices of the Risk Management Office (RMO) to ensure that assigned internal criminal and administrative investigations are properly and promptly transferred, investigated and adjudicated within the one-year period in accordance with California Government Code 3304(d)1 (Attachment # 3).

### **CHAPTER 9.7. Public Safety Officers 3304:**

*(d)(1) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that year, except as provided in paragraph (2). The public agency shall not be required to impose the discipline within that one-year period.*



## **Collaborative Reform Completion Memorandum**

Furthermore, in conjunction with Collaborate Reform Initiative (CRI) recommendations 61.1 and 61.2, the Risk Management Office created a Standard Operating Procedures Order (IAD SOP) (Attachment # 4) that further codifies policy, procedures and the responsibility of the Risk Management Office's (RMO) Command Staff to ensure the timely transfer of cases between the Investigative Services Detail (ISD) and the Internal Affairs Division (IAD).

Both Unit Orders and the IAD SOP establish formalized policy and procedure to unify both IAD and ISD by compelling constant communication between the members of IAD and ISD regarding their specific duties and responsibilities. This redundancy, which will be discussed in more detail in compliance measure 3, ensures the tracking of investigations as well as cases that require transfer, bifurcation, and/or contemporaneous investigations. Moreover, they establish guidelines for regularly scheduled bi-weekly 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 not only regularly discuss cases, but ensure that merited cases are timely transferred between ISD and IAD.

The implementation of the Unit Orders and the IAD SOP guarantees the flow of assigned criminal and administrative investigations to ensure that administrative violations stemming from cases transferred from ISD are timely and properly addressed by requiring the following:

- Weekly case review meetings between the Commander of RMO, the Captain of RMO, the Lieutenant of ISD, and the Lieutenant of IAD;
- Follow up to previously discussed cases
- Quarterly reviews by the Commander of RMO;
- Quarterly reviews by the OIC of IAD and current staff in the necessary event the SOP requires updating to incorporate recent case law or implementation of new best practice principles.

Lastly, the adopted Unit Orders require briefings from ISD investigators with IAD investigators while assigned contemporaneous or bifurcated investigations. These practices are further systemized in a memorandum (Attachment # 5) written by the current Commander of RMO, which will be further discussed in compliance measure 1. It should be noted that some of these 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 Orders and the IAD SOP, the Lieutenants of each respective unit, both IAD and ISD, trained their staff to ensure understanding and compliance. In addition, the IAD SOP codifies that all newly assigned investigators are to be trained by a senior ranking investigator upon assignment in regards to the IAD SOP, current IAD Unit Orders, and other relevant internal practices within the IAD Office to include specific training in regards to compliance with California Government code 3304(d)(1).

### **Compliance Measures:**

- 1) Establish protocol and policy regarding the transfer of cases including time constraints that allow investigations within the parameters of the requirement of the California Government Code 3304(d)1.**

To demonstrate that the SFPD has established protocol and policy regarding the transfer of cases to comply with California Government Code 3304(d)(1), the following will be provided as supporting evidence:

- The Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1)
- ISD Procedures Unit Order (Attachment # 2)
- IAD Standard Operating Procedures Order (Attachment # 4)
- Commander of RMO memorandum (Attachment # 5)
- IAD Unit Procedures (Attachment # 6)
- Risk Management Calendar Meetings (Attachment # 7)
- IAD Case Tracking Sheet (Attachment # 8)
- ISD / IAD biweekly meeting agendas (Attachment # 9)
- IAD Unit biweekly meeting agendas (Attachment # 10)
- AIM 3304 Date – 90 day, 60 day and 30 day warnings (Attachment # 11)

Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1) created the IAD case tracking spreadsheet (Attachment # 8), which is used by the entire RMO Command structure to include the Commanding Officers of IAD and ISD, to track every aspect of an open investigations; specifically, the transfer of cases between ISD and IAD with respect to the above mentioned 3304 completion date.

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



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- ISD case number
- IAD case number
- Accused member(s)
- Date case received from ISD
- Date case forwarded to ISD
- Tolling dates: start & end [3304(d)(1)]
- 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.) [Legal exemptions to 3304]
- 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 under criminal investigation, the SFPD will not provide an ISD tracking sheet as evidence. In lieu of the ISD tracking sheet, the SFPD has provided the aforementioned ISD Procedures Unit Order as supporting evidence as well as a redacted IAD case tracking sheet\*\**

To further codify the protocol and policy regarding the transfer of case between ISD and IAD, ISD Procedures Unit Order (Attachment # 2 – Section 11 / Case Closure) states:

*Once the investigation is completed and the case is closed, the case should be forwarded to IAD when appropriate (i.e. if the case was sent*



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*to ISD from IAD). If the case was referred to the ISD by the DPA, an email should be sent to the Deputy Director Chief of Investigations of DPA advising them the investigation was completed. If DPA requests case file information from ISD, the requested information should be sent to the Legal Division for compliance.*

Biweekly, the Commander of 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 3<sup>rd</sup> Tuesday (Attachment # 7). 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 transferred from ISD to IAD if necessary. 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 ISD case tracking spreadsheet. It is during this meeting that decisions are made to transfer cases if appropriate. The Lieutenant of ISD 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 # 12) - COPS: Standards and Guidelines for Internal Affairs)*

After the ISD Lieutenant is excused, the Lieutenant from IAD then presents cases from the IAD case tracking spreadsheet (Attachment # 8). 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.

In the subsequent week aside from the RMO / IAD-ISD meeting, the Lieutenant of ISD and the Lieutenant of IAD meet every other Thursday to discuss internal criminal cases as identified on the ISD case tracking spreadsheet for case status



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and appropriate IAD involvement. Evidence of both meetings occurring is shown in the attached Outlook calendar of the Lieutenant of IAD (Attachment # 9).

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 and thus require the case to be transferred to IAD to investigate any alleged administrative violations. 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 immediately transferred for investigation to 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 furtherance of the collective meetings, the Lieutenant of IAD individually meets bi-weekly with investigators in which they review their current case load to include reviewing the 3304 dates associated to the individual investigations. 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 #10) to ensure constant communication as the Department adheres to the strict guidelines by offering telecommuting.

The regularly scheduled RMO 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. An administrative investigation is allowed to "toll", meaning the one-year statute of limitations can be extended, for several reasons as defined below

*(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.*



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- (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 sheet, 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 # 11).

When a case is referred to or transferred from ISD to IAD, the case is entered into AIM by IAD staff; a process codified by the Internal Affairs Division Procedures Unit Order (Attachment # 6). The case is then entered into the IAD case tracking sheet; a process also codified by the IAD Procedures Unit Order. This initial notification date begins the 1-year clock in which the administrative investigation has to be completed pursuant to California Government Code 3304.

Currently, the Administrative Investigations Management (AIM) system is designed to automatically (by email) 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.

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 | 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



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Command Staff and an implemented strategy in place to address the expiring investigation.

In the unlikelihood 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.

Numerous in place policies and procedures have been in place ensure the timely transfer and 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 Orders clearly demonstrate the exhaustive steps the Risk Management Office has taken to ensure the timely transfer and resolution of all assigned cases irrespective to their criminal or administrative status.

### **2) Ensure training on policy in a manner that will quickly and thoroughly inform members.**

The San Francisco Police Department's Risk Management Office serves two communities—the members of SFPD and the general public. The Investigative Services Division (ISD) and the Internal Affairs Division (IAD) are essential in building and maintaining mutual trust and respect between our members and the public we serve.

The San Francisco Police Department, along with other national Law Enforcement Agencies, are entitled to the enormous responsibility of "policing ourselves". The gravity of this responsibility compels the Command Staff of SFPD to demand that the Risk Management Office remains objective and thorough in all aspects of investigating complaints against any member of the SFPD whether civilian or sworn.

To be effective, the SFPD affirms that both administrative and criminal investigations are meticulously investigated and supervised, and that all members are protected against false or malicious accusations through fair, thorough, accurate, and impartial investigations.



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The SFPD can validate this affirmation in part to the thorough selection process of ISD and IAD Members; who are selected because of their experience and their demonstrated ability to be fair, objective, and honest

Equality as important to selecting a qualified member is providing them the crucial training necessary to conducting internal investigations. Proper training, meaning specific to internal investigations, provides the opportunity of assigned members to enhance their skills, capabilities and knowledge base to ensure that all internal investigations are fair, thorough, accurate, and impartial; which is critical for organizational success.

To guarantee that all assigned members are appropriately trained, the IAD Standard Operating Procedures Order (**Attachment # 4**) states the assigned members shall attend at minimum the following mandatory external courses:

### **TRAINING TO ATTEND/ RECOMMENDED TRAINING**

IAD investigators are required to attend training and encouraged to take the following recommended training courses:

- Interview and Interrogation\*
- Internal Affairs Investigations (Basic)\*
- Internal Affairs (Advance)\*
- ICI Core\*
- ICI Investigative Elective Courses (ie. Officer Involved Shooting, Death Investigations, Homicide, Domestic Violence, Sexual Assault, etc.)
- Use of Force Investigations
- Force Science
- In Custody Death Investigations
- Booking and Detention (SFPD)\*

#### **\*Required Courses**

The following photographs (**Attachment # 13**) were obtained from the California Peace Officer's Standards and Training (P.O.S.T) website and have been identified by the IAD SOP as mandatory. Each snapshot gives a brief overview of the training course specific training components:



# Collaborative Reform Completion Memorandum

## 1. Internal Affairs Investigations

2200-32100-20-003 **INTERNAL AFFAIRS INVESTIGATION** Start Date: 02/16/2021  
End Date: 02/18/2021

This course offers the law enforcement professional the necessary skills to perform an effective, thorough and defensible internal affairs investigation. Participants gain an understanding of the issues and role a supervisor plays in the disciplinary process along with the importance of positive discipline. The students learn the differences between civil and criminal liability and acquire a strong working knowledge of the Peace Officer Procedural Bill of Rights Act. The foundation of this course is built around the principles of adult-learning. The course facilitators use student-based learning, appropriate learning activities, group involvement and provide examples of real-life scenarios to enhance the learning process. Participants are encouraged to bring a lap-top computer and their agency's internal affairs investigation policy.

CPT: Yes  
Plan: IV. Travel and per diem reimbursement  
Cost: Non-Reimbursable Tuition: \$199.00

## 2. Internal Affairs Investigations – Advanced Course



### INTERNAL AFFAIRS ADVANCED - 32101

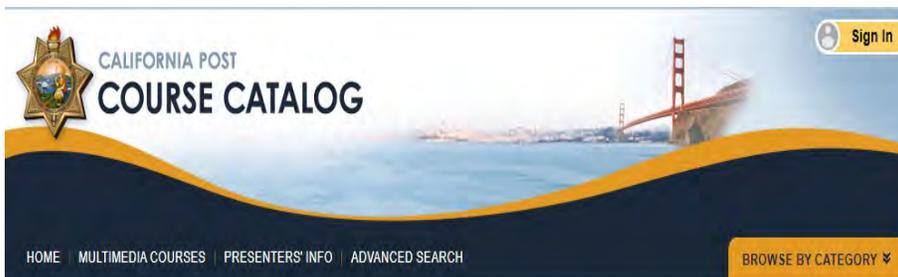
The following presenters have been certified to present the INTERNAL AFFAIRS ADVANCED course.

PRESENTER	COURSE DESCRIPTION
PLUMAS COUNTY SHERIFF'S DEPARTMENT - 6110 1400 E. MAIN STREET QUINCY, CA 95971 (530) 283-6392	CRITICAL COURSE FOR EXPERIENCED INTERNAL AFFAIRS INVESTIGATORS AND SUPERVISORS. QUALIFIES FOR ADVANCED EXPERTISE CREDENTIALS IN FORMAL HEARINGS. NEW LAWS AND CASES RELATED TO PEACE OFFICER BILL OF RIGHTS AND IA RELATED ISSUES AND COMPLAINTS. TOPICS INCLUDE USE OF FORCE AND SOCIAL MEDIA INVESTIGATIONS. INCLUDES ADVANCED INTERVIEW TECHNIQUES AND CREDIBILITY ASSESSMENT. ... <a href="#">Less</a> Plan: NA. No POST financial reimbursement Cost: Non-Reimbursable Tuition: \$10.00 Certified Hours: 8



# Collaborative Reform Completion Memorandum

## 3. Interview and Interrogation:



### INTERVIEW & INTERROGATION - 31445

The following presenters have been certified to present the **INTERVIEW & INTERROGATION** course.

PRESENTER	COURSE DESCRIPTION
<b>BEHAVIORAL ANALYSIS TRAINING INC. - 9590</b> PO BOX 5168 AUBURN, CA 95604 (530) 432-0283	Designed to improve an investigators ability to gather testimonial evidence from victims, witnesses and suspects in a legal, ethical and effective manner. Topics covered include interview psychology, interview protocol including cognitive interview technique, dimensional analysis of behavior, credibility assessment interviewing, the BATI 6 phases of interrogation, false confessions, eyewitness identifications and legal concepts all taught using hands-on experiential learning methods. This course is an ICI Universal Elective and is certified POST Class for Patrol, Sworn and NON Sworn Investigators. Tuition: \$481.00 Register at <a href="http://www.lieDetection.com">www.lieDetection.com</a> . <a href="#">Less</a> Plan: IV. Travel and per diem reimbursement Cost: Non-Reimbursable Tuition: \$481.00 Certified Hours: 40

## 4. Robert Presley Institute of Criminal Investigations (ICI) Core Course

1261-26000-20-004	<b>CRIM INV INST CORE COURSE (ICI)</b> The Robert Presley Institute of Criminal Investigation (ICI) Core Course is the prerequisite for all subsequent ICI Foundation Specialty Courses within this program. The core course is designed to enhance the effectiveness of the individual criminal investigators skills in performing the multi-disciplined, multi-leveled tasks necessary to successfully conduct comprehensive criminal investigations. Instruction in this course is provided through a coordinated, experience-based adult learning approach which addresses crime scene management, interviewing and interrogation skills, search and seizure issues, search warrant preparation, surveillance techniques, case reporting, informant management, media relations, case reporting and courtroom testimony. Students will engage in practical application exercises throughout this course and be required to satisfactorily complete case work and a search warrant.  CPT: Yes Plan: IV. Travel and per diem reimbursement Cost: Non-Reimbursable Tuition: \$0.00	Start Date: 11/09/2020 End Date: 11/20/2020	<b>MCCLELLAN</b> NO. CALIF REG. PUBLIC SAFETY TRAINING AUTHORITY  <a href="#">2409 DEAN STREET</a> <a href="#">MCCLELLAN 95652</a> (916) 566-1532
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## **Collaborative Reform Completion Memorandum**

In addition to mandatory external training, the Internal Affairs Division also conducts extensive in-house training for currently assigned members, newly assigned members, and with the Department of Police Accountability, as referenced in Collaborative Reform Initiative 60.1. The IAD SOP codifies that newly assigned members shall “shadow” experienced IAD investigators and be trained on the IAD SOP as well as all other IAD Unit Order and inter office functions:

*In addition to the above listed training courses, all newly assigned IAD Investigators will work closely with an experienced IAD Investigator to receive internal training as well as review policies and procedures in IAD SOP.*

*Members of IAD and the Department of Police Accountability (DPA) should attend training and seminars related to Internal Affairs investigations on a bi-annual basis. This will ensure continuity of current investigative process and procedures and to keep up with current case laws and trends.*

*The IAD Training Coordinator will also provide the DPA with a list of available Internal Affairs related trainings /seminars for DPA members to attend.*

Furthermore, the OIC or designee of the IAD unit discuss training topics during their bi-weekly meetings (Attachment # 10); specifically, the unit has been trained on the SOP as well as California Government Code 3304.

In addition, the entire IAD staff has received a copy and has been trained on the IAD SOP as referenced by a memorandum authored by the current Commanding Officer of IAD (Attachment # 14) and IAD training signoff sheet (Attachment # 15).

*On September 30, 2020, the Internal Affairs Division conducted a quarterly review and training session with IAD sergeants, attorneys and civilian staff via Microsoft Teams.*

*Sgt. Khuu briefed members on Unit Order 20-03 "IAD Procedures" and IAD Standard Operation Procedure (SOP), which is still in the review process. Sgt. Khuu discussed the training topic of "Investigative Steps", which includes documenting essential info in the chronological, audio recording all interviews, having "roundtable" discussions with other*



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*investigators/attorneys within IAD, and ensuring completion of cases within allotted time not to surpass 3304 date, etc.*

*All members were provided an electronic version of the Unit Order and SOP to review and reference.*

### **3) Task supervisors with responsibility for ensuring timely transfer of cases.**

As discussed in compliance measure 1, the SFPD has tasked RMO supervisors with the responsibility for ensuring the timely transfer of cases by establishing protocol and policy regarding the transfer of cases while remaining cognizant of the time constraints defined by California Government Code 3304(d)1. Once more, the SFPD will provide the following items of supportive evidence to ensure that supervisors are tasked with the responsibility for ensuring timely transfer of cases between the ISD and IAD:

- The Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1)
- ISD Procedures Unit Order (Attachment # 2)
- IAD Standard Operating Procedures Order (Attachment # 4)
- Commander of RMO memorandum (Attachment # 5)
- IAD Unit Procedures (Attachment # 6)
- Risk Management Calendar Meetings (Attachment # 7)
- IAD Case Tracking Sheet (Attachment # 8)
- ISD / IAD biweekly meeting agendas (Attachment # 9)
- IAD Unit biweekly meeting agendas (Attachment # 10)

These protocols mandate a series of meetings that ensure that all supervisors within the Risk Management Office (Attachment # 7) communicate regularly regarding the status of all assigned investigations; whether they be criminal or administrative in nature. During the course of these meetings, both the ISD and IAD Lieutenants assume the responsibility for ensuring timely transfer of cases by presenting and discussing cases in an open forum that include the Captain and Commander of RMO. It is during these meetings that the ISD Lieutenant indicates potential criminal case closures and identifies any uncovering of 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 immediately transferred to IAD for investigation.



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In the subsequent week aside from the RMO / IAD-ISD meeting, the Lieutenant of ISD and the Lieutenant of IAD meet every other Thursday to discuss internal criminal cases as identified on the ISD 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 # 9).

Once again, 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 and thus require the case to be transferred to IAD to investigate any alleged administrative violations. 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 immediately transferred for investigation to IAD.

These meetings coupled with case tracking sheets are designed and used to hold the entire Command Staff of RMO responsible and accountable in ensuring that all assigned cases, either criminal or administrative, are properly and promptly transferred, investigated and adjudicated within the one-year period in accordance with California Government Code 3304(d)1 (Attachment # 3).

#### **4) Conduct internal review and reporting around compliance with policy.**

The policy regarding the transfer of cases from ISD and IAD is chronicled in both the IAD SOP (Attachment # 4) and ISD Procedures Unit Order (Attachment # 2)

**The IAD SOP (Attachment # 4) states:**

##### **Criminal Investigations:**

*Incidents that occur within the City of San Francisco involving Department members as the alleged suspect, whether arrested or not, will be assigned to the Investigative Service Division.*

*While ISD completes their criminal investigation, the administrative case will be tolling or possibly investigated concurrently at the discretion of the OIC.*

*During the bi-weekly meeting between the Commander of Risk Management, the Captain of Risk Management, the OIC of ISD and the*



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*OIC of IAD, the Officer in Charge of ISD shall discuss current cases and significant developments which may affect the Administrative investigation.*

*It is imperative that all cases are monitored for timeliness and adherence to the government codes related to Police Officer Bill of Rights. The RMO quarterly review, the bi-weekly case review meeting and case tracking sheets for ISD/IAD serves as the mechanism to ensure the timely transfer of cases from ISD to IAD.*

*ISD investigators should notify their IAD Administrative counterpart(s) when significant events occur that could affect the investigation.*

*ISD may share information and case findings with members of the IAD. The Internal Affairs Division SHALL NOT share information or case findings with members of ISD, as not to conflict with their criminal investigation per Government Code 3304(2)(A). An IAD case may toll until completion of the related ISD case, or at the direction of the OIC of IAD.*

*While conducting criminal investigations, ISD investigators may become aware of unrelated administrative violations of the Department policy and procedures. The ISD investigator shall bifurcate the administrative case and consult an attorney within the Risk Management Office to determine the 3304 Government Code date.*

**The ISD Unit Order (Attachment # 2) states:**

### **Case Closure:**

*Once the investigation is completed and the case is closed, the case should be forwarded to IAD when appropriate (i.e. if the case was sent to ISO from IAD). If the case was referred to the ISO by the DPA, an email should be sent to the Deputy Director Chief of Investigations of DPA advising them the investigation was completed. If DPA requests case file information from ISO, the requested information should be sent to the Legal Division for compliance.*

In order to conduct internal review of these policies, the SFPD will once again rely on the following items of evidence to support that all assigned cases, whether criminal or



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administrative, are not only reviewed, but scrutinized on a weekly basis as to the next investigative steps to include transferring a case if deemed appropriate.

- The Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1)
- ISD Procedures Unit Order (Attachment # 2)
- IAD Standard Operating Procedures Order (Attachment # 4)
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To ensure that the Risk Management Office properly reports on the compliance of the policies as defined in the IAD SOP and ISD Unit Order, the Risk Management Office relays on the case tracking sheet codified in the Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1). In reiteration, this is a flowing document, meaning it is constantly updated and harmoniously utilized by all Supervisors in RMO on a daily basis for real time reporting, identifying types of cases (criminal or administrative), organizing and documenting the one-year period in accordance with California Government Code 3304(d)1 and habitually presented in the abundant RMO Supervisors meetings, which are detailed in length in the above compliance measures.

### **5) Evidence of supportive and remedial action if deficiencies are found.**

Since the inspection of the Internal Affairs Division (IAD) & Investigative Services Division (ISD) Weekly Meeting and Case Tracking Sheets Unit Order (Attachment # 1) in July of 2020, the Internal Affairs Division has not had a case expire the one-year period in accordance with California Government Code 3304(d)1. This includes all administrative cases as well as all cases either transferred or contemporaneously investigated between ISD and IAD.

*It should be noted that only two (2) IAD administrative cases have expired since 2018.*

The SFPD will assert that previous deficiencies were identified in which the Department took an assertive and proactive response by creating the IAD case status sheet to track the entirety of a case from assignment to adjudication. The SFPD will further maintain that a situation in which a case is not transferred from ISD to IAD in a timely manner nor adjudicated prior to the legal expiration is unlikely to occur based upon the multiple levels



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of documented redundancies in place to mitigate all scenarios in which an issue is not identified well in advance. Furthermore, the case status sheet is presented and reviewed in all the above-mentioned meetings (RMO I IAD & ISD / IAD Staff).

On Monday, October 26, 2020, SFPD Professional Standards members participated in a conference call to discuss a draft package of this recommendation with members of Hillard Heintze and the California Department of Justice. During the prescreening conference call, the California Department of Justice, and Hillard Heintze provided technical guidance and recommended that the department further articulate the internal process to address cases that have surpassed the 3304 deadline.

As stated above, since 2018 (2018 & 2019) only two administrative investigations surpassed the 3304 deadline. In the unlikely event this occurs moving forward, the current Lieutenant of Internal Affairs, Lieutenant Angela Wilhelm was contacted and asked how IAD proceeds with cases that have expired under Government Code 3304. Administrative cases that exceed the expiration date as defined by Government Code 3304 are evaluated by IAD staff attorneys, the Lieutenant of IAD, and the Captain and Commander of RMO and then presented to the Chief of Police.

The Internal Affairs Standard Operation Order (Attachment # 4) requires that all members assigned to IAD, to include the Commander Officers, comply with the guidelines set by the SOP. The SOP Preface states:

*This order is intended to assist members of the Internal Affairs Division (referred hereafter as IAD) with the day to day operations of the unit and the investigations that are conducted within. This manual may be amended through Unit Orders and future revisions due to changes in SFPD policy, needs of the Department, and/or state, Federal or local laws.*

*All members of IAD are to adhere to all policies and procedures set forth in this manual. Failure to comply with any policy or procedure may result in disciplinary action.*

### **Under Sergeant responsibilities, the SOP states:**

*Conduct an objective, timely, and professional investigation. Sergeants will be responsible for notifying their Lieutenant if a case cannot be completed within six months.*

### **Under OIC responsibilities, the SOP states:**

*Ensure all members of IAD adhere to all policies and procedures set forth in the SOP and conduct quarterly audits of the SOP for updates/changes in*



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*Dept. policy and case law. Failure to comply with any policy or procedure may result in disciplinary action.*

The Internal Affairs Standard Operation Order (Attachment # 4) coupled with the other attached protocol and policies clearly define the process to address investigating, transferring, and adjudicating cases to ensure that no assigned case, either criminal or administrative, expire as defined by California Government Code 3304. In addition, the SOP has identified mechanisms to hold all members assigned to IAD accountable by codifying that **All Members** of IAD are to adhere to all policies and procedures set forth in this order. Failure to comply with any policy or procedure may result in disciplinary action in the event they are negligent in their duties.

In closing, the SFPD is confident that the in place preemptive protocols and policies will eliminates the potential of a case reaching the one-year period in accordance with California Government Code 3304(d)1 without extensive prior knowledge of the entire RMO Command Staff and an implemented strategy in place to address the expiring investigation.