

Recommendation 62.1

TK

Tanya Koshy [REDACTED]

Thu 12/17/2020 12:00 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 62.1 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 62.1:

The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.

Response to 62.1:

The Internal Affairs Division [IAD] has put together a Standard Operation Procedures Manual and Unit Orders that outline the procedures to maintain the separation of administrative and criminal investigative files and the integrity of any criminal investigation conducted by the Investigative Services Detail.

As outlined in Unit Orders 20-02 and 20-03 as well as the IAD SOP Manual, the Officer-in-Charge oversees the day-to-day operations of IAD and case file management, which includes maintaining a one-way firewall intended to protect any Investigative Services Detail [ISD] criminal investigation and to ensure adherence to the Peace Officer Bill of Rights. To that end, while ISD can share information and case findings with IAD, IAD is not permitted share case specific information or case findings with ISD. The Lieutenants in IAD and ISD regularly review their respective spreadsheets as part of case review meetings with the Commander of the Risk Management Office. Importantly, where there are concurrent criminal and administrative investigations into the same allegations, the ISD Lieutenant presents their cases first and then

leaves the meeting so that they cannot hear any information gained through the administrative investigation (such as compelled statements). This is consistent with contemporary best practices as set forth in the United States Department of Justice's Community Oriented Policing Services' Standards and Guidelines for Internal Affairs. Moreover, SFPD notes that the offices of IAD and ISD are in different locations, and their case files stored in different buildings. Finally, the SOP Manual and Unit Order 20-02 require a quarterly meeting between the Commander of the Risk Management Office and the IAD Lieutenant to discuss the status and maintenance of spreadsheets that track IAD cases. These meetings provide an opportunity for the Commander and the IAD Lieutenant to ensure separation of administrative and criminal case information and files.

Based on 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]

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Hillard Heintze File Review Recommendation # 62.1

Finding # 62	Files stored with the SFPD's Internal Affairs Division are secured, but compelled statements are not isolated.
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Recommendation # 62.1	The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.
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Recommendation Status	Complete Partially Complete In Progress Not Started No Assessment
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Summary

SFPD identifies that under the IA SOP, an administrative case may toll until completion of the related ISO case. Both Investigative Services Detail (ISD - the criminal investigations team) and IAD may run concurrent investigations at the direction of the Officer in Charge (OIC) of IAD but keep the case confidentiality firewall in place. The offices of IAD and ISD are housed in different locations so the cases are filed and stored in different buildings, which further ensures the separation of administrative and criminal cases. Our review identified folders and envelopes that specifically mark statements. The policy specifically addresses that IAD is not to share information with ISD. This provides completion of compliance measure #1.

While the summary is non-responsive to compliance measure #2, the data in the SOP, and as identified above, task the supervisor and specifically the OIC, with ensuring the segregation of the administrative and criminal investigations. In response to compliance measure #3, the SFPD provides evidence that supervisors are trained in the need to separate administrative and criminal cases, in particular the information derived from the administrative investigations. The OIC is responsible for ensuring this process is followed. This provides completion of compliance measure #2.

As for compliance measure #3, the SFPD provides evidence of review on a quarterly basis that includes the review for adherence to POBAR and other issues related to case file management, which would include separation. The failure to follow policies could result in disciplinary action. No evidence of a failure is provided, and consistent with other conversations, no such violations have been recorded in the last few years. Therefore, this provides completion of compliance measure #3.

Compliance Measures	Status/Measure Met
1 Concurrent with Rec 61.1, establish a protocol and SOP to ensure file separation for criminal and administrative investigations.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2 Task supervisor with review and oversight of this aspect of investigation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3 Review loop and evidence of supportive and remedial action if deficiencies are found.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues

The material submitted for compliance measure #3 is not fully responsive as the 'evidence' of supportive and remedial action is not addressed. Based on conversations with the SFPD we have come to understand that the processes in place have resulted in appropriate progression, management and outcomes of IAD cases – so no inappropriate transfer of

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administrative information is transferred to the ISD. However, this should have been specifically reported in the file and note is made for future submissions.

Compliance Issues



Collaborative Reform Completion Memorandum

Finding # 62.1: Files stored with the SFPD's Internal Affairs Division are secured, but compelled statements are not isolated. *During the file reviews, the assessment team did not find any compelled statements isolated.*

Recommendation # 62.1 The SFPD needs to establish standard operating procedures for maintaining file separation and containment of criminal investigations. This is critical to ensuring that officers' rights are protected and that criminal investigations can be fully investigated.

Response Date: 10/06/2020

Executive Summary:

The Standard Operation Procedure (SOP) and Unit Orders were established to address a formalized procedure for members of IAD and ISD regarding duties and responsibilities of investigators and the Office in Charge of each unit. It also provides the protocol for tracking of investigations/cases forwarded between the units and establishing guidelines for weekly meetings between the OIC's of the units and the Assistant Chief of Staff to discuss cases.

To ensure separation of files and containment of criminal investigations, IAD investigators shall not disclose and findings or insight in the cases they have discovered. There shall be a one way flow of information from ISD to IAD. This is imperative to maintain the integrity of the criminal investigation.

Compliance Measures:

1) Concurrent with Rec 61.1, establish a protocol and SOP to ensure file separation for criminal and administrative investigations

The IAD Standard Operation Procedures (Attachment#1) and Unit Order #20-03 "IAD Procedures" (Attachment#2) were created to address the separation of criminal and administrative investigations. IAD Sergeants shall not share files and information with ISD, as not to conflict with their criminal investigation per Government Code 3304(2)(A). There shall be a one way flow of information from ISD to IAD to maintain the integrity of criminal investigations.

An administrative case may toll until completion of the related ISD case. Both ISD and IAD may run concurrent investigations at the direction of the OIC of IAD, but keep the case confidentiality firewall in place.

It should be noted that the offices of IAD and ISD are housed in different locations. The cases are filed and stored in different buildings, which further ensures the separation of administrative and criminal cases.



Collaborative Reform Completion Memorandum

2) Task supervisor with review and oversight of this aspect of investigation

The IAD SOP and Unit Order 20-02 "Internal Affairs Division (IAD) & Investigative Service Division (ISD) Weekly Meeting and Case Tracking Sheets" (Attachment #3) sets forth the responsibilities of the Officers in Charge of IAD for the proper maintenance of internal spreadsheets and case file management of their respective unit. It is imperative that all cases are monitored for timeliness and adherence to the government codes related to Police Officer Bill of Rights.

The OIC has designated the IAD clerk to continually update and maintain the annual spread sheet, documenting all cases received from and cases forwarded to the ISD. This is codified in the SOP Manual (Page 4) under responsibilities of the Officer in Charge.

The OIC of IAD shall:

Oversee the daily operations in the Internal Affairs Division.

Review all complaints sent to IAD and have Duty Officer assign the cases accordingly.

Review and discuss all open cases with the assigned IAD investigator on bi-weekly basis. The OIC reserves the right to review any case at any time due to the needs of the Department and or unit.

Available to provide ongoing advice, direction and guidance to IAD investigators.

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

Attend bi-weekly meetings with the Commander of Risk Management Office, Captain of Risk Management to provide updates on IAD cases. In bi-weekly meetings, the OIC of IAD will also meet with the OIC of ISD to ensure the timely transfer of cases.

Ensure that the IAD clerk continually updates and maintains an annual spread sheet, documenting all cases received from and cases forwarded to the ISD. The spread sheet shall be accessible, in a "read-only" status by the Commanding Officer of Risk Management and IAD members. Once a disposition has been provided for all cases, IAD shall archive the annual spreadsheet and have it accessible for review.

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, trial, etc.)
- Case status (i.e. active administrative, criminal trial pending, forwarded to ISD, member unavailable, closed, etc.)
- Case Disposition

The spread sheet shall be accessible, in a "read-only" status by the Commanding Officer of Risk Management and IAD members. Once a disposition has been provided for all cases, the IAD clerk shall archive the annual spreadsheet and have it accessible for review.



Collaborative Reform Completion Memorandum

3) Review loop and evidence of supportive and remedial action if deficiencies are found.

All IAD sergeants have received and are responsible for all policies and procedures set forth in Unit Order 20-03 "IAD Procedures" (Attachment #2) and the IAD SOP (Attachment #1). They are to be versed in the firewall separating the sharing of case information garnered from administrative investigations to ISD investigators.

To ensure unit compliance with the SOP, the OIC of IAD conducts bi-weekly case reviews with IAD Sergeants. The OIC also reviews the case spread sheets on the bi-weekly basis to ensure the IAD clerk maintains accurate records of cases. The OIC has not observed any violations of the SOP or Unit Orders. This is codified in the SOP Manual (Page 4) under responsibilities of the Officer in Charge.

The OIC of IAD shall:

Oversee the daily operations in the Internal Affairs Division.

Review all complaints sent to IAD and have Duty Officer assign the cases accordingly.

Review and discuss all open cases with the assigned IAD investigator on bi-weekly basis. The OIC reserves the right to review any case at any time due to the needs of the Department and or unit.

Available to provide ongoing advice, direction and guidance to IAD investigators.

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

Attend bi-weekly meetings with the Commander of Risk Management Office, Captain of Risk Management to provide updates on IAD cases. In biweekly meetings, the OIC of IAD will also meet with the OIC of ISD to ensure the timely transfer of cases.

Ensure that the IAD clerk continually updates and maintains an annual spread sheet, documenting all cases received from and cases forwarded to the ISD. The spread sheet shall be accessible, in a "read-only" status by the Commanding Officer of Risk Management and IAD members. Once a disposition has been provided for all cases, IAD shall archive the annual spreadsheet and have it accessible for review.

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, trial, etc.)
- Case status (i.e. active administrative, criminal trial pending, forwarded to ISD, member unavailable, closed, etc.)
- Case Disposition



Collaborative Reform Completion Memorandum

In the Unit Order 20-02, the Commanding Officer of Risk Management conducts quarterly reviews of the IAD and ISD case spreadsheets. The OICs will be also held accountable for any deficiencies in the case management of their respective units.

2) Risk Management Quarterly Review:

The Commanding Officer of Risk Management shall, on a quarterly basis or as deemed necessary, meet with the OICs of both IAD and ISD individually to discuss the status of each spread sheet and ensure that the spread sheets are maintained.

The OICs of IAD and ISD are responsible for the proper maintenance of internal spreadsheets and case file management. Furthermore, it is imperative that all cases are monitored for timeliness and adherence to the government codes related to Police Officer Bill of Rights. The OICs may be subject to disciplinary action for failure to manage their case assignment and ensure adherence to this order.