

[REDACTED]

From: Nancy Beninati <[REDACTED]>
Sent: Tuesday, April 23, 2019 1:17 PM
To: Cunningham, Jason (POL)
Cc: McGuire, Catherine (POL); Scott, William (POL); [REDACTED]
Subject: Compliance Measures 5.1, 8.1, and 18.1

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Dear Jason,

Our office has completed its review of the materials related to three additional compliance measures that have been submitted to us as part of the collaborative reform process. These packages focused on use of force, an area of high priority for the Department and the California Department of Justice. After reviewing the packages and information provided by the Department regarding compliance measures 5.1, 8.1, and 18.1, the California Department of Justice, finds as follows:

Recommendation 5.1.: The SFPD needs to develop and train to a consistent reporting policy for use of force.

Response to 5.1: The San Francisco Police Department published Department General Order 5.01 Use of Force, which was approved by the Police Commission on December 21, 2016. Since that time the Department has published Department Bulletin 17-006 – Supervisor Use of Force Evaluation Form, which was updated by Department Bulletin 18-171 – Updated Supervisory Use of Force Evaluation Form, October 2018. As an additional component to the use of force policy, the Department has published Unit Order 18.02 – Use of Force Evaluation Form – Missing Data Procedures, December 7, 2018, which provides procedures for evaluating information that may not have been properly reported on a use of force report, and also provides for remedial measures including training on reporting. An audit of approximately 5% of the use of force reports is conducted by the Risk Management Division Early Intervention Systems Unit (EIS) on a monthly basis by comparing the use of force report to the underlying offense report. Once the EIS Supervisor has completed their review, the commanding officer is required to return a completed memo that includes the missing information as well as the completed use of force evaluation back to the EIS Unit. The commanding officer is given discretion on how to provide remedial training and any follow up deemed necessary for the supervisor who completed the initial use of force evaluation. Based upon all of the above, the Department of Justice finds that the Department is in substantial compliance with this recommendation; however, to remain in substantial compliance, SFPD will need to engage in ongoing review and improvement, and take remedial action if and when deficiencies are found, in accordance with the detailed compliance measures that have been agreed upon among all parties.

Recommendation 8.1: The SFPD should immediately require supervisors to respond to events in which officers use force instruments or cause injury, regardless of whether there is a complaint of injury by the individual. This will allow the Department to gain greater oversight of its use of force.

Response to 8.1: The San Francisco Police Department published Department General Order 5.01 Use of Force, which was approved by the Police Commission on December 21, 2016. Use of force reporting is addressed in Section VII of the policy. Under that provision, it is the responsibility of the officer to immediately notify their supervisor about a reportable use of force as defined by the policy, and then incumbent upon the supervisor to respond to the scene and conduct a use of force evaluation. Under General Order 5.01, officers shall report (1) any use of force involving physical controls when the subject is injured, (2) complaints of injury in the presence of officers, (3) complaints of pain that persists beyond the use of a physical control hold, and (4) the use of personal body weapons, chemical agents, impact

weapons, ERIWs, vehicle interventions, K-9 bites, and firearms. Notably, the SFPD requires its officers to report the intentional pointing of firearms at an individual as a use of force, a best practice that is commendable. The supervisor is also required to complete the Supervisory Use of Force Evaluation form, indicating whether the force used appears reasonable. If the supervisor determines that a use of force was unnecessary or that force resulted in serious bodily injury or death, the supervisor shall notify their superior officer who also has obligations under Section VII of the policy. As discussed above in more detail, there is also an auditing process conducted by the EIS Unit. Therefore, the California Department of Justice finds the implementation of recommendation 8.1 to be in substantial compliance; however, to remain in substantial compliance, SFPD will need to engage in ongoing review and improvement, and take remedial action if and when deficiencies are found, in accordance with the detailed compliance measures that have been agreed upon among all parties.

Recommendation 18.1: The SFPD needs to develop a policy for investigation standards and response for all officer use of force.

Response to 18.1: The San Francisco Police Department published Department General Order 5.01 Use of Force, which was approved by the Police Commission on December 21, 2016. Use of force reporting is addressed in Section VII of the policy. Under that provision, it is the responsibility of the officer to immediately notify their supervisor about a reportable use of force as defined by the policy, and then incumbent upon the supervisor to respond to the scene and conduct a use of force evaluation. Among other things, that evaluation includes an on-scene investigation which ensures that all officer and civilian witnesses are identified and interviewed, photographs of injuries are taken, and that other evidence is booked. When a superior officer is notified of a supervisor's preliminary determination of unnecessary force or force that results in serious bodily injury or death, the superior officer will notify the commanding officer and ensure all other notifications are made consistent with DGO 1.06, Duties of Superior Officers. In cases of unnecessary force, the superior office notifies and submits any documentation to the Office of Citizen Complaints, consistent with DGO 2.04, (Citizen Complaints Against Officers). Use of force training is provided to the officers and supervisors which included officer, supervisor and commanding officer's responsibilities in reporting and investigating use of force incidents. As discussed above in more detail, there is also an auditing process conducted by the EIS Unit. Therefore, the California Department of Justice finds the implementation of recommendation 18.1 to be in substantial compliance; however, to remain in substantial compliance, SFPD will need to engage in ongoing review and improvement, and take remedial action if and when deficiencies are found, in accordance with the detailed compliance measures that have been agreed upon between all parties.

Please let us know if you have any questions or would like to discuss these further. Thank you.

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Finding #5	The SFPD does not consistently document the types of force used by officers.
Recommendation #5.1	The SFPD needs to develop and train to a consistent reporting policy for use of force.

Recommendation Status	<input checked="" type="checkbox"/> Complete <input type="checkbox"/> Partially Complete <input type="checkbox"/> In Progress <input type="checkbox"/> Not Started <input type="checkbox"/> No Assessment
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Summary

The San Francisco Police Department has taken effective measures to ensure consistency and accuracy of its use of force reporting by publishing Department Bulletin 18-171 Updated Use of Force Evaluation Form, October 3, 2018. Pursuant to the policy supervisors are required to complete a use of force evaluation for all reportable use of force incidents as defined by Department General Order 5.01 Use of Force. The completed Use of Force report is maintained in the division of the officer who used the force and copies are forwarded to the Training Division and the Risk Management Division EIS Unit. Although the policy includes detailed instructions for completing the form, which assists in ensuring consistent training on its use, the Risk Management EIS Unit has been given the responsibility and has developed protocols for ensuring that the form is completed accurately and force reported correctly. Unit Order 18.02 Use of Force Evaluation Form – Missing Data Procedures, December 7, 2018, identifies the process the EIS Unit uses to notify a supervisor of missing or incomplete information and includes a tracking sheet which requires the Commanding Officer to indicate whether the supervisor was given remedial training in how to complete the form and/or whether further follow up with the supervisor is needed. This audit is conducted on a monthly basis by comparing the use of force report to the underlying offense report, including reviewing whether the type of force used, the type of injury, and demographics of the subject are reported correctly. A sample memorandum sent from EIS to a station commanding officer regarding missing/incomplete data was included in the package.

The measures taken in response to this recommendation demonstrates the department’s commitment to accountability with respect to understanding how its officers use force and is sufficient to designate this recommendation as substantially compliant. The team will continue to monitor the department’s use of force reporting practices in Phase Two to determine the degree to which use of force data is used to inform leadership and management of department operations.

Compliance Measures		Status/Measure Met
1	Develop a policy that provides consistent use of force reporting.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Ensure training is consistent with the use of force reporting policy.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3	Audit to ensure consistent reporting of use of force incidents.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4	Evidence of remedial measures (training, discipline etc.) if deficiencies are found.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues:

Compliance Issues:



DOJ Request For Information (RFI) Sheet

Recommendation # 5.1

The SFPD needs to develop and train to a consistent reporting policy for use of force.

Response Date: 12/20/2018

Screening Questions:

1) Has the recommended action occurred?

- a.) Develop a policy that provides consistent use of force reporting.
-Yes. See question #2.
- b.) Ensure training is consistent with the use of force reporting policy
-Yes. See question #2 and #3.
- c.) Audit to ensure consistent reporting of use of force incidents.
-Yes. See question #4.
- d.) Evidence of remedial measures (training, discipline etc.) if deficiencies are found.
-Yes. See question #4.

2) Does the recommendation require a DGO or other department policy? If not required, is the recommendation supported by a department policy?

On 10/11/2018, the DB 18-171 was issued in order to reflect the updated and improved changes on the Supervisory Use of Force Evaluation Form (DB-171 supersedes DB 17-006, Amends DGO 5.01). Included with DB 18-171 is a step by step guide which shows line by line how to fill out the form and where to get this information from. This guide was attached to the Department Bulletin and is easily accessible to all Supervisors who reference the DB on the proper procedures. This shows a continual improvement loop as the department improves on procedures around Use of Force policies.

-Department Bulletin (DB) 18-171 (Updated Supervisory Use of Force Evaluation Form) (Issued 10/03/18- Supersedes DB 17-006, Amends DGO 5.01)

-DGO 5.01

-DB 17-006 (Superseded by DB 18-171)

3) Does the recommendation require training and/or education?

-Members are trained when they read DB 17-006, and acknowledged DB by signing off on HRMS (See Audit Compliance on DB 17-006). DB 18-171 was issued on 10/11/2018 (Supersedes DB 17-006. Amends DGO 5.01)



DOJ Request For Information (RFI) Sheet

- Step by Step Form Completion Guide (Updated 09/18- Issued through DB 18-171)
- 5.01 Power Point Slides
- 5.01 Expanded Course Outline
- Use of Force Class Roster and Evaluation

4) Does the recommendation require an audit or continuous improvement loop?

DB 18-171 (Updated Supervisory Use of Force Evaluation Form) (Issued 10/03/18- Supersedes DB 17-006, Amends DGO 5.01) mandates that supervisors must complete a Supervisory Use of Force Evaluation Form for each reportable use of force and submit through the chain of command before the end of their watch. The Supervisory Use of Force Evaluation has been rolled out department wide since 1/9/2017 when DB 17-006 was issued. The EIS unit receives the completed Supervisory Evaluation Forms daily by email. EIS then complies the corresponding incident report and Use of Force log to look for discrepancies. (See Use of Force Details Summary Report and Monthly Use of Force Audit Reports below).

In the past, SFPD did not track clerical errors involving the completion of Use of Force Log. Previously, the Supervisory Use of Force Evaluation forms were sent back to the Captain at the district level for corrections. The data from the Supervisory Use of Force Evaluation form is then entered into the Administrative –Investigative Management (AIM) database where all use of force data can then be disseminated to the mandated divisions or units, and used as part of the Early Intervention System.

In October 2018, SFPD started tracking clerical errors on a using an excel spreadsheet. On 12/7/2018, Unit Order 18-02, Supervisory Use of Force Evaluation Form-Missing Data procedures, was established to address this compliance measure.

See sample of Memorandum sent from EIS Unit to Commanding Officer at Northern Station regarding missing data/incomplete. The memorandum now asks two questions:

- 1) Was the supervisor given remedial training on how to complete the form?
- 2) Is further follow up needed with the Supervisor?

-Use of Force Details Summary Report- July 2018 (Retrieved from Administrative – Investigative Management (AIM) database).

-Monthly Use of Force Audit

-Screen shot from SFPD AIM Database.

-DB 17-006 - Audited on 9-27-2018

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