

[REDACTED]

From: Tanya Koshy [REDACTED]
Sent: Thursday, August 5, 2021 12:33 PM
To: [REDACTED]
Subject: Recommendation 91.1

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Acting Captain Altorfer:

Our office has completed its review of the materials related to Recommendation 91.1 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 91.1: The SFPD should increase the level of transparency of the promotion process and should clearly outline the qualifications required to advance for promotion.

Response to Recommendation 91.1:

SFPD has increased transparency around the promotional process through the issuance of two new policies.

First, in 2019, SFPD issued Department Bulletin 19-003, which provides details on the promotional process in a Frequently Asked Questions format. This Department Bulletin provides the steps to apply for a sworn promotional exam, explains why candidates cannot see their answers to the exam, and describes how the exams are developed. SFPD also issued Department Notice 21-033, which explains how Command Staff determines a person's assignment once they have received a promotion. The Department Notice explains that assignments are based on several factors, including ensuring a balance of experiences in a member's career as well as the member's readiness for a particular assignment.

Complementing these two Department Bulletins are department bulletins issued on an ongoing basis about details about specific promotions (Sergeants, Lieutenants, and Captains).

On a related note, the Department of Justice would like to address the issue of expired department bulletins, and the practice set forth in Department General Order (DGO) 3.01 (Written Communication System), SFPD's policy on policy creation and revision. DGO 3.01 states that department bulletins will expire two years after their issuance or they must be incorporated into an existing or new DGO. This provision was codified in DGO 3.01 to prevent SFPD from simply issuing department bulletins in lieu of creating department general orders, based upon a recommendation made by US DOJ in its October 2016 report (see Finding 72, at p. 167.). Under DGO 3.01, Department Bulletin 19-003 (the one at issue in this recommendation) expired. To avoid noncompliance with with DGO 3.01, SFPD reissued Department Bulletin 19-003 as Department Notice 21-081, rather than go through the process of incorporating it into an existing or new DGO.

In our prescreening meetings, SFPD indicated that it is recasting expired department bulletins as department notices in any instance where a department bulletin would not amend an existing DGO or would not necessitate a new DGO. While DGO 3.01 neither expressly permits nor prohibits this process, it does raise a concern that the California Department of Justice has expressed to SFPD that DGO 3.01 does not adequately account for department bulletins like DB 19-003, which does not fit neatly within an existing DGO, but also

does not necessitate the promulgation of a new DGO. As of the date of this email, SFPD is working with the Police Commission and the Department of Police Accountability to revise DGO 3.01. The California Department of Justice supports revising DGO 3.01 to address the important concern raised above.

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 these further.

Tanya

Tanya S. Koshy (she/her)

Deputy Attorney General

Civil Rights Enforcement Section

California Department of Justice

1515 Clay Street, Suite 2100

Oakland, CA 94612

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Finding # 91	The promotion process is not transparent.
Recommendation # 91.1	The SFPD should increase the level of transparency of the promotion process and should clearly outline the qualifications required to advance for promotion.

Recommendation Status	Complete	Partially Complete	In Progress
	Not Started	No Assessment	

Summary

Compliance Measure #1: The department identifies that it publicizes the standards for each promotional exam since 2012. The department identifies that it has a department bulletin in place since 2019 intended to expand transparency. The reviewers asked that the draft policy be promulgated (DN-21XXX0 however it was not completed ahead of this submission. Notwithstanding this shortcoming, the department provides evidence of policy and standards for the promotion within the Department. DN 21-033 identified with specificity standards and placements.

Compliance Measure #2: The department has been using the department notice process to provide communication on promotional requirements. With the new order delivery system, everyone receives equal access to the publication of department notices.

Compliance Measure #3: The department identifies that transparency of promotional placements are provided in the bi-weekly transfer orders which shows where every officer is placed. These transfer orders are announced to all members to see and posted on the SFPD Intranet for review. Recently, Department Notice 21-033 "Assignments Effective February 20, 2021" (Attachment #8) was issued to help identified how assignments are determined for the placement of Lieutenant and Captain promotees. The department has demonstrated focus on adherence to this measure.

Compliance Measure #4: DN 21-033 is an effort to improve upon existing practices with description as to what is occurring and why, including placements. However, there is work to continue. For example, the department initiated a survey process to query about preferred placements. However, no application of this survey data is demonstrated which would be necessary for it to develop full use of the survey. Where are people asking to go? Why? Are their preferences being met? Why or why not? This type of information would help the department to continue to improve on the recommendation to increase transparency in the process.

The policy process followed here is concerning for the CRI team. It is a paper process rather than one focused on the issue. To draft a Unit Order to direct adherence to the requirements of DGO 3.01 is an unnecessary action and the focus should be on the adherence to the policy standards established by the department. The proliferation of Unit Orders risks the work of the department in reducing the number and impact of Department Bulletins which created duplicative and confusing policy actions.

Compliance Measures		Status/Measure Met
1	Provide policy and standards for transparency and communications on promotions.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Identify and communicate requirements and qualifications for promotion.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3	Provide transparency for information on promotional placements.	✓ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

4	Continuous improvement/review loop.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
---	-------------------------------------	--

Administrative Issues

Compliance Issues



Collaborative Reform Completion Memorandum

Finding # 91: The promotion process is not transparent.

Recommendation # 91.1 The SFPD should increase the level of transparency of the promotion process and should clearly outline the qualifications required to advance for promotion.

Response Date: 04/20/2021

Executive Summary:

The SFPD has been transparent in publicizing the minimum qualifications for each promotional exam since 2012. Department bulletins issued for promotional job announcements to the rank of Q80-Captain, Q60-Lieutenant, and Q-50 Sergeant have clearly outlined the minimum qualifications ([attachment #2-5](#)). Each promotional exam department bulletin has included the job announcements developed by the Department of Human Resources (DHR) providing information regarding the minimum qualifications.

In order to show the SFPD's commitment to increasing the level of transparency with all promotional processes, DB #19-003 "The Sworn Promotional Process" was issued on 01/03/19 ([Attachment #1](#)). SFPD in collaboration with Department of Human Resources (DHR) created this department bulletin which reviews the promotional process in a Frequently Asked Questions (FAQ's) format in order to address members' questions and concerns about the promotional process thus increasing the level of transparency. To build on this bulletin, Department Notice 21-XXX ([Attachment #7](#)) was created which updated information about the Sworn Promotional Process. Unit Order 21-03 ([Attachment #9](#)) was also created to direct Staff Services to reissue relevant Department Notices pertaining to the promotion process and qualifications annually in order codify the internal process of SFPD's commitment to this recommendation.

Furthermore, the SFPD also adheres to the San Francisco Civil Service Commission Rules which governs the department's promotional process. Rule 201 states the following, Rule 201 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department. This section further explains the rules for the purpose of maintaining and implementing the merit system for the hiring and promotion of the Uniformed Ranks of the SFPD.

Sec. 201.3 further explains the merit system principles to be the following:

The principles of the City and County's merit system include:

- 1) Recruitment, employment, retention, and [promotion of employees on the basis of qualifications and performance](#); and,



Collaborative Reform Completion Memorandum

2) High performance and ethical standards, consistent with hiring qualified individuals who have successfully completed the examination process, been placed on an eligible list and completed the probationary period.

Further, it is the goal and policy of the Civil Service Commission to provide fair treatment of applicants in all aspects of employment without regard to race, religion, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital or domestic partnership status, parental status, color, medical condition, and otherwise prohibited nepotism or favoritism.

The Department Notice "The Sworn Promotional Process" (Attachment #7) created as a response to this recommendation in order to increase the level of transparency of the promotion process also speaks about the Civil Service Rules and explains to the reader how to access the complete list of rules governing SFPD. The website to view the Civil Service Rules is <https://sfgov.org/civilservice/rules>.

On 02/04/2021, members of the PSPP team participated in a technical guidance call with CAL DOJ and Hillard Heintze. The following suggestions were provided regarding this recommendation:

"Cal DOJ raised to SFPD that the plan to re-issue of Department Bulletin 19-003 might conflict with the two-year rule regarding re-issuing Department Bulletins in Department General Order 3.01.

Instead of reissuing a department bulletin, we are going to reissue a department notice which will negate the conflict of DGO 3.01. the notice may be updated as needed.

Hillard Heintze added that the Bulletin is in draft form and Hillard Heintze would prefer to see the final policy.

SFPD PSPP's intent for issuing the notice in draft form was for HH & CAL DOJ to review and provide comments into the form prior to final approval. However, we understand during a final review, all drafts will be revised and finalized incorporating all suggestions from CAL DOJ and HH.

Cal DOJ also requested that SFPD document the availability of meetings with Chief Scott, and SFPD explained that it would do so.



Collaborative Reform Completion Memorandum

The meetings were announced in the Chief's monthly video. They were also referenced in DN 21-033 (attachment #8). This has been incorporated in the new 2001 form.

Hillard Heintze requested additional explanation of how changes to SFPD's needs are incorporated in the survey.

The needs of SFPD depend on staffing levels. The survey serves as preference of the newly promoted individuals and where they would like to go. SFPD values members' opinions and they are considered while making placements.

Hillard Heintze noted that this recommendation is related to recommendation 90.2 in that secondary qualifications, such as work history, training, and education, are substantially related to promotion."

Compliance Measures:

1) Provide policy and standards for transparency and communications on promotions.

This compliance measure has been met.

Policies and Standards for transparency and communications on promotions are governed by San Francisco Civil Service Commission (which have been made accessible to all members and the general public via the San Francisco Website – <https://sfgov.org/civilservice/rules>)

The policies and standards are explained in detail in these rules.

In addition, SFPD worked in collaboration with DHR to create DB 19-003 in 2019 in order to further address the policy and standards for transparency and communications on promotions. The purpose of DB 19-003 was to increase the level of transparency of the promotional process and also to clearly outline the requirements for promotions. This is done by providing answers to frequently asked questions about the promotional process. The bulletin provides step by step procedures on how to apply for a promotion, the entire process after application. To build on this bulletin, Department Notice XXX was issued with updated information about the Sworn Promotional Process. Unit Order 21-03 was also created to direct Staff Services to issue Department Notices that updates any procedural change regarding the promotion process.

Furthermore, as part of our commitment to providing transparency and communications on promotions, DHR and SFPD will also provide constant communication throughout the application process. DHR sends several emails to applicants to update them on the status of the examination during the entire examination process.



Collaborative Reform Completion Memorandum

SFPD continuously updates the department members on the status of promotional exams by issuing department notices on the status of the exams and what applicants should do to proceed to the next step (Attachments 2-5).

All announcements also provide contact information for readers that have additional questions in regards to the announcements or the promotional process.

DN #21-XXX, "The Sworn Promotional Process," addresses the most Frequently Asked Questions (FAQ's) about Police Sworn Promotions. This bulletin reviews the following:

- The steps to get a sworn promotion to the ranks of Q50- Sergeant, Q60- Lieutenant, and Q-80- Captain
- Protest rights
- Explanation why candidates can't see their answers to the test
- Explanation how raters evaluate an answer
- Rule of 10 explanation
- How prior disciplinary matters play while candidates are being considered for promotional opportunities
- Exam components
- How often are promotional exams given
- Minimum qualifications for a promotion
- How tests are developed
- How SME's and raters are selected
- Secondary Criteria

See DN 21-XXX (See attachment #7)

2) Identify and communicate requirements and qualifications for promotion.

In order to address this compliance measure, SFPD identified and communicated requirements and qualifications for promotion by incorporating them into the Department Notice "The Sworn Promotional Process," (attachment #7)

The notice clearly identifies and communicates the requirements and qualifications for the process to promote to Sergeant, Lieutenant and Captain. This notice is issued to all members as a department notice. Unit Order 21-03 will direct Staff Services to reissue the DN annually with updated information coming from DHR and any additional FAQs from members.

SFPD has also been issuing individual bulletins updating members on promotion process which also clearly identify and communicate requirements and qualifications for promotion for Sergeants, Lieutenants, and Captains. (See attachment #2-5)



Collaborative Reform Completion Memorandum

The SFPD also adheres to the San Francisco Civil Service Commission Rules. Rule 201 states the following, Rule 201 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department. Furthermore, this section further explains the rules for the purpose of maintaining and implementing the merit system for the hiring and promotion of the Uniformed Ranks of the SFPD.

Sec. 201.3 further explains the merit system principles to be the following:

The principles of the City and County's merit system include:

- 1) Recruitment, employment, retention, and promotion of employees on the basis of qualifications and performance; and,
- 2) High performance and ethical standards, consistent with hiring qualified individuals who have successfully completed the examination process, been placed on an eligible list and completed the probationary period.

Further, it is the goal and policy of the Civil Service Commission to provide fair treatment of applicants in all aspects of employment without regard to race, religion, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital or domestic partnership status, parental status, color, medical condition, and otherwise prohibited nepotism or favoritism.

The following components listed in "The Sworn Promotional Process DN", identify and communicate requirements and qualifications for promotions.

Minimum Qualifications:

Additionally, Sec. 211.5 and Sec. 211.9, in regards to the posting periods of the Announcement and Posting and Notice of Promotional Examination Announcements. The SFPD has been transparent in publicizing the minimum qualifications for each promotional exam since 2012. Department bulletins issued for promotional job announcements to the rank of Q80-Captain, Q60-Lieutenant, and Q-50 Sergeant have clearly outlined the minimum qualifications. Each promotional exam department bulletin has included the job announcements developed by the Department of Human Resources (DHR) providing information regarding the minimum qualifications. The Department Notice created as a response to this recommendation also covers the Civil Service Rules and explains to the reader how to access the complete list of rules governing SFPD. The website to view the Civil Service Rules is <https://sfgov.org/civilservice/rules>.

Rule of Ten:



Collaborative Reform Completion Memorandum

Civil Service rules allow 10 scores to be considered on police promotional exams. This means all candidates whose scores are in the top ten ranks can be considered for a vacancy. When there is one vacancy, 10 scores are available; where there are two, 11 scores are available; when there are three vacancies, 12 scores are available; etc.

Secondary Criteria:

The Police Chief can also consider the secondary criteria to select candidates from the eligible list. Secondary Criteria are noted on the exam announcement and may include education, training that tends to prepare you for the position sought, community involvement, special qualifications/certifications that also tend to prepare you for the position sought, commendations/awards, bilingual certification, assignments and discipling history.

Interview Panel:

Promotional candidates may be invited to an interview when being considered for appointments during the Secondary Criteria process. The interview/promotional panel consist of SFPD Command Staff and Professional Staff.

In addition, Chief Scott has an open door policy for candidates who have taken the promotional test. Chief Scott is free for questions and feedback to promote transparency and communication in regards to the promotion process which is also listed in DN 21-033 (Attachment #8)

3) Provide transparency for information on promotional placements.

SFPD is committed to providing transparency for information on promotional placements.

Transparency of promotional placements are provided in the bi-weekly transfer orders which shows where every officer is placed. These transfer orders are announced to all members to see and posted on the SFPD Intranet for review.

Transparent information regarding promotional placements are included in the job announcements. Each promotional exam contains information explaining to applicants interested in promoting that should they apply and get the promotion, they may be placed depending on the needs of the department.

SFPD Staff Services has implemented an online survey utilizing survey monkey to survey where newly promoted individuals would like to work. Based on these preferences along with the amount of openings and needs of the department, they are placed at the discretion of the department with consideration of candidates preferences. (attachment #6)



Collaborative Reform Completion Memorandum

A review of survey data collected from preferences of candidates is considered when determining promotional placement. The needs of the department are also considered while determining promotional placement.

In support of this compliance measure, Department Notice 21-033 "*Assignments Effective February 20, 2021*" (**Attachment #8**) was issued. This DN identified the "Method Used to Determine Assignments" for the placement of Lieutenant and Captain promotees and resulting assignment changes necessary for professional growth.

Method Used to Determine Assignments:

These assignments were a result of a collaborative process in which all the Deputy Chiefs and the Executive Director of the Strategic Management Bureau met to discuss and prepare a proposal to the Assistant Chiefs and Chief recommending new promotees' assignments and any subsequent assignment changes necessary.

- Ensuring a balance of experience- in order to ensure future growth of our personnel, the DCs/ED sought to ensure that assignments give Members new opportunities, experiences, and skills in new assignments or in a particular bureau. The DC's/ED also seek to reintroduce members to the Operations Bureau when away from that assignment for a long period of time.
- Familiarity with the assignment- even where an assignment to a Bureau was new or renewed, the DCs/ED factor past work experience.
- Readiness for the assignment- the DCs/ED evaluate Members' special attributes, such as organizational skills, training, and education applicable to the new assignment.

While assignments are made considering the needs of the Department, ultimately Members' personal and professional growth are prioritized. The assignments are approved by the Chief of Police.

Any questions about the process, why assignments were made or promotions, members can reach out to the Chief's Office to schedule a time to discuss with the Chief.

DN#21-033

4) Ongoing and continuous review and improvement loop for process

Unit Order 21-03 "*Promotional Announcements/Updates*" was issued and states: to ensure proper notification, transparency and fairness of the promotional process for the ranks of Sergeant, Lieutenant, and Captain, the Staff Services Division will notify all members of the job announcements and any procedural updates when they are released by the Department of Human Resources Public Safety Team. Notifications by



Collaborative Reform Completion Memorandum

Staff Services will be disseminated to members via email and/or Department Notice. Staff Services will also have the job announcement posted on the Department's Intranet site.

Included in every email and Department Notice related to promotional testing, any questions/or comments can be forwarded to the DHR Public Safety Team. Any questions and/or comments regarding the posting of announcements of DN's or emails can be forwarded to the Staff Service's email address which will be listed on each notification. This feedback will be considered for the continuous review and improvement of the notification process.