

Recommendation 70.4

Tanya Koshy [REDACTED]

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Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 70.4 that were 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 70.4: Input and review from external stakeholders must be completed before implementation of the practice, policy, or procedure.

Response to 70.4:

Under Department General Order 3.01, the Police Commission must identify the Department General Orders that require a public and/or stakeholder input process. To that end, the Department has developed a process to obtain input from the public and other stakeholders through the use of working groups. The Chief has put together guidelines on the working group process. Under the Chief's guidelines, each working group must have a mandate (that is, a "specific, articulable goal that is broad enough to allow for productive conversation but narrow enough to keep working group members focused"), an executive sponsor, who is a SFPD member who will oversee and facilitate the working group process, and a department facilitator or coordinator who works with the Executive Sponsor to coordinate meeting logistics (including distributing meeting agendas and taking meeting minutes). The Executive Sponsor must also identify and solicit working group members, using the guidance provided by the Chief. Part of that guidance is ensuring that the working group includes people who are critical of the Department as well as people directly impacted by the policy in development.

To keep track of the input received by working group members, SFPD uses a grid that lists (1) each recommendation received from a working group member, (2) the date the recommendation is received, (3) the Department's response to that recommendation and (4) the explanation for its response, (5) and the open or closed status of the recommendation. The recommendation grid is updated and provided to the working group after each meeting so that the working group is on the same page about the status of each recommendation. At the final meeting, the Executive Sponsor must advise the working group on how the Department will implement the recommendations, how it will track the implementation, and how it will engage with the community moving forward. Staff from the Department of Justice have also observed several working group meetings and have found that they operate consistent with the Chief's guidelines.

Based upon all of the above, the Department of Justice finds that SFPD is in substantial compliance with this recommendation. Please let us know if you have any questions or would like to discuss further. Thank you.

Tanya

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Finding # 70:

The process to update Department General Orders is overly protracted and does not allow the SFPD to respond in a timely manner to emerging policing issues.

Recommendation # 70.4:

Input and review from external stakeholders must be completed before implementation of the practice, policy, or procedure.

Response Date: 10/28/20

Executive Summary:

Through the direction from the Chief of Police and Police Commission, the Written Directives Unit will maintain external input within PowerDMS. Through a Memorandum from the Chief of Police and a Department General Order Working Group Guideline manual (Attachment # 1) the SFPD has codified the process of external stakeholder input.

Compliance Measures:

1) Establish a policy and practice on external input solicitation.

In cases where the Police Commission has identified the need for external stakeholder input, the Department has committed to obtaining and considering recommendations from the external stakeholders before implementing the DGO.

DGO 3.01.01 (Attachment # 2) states: *"General Orders remain in effect until amended, superseded or rescinded by the Police Commission. The Police Commission shall determine which General Order(s) will be required to undergo a public and/or stakeholder input process, and will outline the nature and scope of this process."*

Chief Scott issued a memorandum on 12/27/2019, Subject: Chief's Directive-DGO Working Groups (Attachment # 1).

Attached to that memorandum was SFPD Department General Order Working Group Guideline - Criteria for Choosing Participants states:



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Working Group participants are recommended by the Chief of Police, SFPD Command Staff, Police Commissioners or SFPD Executive Sponsors. Participants should not be chosen solely based on seniority, tenure, discipline, or affinity for the Department. Ideally, Working Group attendees have the ability to distinguish between their personal preferences and what is best for the larger organization, what is best for the communities we serve, that are effective communicators, and that hold diverse viewpoints relevant to the group mandate.

Working Group composition should reflect the wide array of constituencies present in San Francisco and, as importantly, should reflect those directly impacted by a particular policy. While conventional factors such as seniority, educational background, and familiarity with the material should be taken into consideration when selecting working group members, these factors should not preclude participation from other interested parties, including those who are not traditionally fond of the police. It may be beneficial to request participation from individuals deemed to have historical and deep knowledge of a particular topic, however in the interest of ensuring that the widest possible number of voices are represented, first consideration should be given to participants who have not participated in prior SFPD or Police Commission working groups.

Once the composition of the working group has been confirmed, the authority to add or remove a participant rest with the SFPD Executive Sponsor. Working Group participants do not have the authority to add new members to the working group; however, they may make a recommendation for their replacement if they need or want to vacate their seat.

SFPD Executive Sponsor recommendations for working group compositions will be subject to final approval by the Chief of Police or by the Chief of Police designee.

2) Use a tracking system similar to that identified in Rec 70.3 to track and reconcile external comments.

The Department has developed a General Order Working Group Guideline. These guidelines outline the procedure on how to track stakeholder input and provides a template table as well. The manual states: "Tracking recommendations and responses is vital to ensure an effective workflow in each working group. Recording



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recommendations, responses, and resulting actions keeps working groups on track and provides a mechanism for measuring progress.

The SFPD Executive Sponsor or coordinator shall use the following template to track and report the status of working group recommendations. The three allowable department responses:

1. Recommendation included in draft – closed
2. Recommendation not included in draft (Explanation required) – closed
3. Requires analysis. SFPD may need more time to review the recommendations— open.

The SFPD drop down explanations will include:

1. Recommendation against state or local laws
2. Recommendation conflicts with or is redundant to other DGO's
3. Recommendation withdrawn

#	Recommendations	Date recommendation received	SFPD response	SFPD explanation	Open/Closed
R1					
R2					
R3					
R4					
R5					

Once a recommendation has been closed, the working group must collectively agree to not revisit unless there has been a change in local or state law that warrants a review.

The SFPD Executive Sponsor should partner with the Written Directives Unit in the Strategic Management Bureau and provide an updated response template after each working group meeting.

In the event external input is provided outside of the working group process to Command Staff members who are not the Executive Sponsor, this input should be discussed with the assigned Executive Sponsor. After the working group sunsets, the Executive Sponsor or coordinator will send the final recommendation list to Written Directives to be included in a group or DGO historical file, as appropriate. "



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3) Establish review loop to ensure the concepts of procedural justice apply.

The Department Working Group Guidelines establishes a work plan to address stakeholder input and promote engagement from stakeholders.

The work plan acts as a guidepost that helps ensure common expectations and a productive workflow across the group's work cycle. In addition to setting expectations at the first meeting, the work plan should include a repeatable process that allows the group to systematically engage with sections of the DGO, broken into chunks digestible in an individual meeting. A tracking system for recommendations and responses should be implemented, as should a continual review process that keeps all working group members on the same page while also moving the group forward to new tasks.

Executive sponsors should establish and communicate a transparent process for the incorporation of feedback throughout the group's proceedings. At the final meeting, sponsors should provide information on how the department will implement recommendations, how it will track the success of implementation efforts, and how it will continue to engage with and incorporate feedback from the community moving forward.

Work Plan Example:

Week 1	<p>Meeting: Executive Sponsor to state goals and deliverables. Reiterate ground rules for group. Provide policy background including state or local laws relating to mandate. Provide materials (SFPD forms or relating docs). If revising a document, divide it into multiple sections. Policy documents should already have SFPD revisions included.</p> <p>Homework: Review materials and be prepared to discuss section one and two at next meeting</p>
Week2	<p>Meeting: Restate goals and review last meeting discussions. Begin discussion relating to section one revisions - Discuss potential recommendations for section one.</p> <p>Homework: Prepare to discuss section two. SFPD executive sponsor will solicit recommendations via email with stated deadline.</p>
Weeks 3 -X	<p>Meeting: Restate goals and review last meeting agreements. SFPD report out on list of recommendations received and responses. Discuss and finalize next section.</p> <p>Homework: Prepare to discuss next section. SFPD executive sponsor will solicit recommendations via email with stated deadline.</p>



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Final Week	Meeting: Restate goals and review working group accomplishments. SFPD report out on list of overall recommendations and responses. Discuss whether follow-on work remains and outline the procedure for auditing and reviewing the policy implementation progress. Briefly discuss lessons learned and thank members for their time.
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In addition to the above work plan, another form of review loop is the recommendation grid mentioned in compliance measure two. The recommendation grid allows for external stakeholder's fairness in the processes and shows transparency in the Department's response to their recommendation.

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 70.4, Cal DOJ and HH agreed that SFPD's process for responding to Working Group recommendations was much improved. Cal DOJ noted that the spreadsheet to reconcile recommendations included a drop-down with two options for why the recommendation was closed (either against the law or redundant), and this seemed inadequate to account for other reasons a recommendation would be rejected. Allowing a text field instead of a drop-down might solve this problem.

The rules related to the Civil Grand Jury, a body that investigates and audits municipalities and submits findings and recommendations each year, per California Penal Code, Section 933.05, was the initial inspiration for the way in which SFPD Executive Sponsors were to respond to formal recommendations submitted by working groups, DPA or other city departments. CA Penal Code requires City Departments to respond to the CGJ in the following ways:

1. **The recommendation has been implemented**, with a summary of the implemented action.
2. **The recommendation has not yet been implemented**, but will be implemented in the future, with a timeframe for implementation.
3. **The recommendation requires further analysis**, with an explanation and the scope and parameters of any further analysis or study; and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. The timeframe shall not exceed six months from the date of publication of the grand jury report.



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4. **The recommendation will not be implemented because it is unwarranted or unreasonable**, with an explanation.

The Chief's Directive borrowed the above structure and reduced it to a simpler form. While the Chief's Directive does provide examples for explanations for why a recommendation would be rejected, the Directive does not provide an exhaustive list of explanations that can be used. The Directive requires an explanation to ensure there is an adequate response to coincide with the drop-down responses if a recommendation is rejected.

Throughout the working group process, Executive Sponsors have expanded the drop-down responses to include:

- Recommendation was already listed in draft DGO
- A portion of the recommendation will be included in draft DGO
- Recommendation has been revised by SFPD and will be included in draft DGO
- Recommendation included in training, Department Manual, or other procedural or guidance document

Please see attached letter from Chief Scott re: The DPA, DOSW and DV Consortium working group recommendations (Attachment # 3). Please see the "SFPD Explanation" for R1, R3, R7, R8, R10, R19, R26. These explanations provide adequate information as to why the department rejected the recommendation. This is the goal of the working group Directive: to explain why a recommendation has been rejected.

Cal DOJ requested that SFPD clarify in some form the following sentence in the Working Group Guideline: "Once a recommendation has been closed, the working group must collectively agree to not revisit unless there has been a change in local or state law that warrants its review" (to clarify what happens if the working group does not collectively agree to not revisit, or if there is no such option).

To address this, the Department edited the Chief of Police and a Department General Order Working Group Guideline manual (Attachment # 1- page 6) to state:

Once a recommendation has been closed, the working group must collectively agree to not revisit unless there has been a change in local or state law that warrants a review.



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Finally, for the improvement loop, Cal DOJ and HH requested that SFPD provide some opportunity for Working Group feedback on the working group process at the end of the group's responsibilities, to make the Working Group processes more consistent with procedural justice principles.

On page. 6 of the Chief's Working Group Directive, the principles of procedural justice are imbedded in the description of final meeting as stated below:

"The Final Meeting: In addition to reviewing the group's work, Executive Sponsors should brief the group on the department's plans to continually engage with community members on the topic as well as procedures for how the department will incorporate feedback in the future. The sponsor may encourage the group to reflect on what worked and what did not in order to identify future best practices or opportunities for improvement."

Procedural justice speaks to four principles, often referred to as the four pillars: 1) being fair in processes, 2) being transparent in actions, 3) providing opportunity for voice, and 4) being impartial in decision making. The SFPD will maintain that the Chief's Working Group Directive incorporates the four pillars of procedural justice throughout the entire process to ensure the implementation of input and review in cases where the Police Commission has identified the need for external stakeholder input is included prior to the enactment of any Department General Orders.

Due to this recommendation having not been revisited after to the prescreen meeting with Hillard Heintze and CalDOJ on June 04, 2020, the Department has attached the technical guidance notes (Attachment # 4) for reference.

On Monday November 02, 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 guidance were discussed for this recommendation as described below.

In response to a Hillard Heintze question about the timeline of SFPD's responses to the community, SFPD explained that feedback to the community would happen as part of an iterative process at each working group meeting. Cal DOJ requested adding to the "explanation" dropdown tab so that the explanations given might better reflect SFPD's reasons when not implementing a recommendation. Hillard Heintze suggested adding "Inconsistent with agency goals/Not achievable" to the explanation dropdown, and Cal DOJ and SFPD agreed that this language would work.



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At the conclusion of the of the technical guidance call, PSPPU reached out to Ms. Asja Steeves, Special Assistant to Chief Scott. Ms. Steeves coproduced the Chief's Directive-DGO Working Groups (Attachment # 1). Ms. Steeves was made aware of Hillard Heintze and CalDOJ's guidance to add "*Inconsistent with agency goals/Not achievable*" to the drop down tab on the recommendation and response template. Ms. Steeves agreed that adding the option was a good idea and confirmed that the option would be added as a potential Department response moving forward, which was conveyed in email correspondence (Attachment # 5). The tracking, reporting and response options will now include the following:

1. Recommendation included in draft DGO – closed
2. Recommendation not included in draft (Explanation required) – closed
3. Recommendation requires further discussion – open
4. Recommendation is inconsistent with agency goals/not achievable -- closed

In addition to the above listed request, both Hillard Heintze and CalDOJ requested further reinforcement of the Department's transparency while collaborating with working and stakeholder groups to ensure an iterative process as it relates to received feedback from the community. The Chief's Directive expressly mandates repetitive discussion steps throughout the process while also incorporating a mechanism for social processes, processes of discovery, and feedback loops with the vision of learning through trial and error to refine the process with the sole goal of improving trust and legitimacy while incorporating coproduced polices aimed at provide the highest degree of service to our community partners.

The ideal working group process from start to finish is listed in the working group protocol described in the Chief's Directive-DGO Working Groups (Attachment # 1). To illustrate this, the Department has provided the current matrix (Attachment # 6) for the current San Francisco Department General Order 7.01 – Juvenile Procedures working group.

The members of this working group were nominated by the Police Commission and Office of the Chief of Police. During the nomination process, Chief Scott particularly stated that he wanted young adult and youth representation. To that end, the Department surveyed current Members and standing Police Commissioners to identify potentially interested candidates. Upon identification, Ms. Steeves extended invitations. For those underage, a permission slip signed by the participant's legal guardian was required for participation. It should be noted that the permission slip was reviewed and approved by the Risk Management Office and the City Attorney's Office.



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Once the identified members were confirmed, an introduction meeting was scheduled where the Department's Executive Sponsor discussed and explained the working group process, consistent with the Chief's Directive, and provided both ground rules and working group goals.

Each subsequent meeting followed the working plan, which is chronicled and documented in the attached matrix (Attachment # 6). The working plan, as depicted below, ensures that each meeting's goals are restated, previous meeting items are discussed and the Department reports on our responses to previous discussed recommendations. This repetitive nature is by design to ensure that all involved are singular focused, diligently informed, and same page leadership principles are employed to promote a positive and inclusive environment.

Week 1	<p>Meeting: Executive Sponsor to state goals and deliverables. Reiterate ground rules for group. Provide policy background including state or local laws relating to mandate. Provide materials (SFPD forms or relating docs). If revising a document, divide it into multiple sections. Policy documents should already have SFPD revisions included.</p> <p>Homework: Review materials and be prepared to discuss section one and two at next meeting</p>
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