

Recommendation 61.2

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 61.2 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 61.2:

The SFPD must establish clear responsibilities and timelines for the progression of administrative investigations, and supervisors should be held to account for ensuring compliance.

Response to 61.2:

SFPD has prepared a Standard Operating Procedures Manual and a Unit Order (Risk Management Office 20-03 "IAD Procedures"), which goes into extensive detail about the various policies and procedures involving administrative investigations.

The SOP Manual specifically lists out the respective responsibilities for the IAD Sergeants and Lieutenants. As examples, the SOP Manual obligates IAD Sergeants to ensure that the accused SFPD member is notified of (1) the complaint against them and (2) their rights and responsibilities in any administrative investigation. The SOP Manual also obligates the Lieutenant to attend biweekly meetings with the Commander of the Risk Management Office to review pending cases and separate biweekly meetings with the Lieutenant in the Investigative Services Detail [ISD] to discuss the timely transfer of cases between the units.

The SOP Manual also provides detailed information about various deadlines/timelines for investigations. For example, because 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), the SOP Manual directs IAD investigators to make every effort to complete an investigation within 6 months to ensure that the case is fully adjudicated within a year. As another example, the SOP Manual requires an investigator to interview the accused SFPD member within ten days of notifying the member of the complaint.

To hold IAD members accountable and to ensure their compliance with the SOP Manual, IAD staff participate in several, regular meetings. The IAD Lieutenant maintains a spreadsheet of the unit's investigations, which captures 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. Pursuant to Unit Order 20-02, the Lieutenants in IAD and ISD 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 Office 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 SOP 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. 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.

Finally, the IAD Lieutenant also meets individually with each IAD investigator on a biweekly basis to discuss their open cases. *See* September 10, 2020 memo from Commander O'Sullivan to Assistant Chief Moser. 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. Further, investigators must advise the IAD Lieutenant if any case cannot be completed within six months.

These meetings collectively ensure that IAD unit compliance with the SOP Manual and state laws.

The Department has noted that since the implementation of its new protocol in July 2020, no investigation already in progress has continued past 1-year statutory deadline. Between 2018 and the implementation of the new protocol, two investigations exceeded the 1-year statute of limitations 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, in response to these two untimely investigations, it instituted the protocol described above where case tracking spreadsheet are maintained and reviewed at regularly-scheduled meetings.

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

Tanya S. Koshy
Deputy Attorney General
Civil Rights Enforcement Section
California Department of Justice
1515 Clay Street, Suite 2100
Oakland, CA 94612

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Hillard Heintze File Review Recommendation # 61.2

Finding # 61	The SFPD's Internal Affairs Division does not have standard operating procedures or templates for investigation reporting.
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Recommendation # 61.2	The SFPD must establish clear responsibilities and timelines for the progression of administrative investigations, and supervisors should be held to account for ensuring compliance.
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Recommendation Status	Complete	Partially Complete	In Progress
	Not Started	No Assessment	

Summary

SFPD has completed significant policy and protocol development in the last year and this review is linked to Recommendation 61.1, which identifies the policies and protocols applicable to this recommendation, including 61.1.

Compliance Measure #1 is met through the policy and protocols with established deadlines and escalating management review. This work is reflected in Recommendation 61.1 as well and addresses the underlying concerns raised in this recommendation.

Compliance Measure #2 the SOP establishes the roles and responsibilities for the staff and supervisors relative to ensuring timely case management.

Compliance Measure #3 is marked complete, but only two cases have tolled under statute since 2018 which limits the continued improvement. SFPD identifies a process by which there is a 30-day investigative review and a bi-weekly meeting with IA sergeant for case review. The Officer in Charge (OIC) has ultimate responsibility for ensuring timely submission of investigations. It is recommended that SFPD continue to identify what causes gaps in investigations – even if the investigations do not toll to ensure continued focus and engagement on timely investigations.

Compliance Measures		Status/Measure Met
1	Concurrent with Rec 61.1, establish responsibilities and timelines for investigations and supervisors.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Audit and/or review loop as to unit compliance.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3	Evidence of supportive and remedial action if deficiencies are found.	√ Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues

Compliance Issues



Collaborative Reform Completion Memorandum

Finding # 61.2: The SFPD's Internal Affairs Division does not have standard operating procedures or templates for investigation reporting.

Recommendation # 61.2 The SFPD must establish clear responsibilities and timelines for the progression of administrative investigations, and supervisors should be held to account for ensuring compliance.

Response Date: 10/06/2020

Executive Summary:

An Internal Affairs Division Unit Order was created to address standardization in procedures regarding receiving, assigning, recording, controlling, reviewing, filing and closing cases within IAD.

The Internal Affairs Division Standard Operating Procedures (SOP) additionally assisted with implementations from Recommendations 61.1.

Compliance Measures:

1) Concurrent with Rec 61.1 establish responsibilities and timelines for investigations and supervisors

The IAD Standard Operation Procedure (**Attachment #1**) and Unit Order 20-03 "Internal Affairs Division Procedures" (**Attachment #2**) was disseminated to members of IAD. Both documents outlines the duties and responsibilities of all IAD Sergeants and the Officer in Charge (OIC).

The section of the SOP "Investigative Steps" set forth specific steps/procedures that all IAD Sergeants are responsible for and to ensure timely investigation of cases. The excerpt below clearly defines the time frame in which cases at IAD should be completed.

Section from SOP "Investigative Steps"

Investigators should complete their investigations within 6 months, in an effort to adjudicate the case in a timely fashion. Investigators shall meet with the OIC of IAD on a monthly basis to provide case status updates. This audit and review loop of the case status ensures the investigation is completed within the allotted time. Exceptions to the six month rule, shall be discussed with the OIC of IAD and documented in the Case Tracking System.



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2) Audit and/or review loop as to unit compliance

In the SOP, the section "Reviewing Open Cases", (listed below)

Reviewing Open Cases:

A report of open IAD cases shall be created bi-weekly and distributed to the Commander of the Office of the Chief of Staff, the Commanding Officer of the Risk Management Office and the OIC of IAD.

The OIC of IAD shall review all open cases with the assigned investigator every 30 days.

The OIC reserves the right to review any case at any time due to the needs of the Department.

Investigators shall notify the OIC of IAD regarding issues that can cause an untimely delay in the completion of an assigned investigation. (ex. Tolling, inability to interview subject officers and/or witnesses.)

The OIC of IAD shall review all open cases with the assigned investigator every 30 days. The OIC of IAD currently conducts bi-weekly reviews of all cases with the IAD Sergeants.

To ensure adherence to the SOP, OIC utilizes IAD check list (Attachment #3) as a reference during the case reviews. The check list includes important investigative steps from the SOP such as the compliance with 3304 date, case updates, sending form letter to citizen complainants, and interviewing all witnesses etc. The OIC will take not retain the checklist, but will take notes on the case spreadsheets.

IAD Check List

Case Updates / Next Steps

3304 DATE/time line

Police Report/Memorandum/Citizen Complaint Letter

Interviews (citizen/officer/ outside agency)

Other Evidence (BWC, Social Media, Dept Email/Phone Audits)

Notification: (Officer-IA notice /Citizen-Form Letter)

Chronological



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3) Evidence of supportive and remedial action if deficiencies are found.

On Thursday, October 22, 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 support in policy for the statement that the Officer in Charge will take corrective actions if deficiencies are found. SFPD responded that it would either highlight that in existing policy or add it to the Standard Operating Procedural Manual. Additionally, SFPD will note whether any deficiencies have been found to date.

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 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.

The OIC conducts biweekly meetings with all IAD Sergeants for case review. This is codified in the SOP Manual (Page 4) under responsibilities of the Officer in Charge.



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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.

This allows for the OIC to ensure IAD sergeants are complying with the policies and procedures within the SOP. The OIC also provides input and guidance to each IAD Sergeants in their investigation.