
Project Plan 5 (Recs 69.2 and 69.3)

From Tanya Koshy [REDACTED]

Date Mon 9/30/2024 4:19 PM

To Scott, William (POL) [REDACTED] McGuire, Catherine (POL) [REDACTED]

Cc [REDACTED]

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Dear Chief Scott,

Our office has completed its review of the materials submitted by SFPD to support implementation of Project Plan 5, which comprises of Recommendations 69.2 and 69.3.

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For the following reasons, the Department of Justice finds that SFPD is in substantial compliance with Project Plan 5.

Both of the recommendations within Project Plan 5 relate to improving analyses of officer discipline for purposes of ensuring fairness, impartiality, and transparency. SFPD has tasked the existing Disciplinary Review Board (DRB), comprised of the Assistant Chief of Staff, Deputy Chief of the Administration Bureau, Deputy Chief of Field Operations Bureau, a Police Commissioner, and the Director of the Department of Police Accountability, with reviewing internal discipline on a quarterly basis to ensure fairness and impartiality. SFPD also established an Office of Equity and Inclusion (OEI) to review discipline decisions and any potential disparities, and provides such information to the DRB. To assist this work the Internal Affairs Division has an analyst responsible for conducting analyses of discipline data, and prepares quarterly internal and external reports on such trends.

Cal DOJ agrees with Jensen Hughes that a caveat to substantial compliance is that the work of the DRB and OEI is new; however, there are examples within the materials provided by SFPD to demonstrate that SFPD has developed strong internal practices to ensure that the DRB and the OEI will continue its work effectively and, in doing so, bolster internal procedural justice at SFPD.

Tanya

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Project Plan #5 – Accountability

Associated Recommendations: 69.2, 69.3

This project plan was designed to link the shared concept of internal procedural justice and transparency in how and when discipline is applied.

Under Phase 3+, SFPD engaged in the work to systematically address discipline practices within the department and to understand whether there were variations based upon officer demographics, including application of past discipline.

Project Plan Status

Substantial Compliance
In Progress
Work Required

Summary

This project plan was the evolution of work conducted throughout the initial Collaborative Reform Initiative. The department has committed resources and efforts to transforming the way it addresses discipline matters. The accountability and transparency of a police department regarding how it addresses public complaints and officer discipline is a foundation for community trust building. Transparency and accountability is just as important internally in developing procedural justice and trust from officers that misconduct will be addressed timely, appropriately and fairly.

As part of a larger overall plan and action, SFPD began to address discipline in a holistic manner. Included were the City's goals including the 2020 Police Reform Roadmap, and the department's internal goals, including the Racial Equity and Inclusion Action Plan. The department has moved forward in becoming more transparent internally regarding discipline and in assessing whether there are negative impacts for certain groups within the department as it relates to discipline.

In the years following the assessment report, SFPD expanded its capacity for data and understanding of complaint data. This was a pivotal step towards understanding the nature of the complaints received and how the department manages them. SFPD partnered more fully with the Department of Police Accountability (DPA) during this period as well – involving DPA in training, meetings at the executive and working group level, and a defined role in policy development and membership on the disciplinary review board (DRB). This work has centered on growing one of the assessment report's goals – a shared management environment. While the SFPD and DPA have distinct, independent roles, there is shared responsibility for the effectiveness of discipline investigations and the recommendations for discipline.

From a transparency perspective, the SFPD shares its complaint information and progress on a quarterly basis with the Police Commission. This data is then published and has open access. Additionally, SFPD continues to publish its annual report regarding IA data, as called for in the original assessment report. The developing analytical approach to complaint information should make this report more informative and, ideally, user-friendly. Attachment 5 is a quarterly report shared with the Police Commission. Notable is the listing of complaints investigated by SFPD, as some community members still do not know what complaints are addressed by the department and what are addressed by DPA. Additionally, there is a glossary at the end of the report that defines terms used within the report which is a notable advancement for the transparency of actions and decisions of SFPD.

During this phase, SFPD established the Office of Equity and Inclusion (OEI) internally and it was tasked under a Department Notice to assess and review the impact of discipline decisions on the various demographic groups represented in SFPD officers. It also serves as a resource for the internal DRB and can make recommendations for corrective action based upon issues identified. The DRB is established by DGO and is mandated to meet quarterly to review and discuss discipline trends, policies, procedures and training. DPA, the Police Commission, and executive members of SFPD are included on the DRB. The DRB may make recommendations on process improvements and task recommendations with a timeline for execution. It reports quarterly to the Police Commission relative to recommended changes and the status of implementation.

Notably, the department has assigned an analyst to the Internal Affairs Division to review and assess discipline data for trends, compliance with policy and to assess outcomes, including based on demographic data for officers. This analyst is tasked with quarterly reports – for both internal and external use, including review and assessment by the OEI. The quarterly report was expanded to address issues for review that address internal officer demographics and continues to be refined based upon the input of the OEI and DRB. The report has a level of detail and breakdown to inform management review and DRB review.

SFPD has identified a focus on closed cases rather than just the individual active case. Review of the types of complaints and their outcomes is informative to the organizational practice regarding the investigation of misconduct, the investigative finding and the way in which discipline is administered.

Areas of Note:

- The work of the DRB, OEI and data analysis is relatively new – so the “proofs” of engagement are relatively limited. The initial work and structures are promising, and it will require SFPD to continue to build upon its goals for internal procedural justice and equity in discipline of SFPD officers. Attachment 10 is a good example of the iterative growth of the process, wherein OEI discussed noted variances in discipline and worked with IA to understand the underlying factors. Detailed information would help further inform this process, as the submitted examples are fairly standard. However, attachment 11 identifies the methodology to be used which provides an informed and defined standard to the analysis, which is helpful and ensures consistency in review.
- Jensen Hughes anticipates ongoing analysis will further refine the data to ensure it is informative and helpful for training, transparency and consistency relative to officer conduct and the investigation of complaints of misconduct. As with any relatively new practice, this report will and should evolve as those who consume and manage the data become more informed. For example, in attachment 12, one of the recommendations from the DRB was to further refine the definition for “aggregate trend” – indicative the data is informing decisions and they are seeking consistent definition.
- The role of DRB in establishing recommendations for improvement and reporting to the Police Commission will help maintain the fidelity to the goal of this project plan.

Recommendation:

Jensen Hughes has determined the work in support of this project plan to be substantially compliant. SFPD has engaged in a significant amount of work in already achieving substantial compliance on a number of recommendations that address transparency, accountability and police misconduct. SFPD has demonstrated continued focus on review of the actions of the department relative to misconduct both as matter of external and internal procedural justice. The goals of the project plan are consistent with the recommendations.

It is anticipated that the department will continue to work in this area to ensure ongoing transparency and improvement in internal procedural justice.



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Finding # 69: The SFPD does not consistently apply the principles of procedural justice.

Recommendation # 69.2 The SFPD should task a committee to review internal discipline on a quarterly basis to assure the fairness and impartiality of the process overall and particularly to ensure that there is no bias in the determination and application of discipline. This analysis should be multi-leveled to include aggregate data, trend analysis, and outcome impact on officer demographics, including prior discipline and adherence to the discipline matrix.

Recommendation # 69.3 The SFPD should report annually to the Police Commission the analysis of discipline including officer demographics and prior discipline histories.

Response Date: March 14, 2024

Executive Summary:

Through applying the methods of 21st-century policy and the principles of procedural justice, the San Francisco Police Department (SFPD) has strengthened its relationships with community-based organizations, city agencies, and judicial systems. SFPD has fostered key principles including, but not limited to, accountability, transparency, neutrality, fairness, and respect in the department's policy and training for department members. These attributes, principles, and values are rooted in the Collaborative Reform Initiative (CRI) recommendation adherence and action leading to substantial compliance that SFPD has voluntarily taken since 2015.

Aside from the SFPD's CRI efforts, the department has made continual improvements through other plans, such as Mayor London Breed's ambitious 2020 Police Reform Roadmap and our department's Racial Equity and Inclusion Action Plan ([Attachment #1, SFPD Website](#)). Nevertheless, all plans and forms of action led to the persistent effort by the department and partners to make SFPD a national model for reimagining policing and public services.

To provide historical context related to SFPD's adoption of the Police Reform beginning in 2015, the Department and City Leaders voluntarily welcomed the U.S. Department of Justice to review the Police Department's practices and policies. In sum, the U.S. DOJ made 94 findings with 272 recommendations for improvement ([Attachment #2, SFPD CRI Website](#)). In 2023, it is reassuring to see the commitment, hard work, and progress that the San Francisco Police Department has displayed surrounding the implementation of the initial 272 recommendations set forth by the U.S. DOJ's COPS Office ("Community Oriented Policing Services").

According to the Collaborative Reform Initiative (Finding 69), the U.S. DOJ's COPS Office found that the SFPD does not consistently apply the principles of procedural justice. The San Francisco Police Department heard the concerns and answered the task. Through the Collaborative Reform Initiative project, the Department demonstrated commitment to



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reassure all communities that the San Francisco Police Department stands for the following, but not limited to accountability, transparency, neutrality, fairness, and respect, reinforced by 21st Century Policing practices.

The San Francisco Police Department continues to show promise by answering and implementing the remaining recommendations. Recommendation 69.2 underscores the necessity for a quarterly committee review of internal discipline to guarantee fair and unbiased application of disciplinary measures within the department. To fulfill this recommendation, the department has integrated the Disciplinary Review Board with a separate committee, the Office of Equity and Inclusion, to oversee this crucial task. The Office of Equity and Inclusion will conduct quarterly reviews of internal discipline procedures to uphold principles of fairness and impartiality. By providing an external perspective, this process ensures that disciplinary actions are administered equitably for all Officers and Professional Staff.

Furthermore, as per recommendation 69.3, the SFPD is tasked with generating an annual report based on the data derived from recommendation 69.2. This report is then disseminated to the Police Commission for review and analysis.

Compliance Measures 69.2:

1) Establish a committee to identify key data variables to examine in support of fair and impartial discipline.

In establishing a committee that meets the needs of this recommendation, stakeholders, including the CRI Accountability Project Manager, CRI Accountability Executive Sponsor, and the Office of Equity & Inclusion (OEI), met and deliberated ideas about recommendation # 69.2. The area of focus surrounded finding the appropriate committee whose structure provided a viable foundation for this recommendation, focusing on procedural justice, fairness, and impartiality regarding Department discipline application.

The committee chosen for this recommendation was the already established Disciplinary Review Board (DRB). Per the San Francisco Police Department's General Order 2.04.08, the Discipline Review Board meets quarterly. The DRB comprises the following participants: Assistant Chief of Staff, Deputy Chief of the Administration Bureau, Deputy Chief of Field Operations Bureau, Member of the Police Commission, and Director of DPA.

The DRB shall consider whether any policy, procedure, or training needs to be revised, added, or re-issued if it relates to the subject matter reviewed. The DRB may make



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written recommendations that include how the recommendation shall be implemented and a timeline for completion based on the identified priority level and complexity of the recommendation.

The DRB shall report quarterly to the public and to the Commission those policy and training changes it recommends and the measurement of the success or failure of each change in a manner consistent with individual police officer privacy rights. The guidelines for the report are contained within the MOU between SFPD and DPA.

(Attachment #3, SFPD DGO 2.04.08)

However, to achieve a complete committee that oversees fair and impartial discipline, the Office of Equity & Inclusion (OEI) was added as an additional component to the existing Discipline Review Board committee. Per SFPD Department Notice 21-067, the Office of Equity and Inclusion Unit was established to create and sustain an equitable-supportive and professional environment. The OEI will collaborate with all units, divisions, and bureaus within the Department. The Department aims to establish and maintain a safe and equitable environment for all members. The (OEI) will be deliberate in its efforts to educate members about the Department's strategies for equity inclusion, EEO policies, and federal-state-local discrimination laws. (Attachment #4, SFPD Department Notice 21-067).

Everything considered, the Office of Equity & Inclusion will collaborate with a San Francisco Police Department Internal Affairs Division (IAD) Analyst to identify critical metrics/variables (i.e., Race/ Ethnicity, Gender, Age Range, Bureau Assignment, Sworn vs. Professional, Time in the Department) and capture aggregate data/trends. During this process, the SFPD IAD Analyst will generate an IAD Quarterly Report that compiles aggregate data regarding complaints against Department members and their outcomes as well as any trends in misconduct complaints and discipline for both internal and external publication (Attachment #5, IAD Quarterly Report). This report will be shared with the SFPD Office of Equity and Inclusion in order to facilitate the review of equity in the employee discipline process. The procedures and policy related to the above is codified in OEI's Unit Order (Attachment # 6, OEI Unit Order).

- 2) Provide quarterly analysis of the data variables to identify trends, including potential bias, in discipline outcomes.

As a joint effort amongst SFPD members (specifically within the CRI and IAD Units), the SFPD IAD Analyst expanded upon an existing IAD Quarterly Report to help identify potential bias in discipline outcomes (Attachment #7, former IAD Quarterly Report). Working off the already established IAD Quarterly Report, the Internal Affairs Division (IAD) and IAD Principal Analyst expanded upon specific elements that contributed to answering the above recommendation.



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Within the new IAD Quarterly Report, new additions have been added and/or expanded, which also facilitate the principles of procedural justice and meet the conditions of this recommendation. The following additions were made to the current report:

- The report incorporates complaint summaries, which describe the cases and new allegations received and enable readers to understand additional details and the context under which an investigation has been opened.
- The report expanded upon demographics (i.e., Race/ Ethnicity, Gender, Age Range, Bureau Assignment, Sworn vs. Professional, Time in the Department) when extracting, displaying, and comparing aggregate data.
- The report offers more layers within the allegation/complaint categories, allowing viewers to see data on a granular, detailed scale or a larger scale encompassing more types of allegations.
- The report improved visual aids, such as new pie charts and bar graphs, further illustrating the aggregate data on open and closed cases surrounding officer complaints, misconduct, and discipline.
- The report offers trend analysis provided by the SFPD IAD Principal Analyst. The IAD Analyst compares and examines aggregate datasets surrounding complaints, misconduct, and discipline over a period of time, allowing for discerning recurring patterns, anomalies, and correlations. This analysis outlines trends in the aggregate data collected but also provides relevant information for SFPD to address and mitigate instances of trends in misconduct/complaints and discipline effectively.

Furthermore, this report uses aggregate data to detail complaints, complaint outcomes, discipline imposed, and trends identified from the aggregate data. This report compares the aggregate data from the current quarter with the aggregate data from the previous. The report includes employee demographics for opened cases, type of employee (sworn and professional staff), and employee tenure. The report includes the findings in closed cases, broken down by employee demographics and tenure. The report shows disciplinary actions in closed cases broken down by employee demographics and tenure. The report in this form will provide a general understanding of the nature of accused misconduct by grouping similar allegations. The number of cases received and completed over time gives a high-level overview of the workflow within the Internal Affairs Division. Aggregate data on findings indicates the rate of legitimacy of accusations, the intent of SFPD to hold its members accountable, and any gaps in training or policy. The report is created quarterly and posted on the San Francisco Police website under the "Published Documents" section (**Attachment #8, IA Published Reports**). The report is published for internal and external publication.

According to the framework and foundation laid by SFPD IAD Analyst, aggregate trends may be defined as individual data points collected and categorized to depict the



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circumstances of misconduct within the San Francisco Police Department, such as the amount and types of allegations received, the number of cases investigated, and closed by the Internal Affairs Division, the findings rendered, and the disciplinary actions recommended for members with sustained allegations.

A quarterly report depicting aggregate trends may support a general understanding of the nature of accused misconduct by grouping similar types of allegations. The number of cases received and completed over time provides a high-level overview of the workflow within the Internal Affairs Division. Aggregate data on findings is indicative of the rate of legitimacy of accusations, the intent of SFPD to hold its members accountable, and any gaps in training or policy. Aggregate trends pertaining to disciplinary actions provide insight into matters of fairness and equitable treatment of SFPD employees of various demographic populations.

The value of analytical findings, including aggregate trends, in the context of IAD reporting to the Disciplinary Review Board may not be primarily derived from statistically significant data, but information that is supportive of timely identification of issues that warrant updated guidance, or which may be addressed by the Department to effect necessary changes or perform corrective action. To this end, there is an inherent value in the qualitative review and analysis of newly opened cases in order to understand and respond to emerging problems; however, with cognizance, the investigative process may yield the determination that an allegation is without merit. Furthermore, the analytical focus on trends in closed cases, while providing transparency and a requisite mechanism of determining equity in discipline, necessarily results in a review of past activity given that IAD cases may remain open for months or years through varying circumstances and phases of processing.

3) Identify potential negative trends including bias and apply corrective action.

Per SFPD *Department Notice 21-067*, the **Office of Equity and Inclusion** unit was "established to create and sustain an equitable-supportive, and professional environment. The OEI will collaborate with all units, divisions, and bureaus within the Department. The Department's overall goal is to establish and maintain a safe and equitable environment for all members. The (OEI) will be deliberate in its efforts to educate members about the Department's strategies for equity-inclusion, EEO policies, and federal-state-local discrimination laws."

Through collaboration, as mentioned above, OEI will work with the SFPD IAD Analyst every quarter to identify critical metrics/variables (i.e., Race/ Ethnicity, Gender, Age Range, Bureau Assignment, Sworn vs. Professional, Time in the Department) that will assist in capturing aggregate data highlighting any negative trends surrounding potential



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bias imposed on officers in discipline outcomes. The SFPD IAD Analyst will then create a quarterly report capturing the above metrics, which OEI will review. OEI will then produce a summary report documented in a department memorandum format (Attachment #9, OEI Quarter 2 Summary Report). In this report, OEI will highlight any negative trends in officer discipline outcomes and provide appropriate recommendations for corrective action in the report. OEI will present its summary report to the DRB at each quarterly meeting. The DRB Committee will evaluate the findings and provide guidance for corrective action per DGO 2.04.08.

Following OEI's collaboration with the DRB meetings, two additional summary review reports were produced for 2023 quarters 3 and 4 (Attachment #10, OEI Quarter 3 & 4 Summary Reports). Initially, OEI found some variances of discipline for the same or similar offenses. However, OEI conducted further examination by contacting the Lieutenant of IAD and determined that there was justification for the variance. For example, some incidents involved prior discipline history, and some had aggravating factors and added allegations. Overall, these reports revealed no indications of negative trends, such as bias, disparities, or inequities, in the discipline imposed on officers during both quarters.

SFPD Office of Equity and Inclusion Quarterly Review of Department Discipline Methodology

The OEI utilizes a 3-step review process to detect disparities in discipline, involving an examination of two key reports: the SFPD Sustained Complaints Report (generated monthly) and the Internal Affairs Division Quarterly report.

1st review: OEI looks for differences in action types taken as a result of sustained IA cases in the quarterly report by examining the following variables: Officer Age, Gender, Tenure, Ethnicity, Sworn vs. Professional Staff. OEI assesses differences in discipline for similar/same allegations in the sustained complaints report.

2nd review: If there was a variance of discipline for the same or similar offenses, further examination is conducted to determine if there was justification for the variance. For example, if 3 members had allegations of failing to activate their BWC's, OEI would review what discipline each member received. If two of the members received retraining and a written reprimand and one received retraining and a 1-day suspension, determine if there was justification for the variance.

3rd review: If there is no justification for the variance, further investigation ensues to determine if the following variables appear to have any impact in which officers received more or less severe discipline without justification for similar or same violations: Officer Age, Gender, Tenure, Ethnicity, Sworn vs. Professional Staff.



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Purpose: To identify through the variables/metrics (Race/ Ethnicity, Gender, Age Range, Bureau Assignment, Sworn vs. Professional, Time in the Department) that would highlight any negative trends in how the discipline process is carried out. This process provides a third-party lens to ensure that discipline is fair and impartial for all Officers and Professional Staff (Attachment #11, OEI Methodology).

4) Review and evidence of corrective action.

Per DGO 2.04.08, trends on complaints and misconduct are discussed between the San Francisco Police Department and the Department of Police Accountability (DPA) during the quarterly Disciplinary Review Board (DRB) meetings (Attachment #7, DGO 2.04.08). For example, the DRB will review and discuss aggregate trends related to DPA and IAD complaints, both alleged and sustained. The Department, in consultation with the DPA, will select sustained cases from the previous quarter for review to determine the need for training or policy changes. The DRB may make written recommendations that include the manner in which the recommendation shall be implemented and a timeline for completion based on the identified priority level and complexity of the recommendation. The DRB shall report quarterly to the public and to the Commission those policy and training changes it recommends and the measurement of the success or failure of each change in a manner consistent with individual police officer privacy rights. Following each DRB meeting, a Disciplinary Review Board Findings and Recommendation letter is sent to the Police Commission summarizing the meeting (Attachment #12, DRB Letter(s) to Police Commission). The guidelines for the report are contained within the MOU between SFPD and DPA.

Compliance Measures 69.3:

1) Develop an annual report from the data developed in Rec 69.2.

In accordance with the directives specified in the IAD Unit Order, the San Francisco Police Department (SFPD) is tasked to generate a comprehensive annual report (Attachment #13, Annual Report). This report is required to encompass matching data elements as delineated in the IAD quarterly reports. Furthermore, the annual report must incorporate an additional layer of analysis, specifically focusing on the disciplinary history and Officer demographics within the purview of its findings. This strategic expansion aims to provide a more in-depth understanding of disciplinary trends, potentially prompting the need for updated departmental guidance or corrective action concurrently.



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2) Share this data with the Police Commission.

Per the IAD Unit Order, it is specified that the quarterly and annual reports compiled by the Internal Affairs Division (IAD) shall be disseminated to the Police Commission. This procedural requirement ensures transparency and accountability, allowing the Police Commission to access comprehensive insights into the department's activities and disciplinary trends on a regular basis. By sharing these reports, the Police Commission is equipped with the necessary information to fulfill its oversight role and make informed decisions that enhance departmental practices.

Conclusion:

With procedural justice and 21st-century policing practices illuminated in current police reforms nationwide, the San Francisco Police Department is on an iterative path to ensure its members and public that it stands for accountability, transparency, fairness, neutrality, and respect.

In collaboration with the DRB, the OEI component will ensure that SFPD remains on the right track in providing procedural justice while being a national role model for other law enforcement agencies. OEI aims to ensure a sustainable and equitable environment that supports all members and fosters a professional environment. As part of the DRB, the OEI is fulfilling its mission by working in partnership with all units in the department to establish a safe and equitable environment. This process also ensures that the SFPD applies the principles of Procedural Justice as recommended by CRI finding 69. A committee that works well together and understands its role will ensure fair and impartial discipline for all Officers.