



## **Joint Response to Public Comment Pursuant to DGO 3.01.04(D)**

### **DGO 8.12 In-Custody Deaths**

July 8, 2025

SFPD Department General Order (DGO) 3.01 requires that all policies under development be posted publicly to provide members of the public thirty (30) business days to submit policy recommendations.

Pursuant to DGO 3.01.04 (D), the Department and the Department of Police Accountability (DPA) jointly prepare a public response, which shall be posted on the Department's website, outlining the recommendations included and not included in the DGO draft submitted to the Police Commission.

Joint responses are captured in the following recommendation grid which captures the original recommendation, whether the recommendation was included or not included in the draft DGO, and the explanation relating to the decision to include or not include the recommendation into the draft DGO.

The Department reserves the right to remove or not respond to comments if they are:

- Unrelated to the subject of the DGO
- Include private personal information (whether the commenter's or someone else's), including home address, home or cell phone number, personal e-mail address, or personal identification.
- Include profanity or obscene language.

The Department received 13 recommendations for DGO 8.12, *In-Custody Deaths* from the public and DPA had no comment on 13 of the responses.

The Department and DPA extend gratitude to all who took the time to contribute recommendations to this policy.

DGO 8.12 Public Comment Joint Responses  
Public Review Period: 10/10/24 -11/25/24

#	Public Comment	Date Received	SFPD response	SFPD Explanation	DPA Explanation
<b>R1</b>	If a suspect of a crime is in custody and taken to a hospital for injuries NOT sustained by law enforcement (eg shot by rival gang), but dies while being treated, this too is defined as an in custody death?	<b>10/10/24</b>	Recommendation will be modified and included in the draft DGO	Under the policy as written, this potential scenario would not qualify as an in-custody death if the person died while not being restrained by SFPD (i.e. on an operating table), even though they are in SFPD custody. The Dept. has added "in a medical facility" to the last sentence to clarify.	DPA has no comment.
<b>R2</b>	Section C2 - "Senior ranking.. take immediate custody of involved members BWC" - should this also state "for all circumstances"? OR, "..taken custody of BWC when BWC was activated." At a station for in custody death, BWC normally isnt on. Still required?	<b>10/10/24</b>	Recommendation will not be included in Draft DGO	The Dept. believes the language is clear -the BWC must always be seized regardless of whether it was activated. The policy as written requires all BWC's to be seized in every circumstance, even when it was not activated. This allows investigators to confirm that the BWC was not activated and, when relevant, to retrieve footage that may have captures contact with decedent before death (such as contact outside the facility).	DPA has no comment.
<b>R3</b>	Section A2bi states OIC shall provide info including location of Command Post. But under Section C (SCENE), doesn't say anything about establishing a CP. If incident at a station, there wont really be a Command Post. Should state "if applicable"	<b>10/10/24</b>	Recommendation will be modified and included in the draft DGO	8.12.04.A(2)i has been amended to read "Facts will include: the location of the incident and the command post (if any), suggested access routes, and any safety concerns.	DPA has no comment.
<b>R4</b>	Should the involved member definition be specific to the officer who was likely at fault? In the policy this term is also used to describe members present but not specifically at fault.	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	An involved member does not mean only a member who was likely at fault - the member could has acted entirely appropriately. They are involved by virtue of being responsible for the "relevant physical restrain, detention, or confinement".	DPA has no comment.
<b>R5</b>	What non law enforcement person would require a parallel criminal investigation?	<b>11/21/24</b>	Administrative Question and Answer-not for inclusion in DGO	a "parallel criminal investigation" is an investigation of any potential criminal conduct committed by a person other an an SFPD member during the course of, or leading up to, an in-custody death. For example, if SFPD arrested two suspects of a robbery and one suspect later died in custody, the robbery investigation - against both suspects - would be the "parallel investigation"	DPA has no comment.
<b>R6</b>	Although administrative investigation is non criminal, should it be specified that disciplinary action may be taken?	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	Details of the review and potential discipline are outlined in the draft DGO 3.10, "Serious Incident Review Board" that was approved for use in meeting and conferring with bargaining units on 10/3/24.	DPA has no comment.
<b>R7</b>	Do not cite the memo, but just list the information that is important to know so officers are not held accountable to knowing the entire memo	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	DGO's relating to the investigation of officer-involved shootings, in-custody deaths, and use of force resulting in serious bodily injury all ensure compliance with the memorandum of understanding (MOU) between SFPD and SFDA. It is the protocol of the department to cite reference material for employees.	DPA has no comment.
<b>R8</b>	Do not cite the memo, but just list the information that is important to know so officers are not held accountable to knowing the entire memo	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	Please see R7 for response.	DPA has no comment.
<b>R9</b>	Who does the DOC notify? You do not need to say again that SFDA will lead the criminal investigation especially since they are not held to our DGOs. The specified location of interviews should not be in a DGO.	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	DOC uses an automated system to notify appropriate personnel following any critical incident. The personnel on this changes, and thuse would not be appropriate to list in a DGO. Interview locations are determined by the Memorandum of Understanding between the SFPD and SFPDA and, therefore, are reflected in this DGO. This helps avoid confusion in the aftermath of an in-custody death or critical incident.	DPA has no comment.
<b>R10</b>	8.12.04 D3b repeats information in the Peace Officers Bill of Rights. What does 8.12.04D3c mean???	<b>11/21/24</b>	Recommendation will be modified and included in the draft DGO	8.12.04.D(3)c means that administrative interviews will be conducted in compliance to any related DGO's. Clarifying language has been added to include "...including DGO 10.11, Body Worn Cameras"	DPA has no comment.
<b>R11</b>	Specific people on the panel should not be in a DGO	<b>11/21/24</b>	Recommendation will not be included in Draft DGO	The positions list are broad, and not likely to change in the near future. This policy is the best place to memorialize the membership of the panel.	DPA has no comment.

DGO 8.12 Public Comment Joint Responses  
Public Review Period: 10/10/24 -11/25/24

#	Public Comment	Date Received	SFPD response	SFPD Explanation	DPA Explanation
R12	Does the panel review only administrative findings or criminal findings too? 8.12.06A2is the 90 days in reference to the parallel criminal investigation or does IAD receive criminal evidence from SFDA? This is not clear at all.	11/21/24	Administrative Question and Answer-not for inclusion in DGO	The panel reviews both criminal and administrative findings, but only makes administrative recommendations. The 90 days refers to the "criminal investigation" not the "parallel criminal investigation" as these are separately defined under the DGO and MOU. IAD receives evidence from SFDA once their investigation is completed, which starts the 90 day clock.	DPA has no comment.
R13	The last section about the airport contradicts itself. It says that any contradictory policies that the Airport follows are no longer to be followed and this DGO replaces it, but then it goes that the Airport follow San Mateo criminal invest not sfda	11/21/24	Recommendation will be modified and included in the draft DGO	The department agrees the langauge could be confusing. 8.12.08 A was removed in order to provide clarity. The section now starts with "If any part of this General Oder conflicts with Airport Bureau policy, members assigned to the Airport Bureau shall follow Aiport bureau policy."	DPA has no comment.