



# The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

---

Executive Summary July 2016  
[www.SFBlueRibbonPanel.com](http://www.SFBlueRibbonPanel.com)

# The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement

## Panel Members

**Hon. LaDoris H. Cordell**

**Hon. Cruz Reynoso**

**Hon. Dickran M. Tevrizian**

## Executive Director

**Anand Subramanian**

## General Counsel

**Jerome C. Roth**

## Counsel Working Groups

### Stops, Searches, and Arrests

*Morrison & Foerster LLP*

Arturo J. González

Danielle Coleman

Ian K. Bausback

Amanda Hines Gold

Antonio L. Ingram, II

### Personnel and Internal Discipline

*Sidley Austin LLP*

Joshua Hill

Jaime A. Bartlett

Rachel R. Davidson

Patrick S. Kelly

Jennifer Gaspar

Renée Pesiri

Vikram S. Shah

### Use of Force and Officer-Involved Shootings

*Morgan, Lewis & Bockius LLP*

Kevin M. Benedicto

Ellie F. Chapman

Michelle Park Chiu

Tania Prado

Jenna K. Stokes

Lucy Wang

Colin C. West

### External Oversight and Counsel to the Panel

*Munger, Tolles & Olson LLP*

Nicholas D. Fram

Carolyn Hoecker Luedtke

Kyle W. Mach

Joshua Patashnik

Juliana M. Yee

Blanca Fromm Young

### Brady Policies and Practices

*Baker & McKenzie LLP*

Robert W. Tarun

Christina M. Wong

Anne M. Kelts

### Culture

*Sheppard, Mullin, Richter & Hampton LLP*

Raymond C. Marshall

Krystal N. Bowen

Mukund Sharma

Liên H. Payne

*Persyn Law & Policy*

Mary Kelly Persyn

### Crime Data

*Hanson Bridgett LLP*

Neil R. Bardack

Matthew J. Peck

Candice P. Shih

# Acknowledgments

The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement expresses deep gratitude to these law schools for their support of this effort.

**Golden Gate University School of Law**, including Dean Rachel Van Cleave, and the following faculty, staff members, and students: Paul Gibson, Mateo Jenkins, Corey Farris, David George, Bianca Penalosa, Kevin Ballard, Christopher Paynter, Anuar Ramirez-Medina, Sierra Fotos, and Cristina Resendiz-Pineda.

**Stanford Law School**, including Dean M. Elizabeth Magill, CodeX—the Stanford Center for Legal Informatics, and the following faculty, staff members, and students: Robert Weisberg, Deborah Mukamal, Micah Bluming, Marcus Bourassa, Shih-Chun Chien, Amari Hammonds, Charles Johnson, Sean McGuire, Zehava Robbins, Paulina Slagter, Li Zhu, Rochelle Ballantyne, Nico Corti, Corey Garcia, Sierra Kephart-Clary, Olapade Omotokunbo, Tim Hegedus, Dan Sakaguchi, Wesley Tiu, and Charlie Walker.

**UC Davis School of Law**, including Dean Kevin Johnson, and the following faculty, staff members, alumni, and students: Timothy Griffiths, Steven Schwartz, David Holtmann, Edward Henn, Anna Ratner, Eduardo Garnica, Jonathan Louie, James Baker, Yu Zhang, Zainab Shakoor, Kaitlyn Bigoni, Cathryn Dalton, Lusine Chinkejian, Andria Kim, Andrea Gonzales, David Canela, Christopher Rhee, Nicolas Sweeney, Sherif Gohar, Sylvia Cunningham, Rachel Kane, and Jamie Shepherd.

**University of San Francisco School of Law**, including Dean John Trasviña, and the following faculty, staff, and students: Rhonda Magee, Joannabelle Aquino, Mario Iskander, Deborah Lai, Lee Lishuo, Lizbeth Malmstead, Liz (Carmen) Martinez, Pearl Tan, Caitlin Wiley, and Donna L. Creasman.

**University of Southern California Gould School of Law**, including Dean Andrew T. Guzman, and the following faculty, staff members, and students: Malissa Barnwell-Scott, Sujata Awasthi, Charles (Chase) Bakaly, Cameron Edwards, Tyler Earl, Robert Fiffer, Eric Gamboa, Daniel Gherardi, Alex Griffin, Brandon Hamburg, Will Heinke, Phil Horlacher, Alexandra (Allie) Mateus, Amanda Sardis, Arsh Singh, Anne Waddell, and Austin Young.

The Panel offers its deep gratitude to its interviewees for sharing their valuable time and perspectives.

The Panel would also like to thank the following individuals and organizations for their support and/or participation.

Miriam Krinsky, Nisha Balaram, John Crew, Saira Hussain, Nikki Hatfield, Chris Wesley Magaña, Adam Nguyen, Brittara Blaine, Greg LeSaint, Ingrid Pfister, Jacqueline Tam, Matt Rilla, Mustafa Rizvi, William Solis, Elizabeth Ho, Jae In Yoo, Jennifer Zheng, Joseph Rosner, Egbert de Groot, Prashant Rai, Michael Lamb, Belinda Morales, Jeannine Ventura, Zachary Glasser, Tigr Menett, Susan Ahmadi, Marilyn Ramos, Eleanore C. Fernandez, Kate Lucy Eves, Edgar Nazaretyan, Carolina Morales, Adele Carpenter, Beverly Upton, Arati Vasan, Zahra Billoo, Lara Kiswani, Phelicia Jones, Frank Williams, Adriana Camarena, Oscar Salinas, Shamann Walton, Ruth Barajas-Cardona, Jon Osaki, David Carlos Salaverry, Lia Salaverry, the Justice for Mario Woods Coalition, the Justice for Alex Nieto Coalition, the Free SF Coalition, the Bayview Senior Services Senior Ex-Offender Program, Fahkra Shah, Chandra Sivakumar, Michael Hinson, David Sweet-Cordero, Ruby Jackson, and Michele Black.

Thank you to San Francisco District Attorney George Gascón and his staff for their support, including Cristine Soto-DeBerry, Captain Thomas Shawyer, Robyn Burke, Lisa Ortiz, Maria McKee, Marisa Rodriguez, Luis Aroche, and paralegals involved in the incident report review, including Blanca Conway, Reg Clay, Jasmine Moore, Alex Lopes, Monica Martinez, Nina Stellini, Katrina Jones, Corrie Anderson, and Kristine Singh.

# Introduction

The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement (the Panel) was established as an advisory body to the San Francisco District Attorney in May 2015 in the wake of revelations that 14 San Francisco Police Department (SFPD) officers had exchanged numerous racist and homophobic text messages. The text messages—milder examples of which included statements such as “Cross burning lowers blood pressure! I did the test myself!” and “I still hate black people”—expressed blatant hostility toward and mocked people of color—including SFPD officers—and insulted lesbian, gay, bisexual, and transgender (LGBT) people. The texts were sent by SFPD officers patrolling one of the most diverse cities in the country.

The Panel was tasked with answering the critical and obvious question that the text-messaging scandal raised and—to the Panel’s knowledge—no other city agency had investigated: Was the racial and homophobic bias so clearly demonstrated by the offensive texts a reflection of institutionalized bias within the SFPD and, if so, to what extent?

The Panel examined a number of different aspects of the SFPD to try to develop a comprehensive understanding of the issue, interviewing more than 100 witnesses and reviewing thousands of public documents. Its findings and recommendations point to several unmistakable conclusions.

1. The SFPD is in need of greater transparency.
2. The SFPD lacks robust oversight.
3. The SFPD must rebuild trust with the communities it serves.
4. The SFPD should pay greater attention to the potential for bias against people of color, both in terms of officers and members of the public.

In short, the Panel concludes that the SFPD is in urgent need of important reforms.

This report presents findings and recommendations based exclusively on a local review of the SFPD. It cannot, however, be divorced from broader issues surrounding law enforcement accountability nationwide. Questions about transparency, accountability, and fairness in law enforcement have intensified across the country—as have attempts to address those concerns, including the formation of President Obama’s Task Force on 21st Century Policing.<sup>1</sup>

While the incidents that triggered this review of the SFPD were demonstrations of explicit, individual biases, it is important to distinguish institutionalized or systemic bias—the focus of the Panel’s report—from individual bias. Bias may be institutionalized when it is promoted, condoned, or acquiesced to by an institution’s policies, practices, and/or culture, giving rise to a tendency to produce patterns of differential outcomes. Such bias is especially concerning when it results in unjust outcomes for historically marginalized groups (e.g., groups defined by race, ethnicity, gender, or sexual orientation). The Panel’s investigation and report focus on the SFPD as an institution—it does not attempt to evaluate the conduct or performance of individual officers.

Holding any institution under a microscope will inevitably reveal less-than-perfect policies and practices. Public institutions, however, benefit from regular and consistent review and oversight. And law enforcement organizations must be held to a heightened standard based on their responsibility to maintain public safety—an obligation that necessitates building trust with every community. Special scrutiny of law enforcement organizations is also appropriate because of the immense power police officers hold over citizens, from the authority to act as agents of the law to the ability to lawfully end lives, and because of the potential for abuse of those powers.

---

1 See <http://www.cops.usdoj.gov/policingtaskforce> for more information about the President’s Task Force on 21st Century Policing.

The SFPD has an unfortunate history of troubling incidents, followed by outside reviews of the department leading to reports and recommendations that are not implemented. The Panel encourages the Mayor, Police Commission, Board of Supervisors, and other city leadership to make a public commitment to consider the recommendations presented in this report and to provide the public with regular updates on the status of adoption or implementation of the recommendations.

It is common sense that a law enforcement agency “can have the best policies in the world, but if [its] institutional culture doesn’t support them, they won’t work.”<sup>2</sup> The incoming SFPD chief must have the vision and leadership skills to address the department’s institutional culture—he or she must have the dedication to implement 21st century policing best practices, hold regular and meaningful dialogue with diverse community stakeholders, and demand accountability from the top down. He or she must develop an organizational environment that encourages a compassionate and professional work ethic while earning and maintaining the respect of all officers and staff.

Although this report examines some of the SFPD’s shortcomings and the areas in which the department can potentially improve, the Panel acknowledges the work of the many fine SFPD officers who do an excellent job every day, serving their communities with distinction, dignity, and respect. This report does not seek to overlook, trivialize, or undermine their dedication, sacrifices, or hard work.

The findings and recommendations in this report are merely a starting point. Addressing any institutionalized bias will ultimately depend on the commitment of SFPD leadership, civic leaders, and the community as a whole. The Panel is hopeful that its recommendations will assist that process. There can be no question that the time to address these issues is now.

## Panel Scope and Structure

Modeled loosely on the Los Angeles County Citizens’ Commission on Jail Violence, the Panel is composed of three former judges with decades of experience in law enforcement oversight, all based outside of San Francisco to ensure neutrality.

- Judge LaDoris Hazzard Cordell was a California Superior Court judge in Santa Clara County, was the Independent Police Auditor for the City of San Jose, and recently chaired the Blue Ribbon Commission on Improving Custody Operations that investigated jail practices in San Jose.
- Justice Cruz Reynoso, in addition to his service on the California Supreme Court, was the Vice Chair of the U.S. Commission on Civil Rights for more than 10 years, and is a recipient of the Presidential Medal of Freedom, the country’s highest civilian honor.
- Judge Dickran M. Tevrizian was a judge on the U.S. District Court for the Central District of California and served on the LA County Citizens’ Commission on Jail Violence, which investigated the Los Angeles Sheriff’s department. He was also the Vice Chair of the Los Angeles County Blue Ribbon Commission on Child Protection that investigated failures in the foster care system and recommended reforms.

Each of these distinguished former jurists agreed to serve on the Panel on a *pro bono* basis. The Panel’s Executive Director, Anand Subramanian, was engaged through PolicyLink, a nonprofit research and advocacy organization with expertise in community-centered policing.<sup>3</sup> The Panel’s General Counsel, Jerome C. Roth, of the law firm Munger, Tolles & Olson, also agreed to serve on a *pro bono* basis.

---

2 Police Executive Research Forum, An Integrated Approach to De-Escalation and Minimizing Use of Force (Aug. 2012), [http://www.policeforum.org/assets/docs/Critical\\_Issues\\_Series/an%20integrated%20approach%20to%20de-escalation%20and%20minimizing%20use%20of%20force%202012.pdf](http://www.policeforum.org/assets/docs/Critical_Issues_Series/an%20integrated%20approach%20to%20de-escalation%20and%20minimizing%20use%20of%20force%202012.pdf), page 33.

3 PolicyLink received a grant from the Open Society Foundation and a donation from Denise Foderaro to facilitate the Panel—no public money was used for that purpose.

Several respected law firms with extensive experience in conducting internal investigations were retained by the Panel on a *pro bono* basis. These firms formed working groups to conduct inquiries into issue areas relevant to the potential for institutionalized bias:

- Stops, Searches, and Arrests
- Personnel
- Use of Force and Officer-Involved Shootings
- Internal Discipline
- External Oversight
- *Brady* Policies and Practices
- Culture
- Crime Data

The Panel was tasked with two related goals to be completed on independent tracks.

1. The DA's fundamental responsibility is to advance justice—an impossible task without reliable evidence provided by law enforcement. The three judges comprising the Panel were asked to review police reports authored by the officers involved in Textgate for indications to determine whether their demonstrated bias may have played a role in their policing. For this task, the judges have been supported by law students at five law schools and one law firm on a *pro bono* basis to review almost 4,000 police reports compiled by the involved officers. The judges then reviewed all reports that the student and attorney volunteers identified as potentially problematic. This review is ongoing and is expected to be completed by fall 2016. The Panel is also reporting to the DA on prosecutions that may need revisiting based on the outcome of its review.<sup>4</sup>
2. The law firm working groups were tasked with examining the extent to which bias was institutionalized within the SFPD's policies and practices, and to recommend solutions to address any bias or threat of bias discovered. The results of that broader inquiry form the chapters of the Panel's report.

Although the DA initiated the Panel as an advisory body and his office provided input and information to it, the Panel was asked to operate and has operated throughout its existence as an independent entity. The DA did not control the Panel's decisions or processes, including the ways the law firm working groups conducted their investigations or the drafting of findings and recommendations contained in this report. The Panel's independence and self-direction were considered essential to ensure that the findings in this report were objective and actionable.

## Investigatory Process and Methodology

The law firm working groups developed and employed robust processes for their investigations. They formulated investigation plans that identified witnesses and documents relevant to each topic of inquiry and implemented specific interview protocols that provided for sharing of information with each group before and after interviews. By the end of their investigations, the working groups had interviewed more than 100 witnesses, including the Chief of Police, current and former SFPD officers and employees, every sitting police commissioner, numerous former police commissioners, high-level city officials and staff from a number of city agencies, policy and law enforcement experts, and community leaders. The groups also reviewed and analyzed thousands of pages of documentary evidence, including publicly available policies, procedures, and reports, and additional documents and data requested from relevant public agencies.

---

<sup>4</sup> The DA's office also conducted a preliminary review of these incident reports to assess whether any of the criminal cases required reconsideration based on the officers' now-known bias. To date, the DA has reopened and dismissed 16 cases. The DA may also evaluate the judges' review to examine whether any lessons or best practices can be garnered to assess future incident reports for bias.

As an independent advisory body, the Panel did not have any power to compel testimony or subpoena documents. All interviews were voluntary. Working groups received periodic feedback from the judges on their investigations, as well as from Veritas Assurance Group, a consulting firm specializing in law enforcement practices retained by the Panel through a donation to PolicyLink.

The Panel also held five hearings that were open to the public. At the first public hearing, held on December 15, 2015, the working groups updated the judges on their investigative plans and progress and received feedback. The second and third hearings, held on January 14, 2016, and February 22, 2016, respectively, were devoted to taking public testimony from key witnesses. The working groups determined which witnesses to call and conducted the initial questioning of each witness, after which the Panel's judges also questioned the witnesses. The following witnesses presented at these hearings:

- Jeff Adachi, San Francisco Public Defender
- George Gascón, San Francisco District Attorney
- Jeff Godown, former SFPD Interim Chief of Police
- Joyce M. Hicks, Director of the Office of Citizen Complaints
- Tonia Lediju, Audit Director at the Office of the Controller
- Suzy Loftus, Police Commission President
- Allison Macbeth, Assistant District Attorney
- Dr. Joe Marshall, Police Commissioner
- Lt. Joe Reilly, Secretary to the Police Commission (Ret.)
- Greg P. Suhr, former SFPD Chief of Police
- Rev. Arnold Townsend, Vice President of the San Francisco NAACP
- Sergeant Yulanda Williams, President of Officers for Justice
- Rebecca Young, Assistant Public Defender

The Panel's fourth hearing, held on March 21, 2016 in the Bayview, was devoted exclusively to community feedback and perspectives. At its fifth and final hearing, held on May 9, 2016, the Panel's working groups presented preliminary findings and recommendations for consideration and obtained feedback from the public before finalizing its report.

# Key Findings and Recommendations

The following section contains a high-level summary of key findings and recommendations. The Panel's full report includes a comprehensive description of these findings and recommendations with background and context.

## SFPD Policies

### Key Findings

The Police Commission sets rules and policies for the department through department general orders (DGOs), all of which are available on the SFPD's website.<sup>5</sup> It is unclear whether the SFPD and the Police Commission have a specific schedule for reviewing and revising the DGOs, or what factors and circumstances contribute to the SFPD and the Police Commission determining that a DGO should be updated. Many do not appear to be updated on a regular schedule: a full two-thirds of the DGOs have not been updated since the 1990s—only nine have been updated in the last five years.

The DGOs are supplemented by department bulletins (DBs) on certain specific areas of conduct. Many DBs are not easily locatable or accessible, despite the fact that they appear to be as much a part of the SFPD's policy as DGOs. Some of these bulletins are de facto updates to the DGOs and supplement the general guidance of the DGOs in specific conduct areas.

### Key Recommendations

1. The Police Commission should review DGOs on a regular basis.
2. The SFPD should cease the use of DBs to modify policies.
3. The SFPD should make all DBs publicly available online.

## Stops, Searches, and Arrests

### Key Findings

While the SFPD's policies prohibiting biased policing are in line with best practices, available statistics indicate racial disparities in its stops, searches, and arrests. Black and Hispanic<sup>6</sup> people are more likely to be searched without consent than any other group, and of those searched, Black and Hispanic people had the lowest "hit rates" (i.e., the rate at which searches found contraband).

Moreover, there is a perception among communities of color that bias exists in SFPD stops, searches, and arrests, and some community members expressed concern that the SFPD does not engage in community policing. Some witnesses expressed the view that SFPD employs unlawful stop-and-frisk practices that lead to racial profiling and disproportionately impact people of color, particularly Black and Latino males. The SFPD's new body-worn camera policy may help reduce the perception of bias, but the policy is unlikely to be a panacea. While interviewees generally agreed that body-worn cameras will be beneficial for the SFPD and the public, a number of issues in SFPD's draft body-worn camera policy warrant additional consideration.

5 SF Police General Orders, San Francisco Police Dep't, (May 26, 2016, 12:47 PM), <http://sanfranciscopolice.org/sf-police-general-orders>.

6 The term "Hispanic" is used by the Panel here in accordance with the SFPD's data collection category. For purposes of the Panel's report, "Latino" and "Hispanic" are interchangeable.



The SFPD's stop, search, and arrest data have a number of limitations. The department's data collection efforts suffer from low rates of compliance among officers, and the SFPD has failed to accurately report the number of Hispanic arrestees to the California Department of Justice, classifying them instead as "White" arrestees.

### **Key Recommendations**

1. The SFPD should engage in community policing and community outreach.
2. The SFPD should internally audit and regularly review its stop data and implement a system to monitor and facilitate officer and supervisor compliance with its data collection policy.
3. The SFPD should eliminate any unlawful stop-and-frisk practices and should collect the data necessary to determine whether such practices are occurring in violation of SFPD policy.

## **Personnel**

### **Key Findings**

Available data indicate that from 2013 through 2015 racial and gender diversity at the department remained stagnant. Although the department as a whole did not get more diverse over this time period, the percentage of officers of color receiving promotions did rise, and a disproportionately high percentage of female officers were promoted.

The Chief of Police has almost complete discretion over whom to hire from those who pass the preliminary stages of the recruitment process. The preliminary stage during which most candidates are filtered out is the background investigation, and the Background Investigation Unit—almost entirely staffed by retired SFPD officers—is inefficient and opaque. This lack of transparency—in addition to the Chief's almost complete discretion—carries a high risk of favoritism and nepotism, despite the SFPD's explicit policies prohibiting these unfair hiring practices.

The selection of candidates for promotion rests almost entirely with the Chief as well. Although the Chief chooses from a list of eligible officers—the order of which is determined by an examination—the Chief has total discretion among the eligible officers. Per the Police Officers' Association's (POA's) memorandum of understanding (MOU) with the City, the Chief cannot view disciplinary information older than five years when making promotion decisions.

### **Key Recommendations**

1. The SFPD should rededicate itself to recruiting and hiring more officers of color, especially from San Francisco.
2. The Police Commission should create and implement transparent hiring and promotions processes and criteria, including a requirement that every candidate's disciplinary history and secondary criteria be considered.
3. The SFPD should increase transparency in the selection of background investigators and mandate regular implicit-bias training for background investigators.
4. The SFPD should institute a high-level hiring committee to sign-off on the Chief of Police's final hiring decisions, including deviations from the standard hiring and training process.

## Use of Force

### Key Findings

The SFPD's use-of-force policy—last updated in 1995—is outdated, unclear, and does not reflect best practices for modern police departments. Current efforts to update the policy are necessary and long overdue.

The SFPD keeps track of use-of-force incidents on paper logs, which are sometimes incomplete. Until this year, the department did not track demographic data about individuals subject to use of force. These data practices did not allow the Panel to comprehensively analyze whether people of color are disproportionately the subject of SFPD use of force in general, although available data indicate that they are more frequently the victims of officer-involved shootings.

Although the DA investigates all officer-involved shootings alongside the SFPD, the department does not always effectively notify the DA within an hour of the event. The SFPD Homicide Unit acts as the lead agency in all officer-involved shooting investigations, with the DA and other agencies including the San Francisco Office of Citizen Complaints (OCC) playing a secondary role. This gives the SFPD the ability to control the scene and ask questions of officers involved before outside agencies can.

### Key Recommendations

1. The SFPD should regularly update, review, and revise its use-of-force policies. The next revised policy should clearly and concisely state its guiding principles; include a focus on de-escalation; eliminate reference to an “escalating scale”; limit the use of the carotid restraint; and articulate all permissible types of chemical agents, impact weapons, and extended-range impact weapons.
2. The SFPD should expand the types of information that it collects and reports for each reportable use of force—including demographic information about each subject—and collect reports in an electronic format.

## Internal Discipline

### Key Findings

The SFPD's internal discipline process is opaque. Little public written material is available that explains how the discipline process works or the criteria that the Chief uses to impose discipline. The only disciplinary guidelines that exist were last updated in 1994, and witnesses reported they were generally not considered. The disciplinary process can be slow and is subject to strategic manipulation by officers seeking to delay the imposition of discipline.

The SFPD does not track or report on officer discipline in any robust manner. It does not publish any statistics on the number of cases its Internal Affairs Division investigates, the subject matter of those cases, or the percentage of cases that are sustained. It does not issue any anonymized factual summaries of the cases the Chief sustains. It is therefore impossible to assess whether the Chief—who has broad discretion to determine discipline—is exercising authority in a fair or consistent manner.

The SFPD's Early Intervention System, which is supposed to identify problematic performance behavior and trigger non-disciplinary intervention, is seldom used. Instances of intervention are low, and what constitutes an intervention is unclear. There is no published analysis of its efficacy.

## Key Recommendations

1. The SFPD should publish and adhere to updated disciplinary guidelines.
2. The SFPD should implement a single, department-wide system to track discipline and regularly report data to the public.
3. The SFPD should document and audit its internal discipline process.
4. Early Intervention System alerts should be reviewed by captains or command staff.

## External Oversight

### Key Findings

Currently, no City agency regularly audits the SFPD. The San Francisco City Charter vests responsibility for overseeing the SFPD principally in the Police Commission, which is composed of unsalaried civilians who view their role as adjudicating officer discipline cases and making policy. Neither the OCC, which investigates citizen complaints against officers, nor the City Controller's Office, which has authority to audit all city departments and services, performs regular audits. There is no agency analyzing the effectiveness of the SFPD's policies and procedures, or even whether police officers are complying with them. The lack of an audit function makes San Francisco very much an outlier among large departments and major cities.

Policymaking at the Police Commission tends to be reactive—the Police Commission has no full-time policy analyst—and the POA is able to exert outsized influence in the policymaking process on account of its MOU with the City. The OCC has one staff member who works on policy part-time. The SFPD has no full-time staff dedicated to policymaking and analysis; in the department's stead, the OCC has taken the lead on policy implementation and follow-up, limiting the department to incremental improvements.

Discipline imposed by the Chief for complaints sustained by the OCC is almost always mild. Over the past six years, sustained complaints predominantly have resulted in the Chief imposing admonishments, which are not considered formal discipline. Neither the Chief nor the Director of the OCC sent a sustained complaint to the Police Commission—the only body that can impose discipline of a suspension greater than 10 days through termination—between the end of 2012 and the end of 2015. And the OCC has not sustained a complaint of biased policing since it began reporting it in 2012. These realities, combined with the lack of detailed information available to the public about the investigation of complaints or the imposition of discipline, contribute to a public perception that the OCC and Police Commission are not effective oversight bodies.

### Key Recommendations

1. An Office of Inspector General should be created that should regularly audit the SFPD and OCC for operational effectiveness and compliance with policy.
2. The investigative and policy capabilities of the OCC should be enhanced.
3. The Police Commission should have a dedicated policy analyst and access to a statistician.
4. Police oversight should be as transparent as the law allows.

## **Brady Policies and Practices**

### **Key Findings**

The landmark U.S. Supreme Court case *Brady v. Maryland* required the prosecution in a criminal case to disclose all exculpatory evidence to the accused, including evidence of witness bias. The SFPD and DA have written policies to comply with *Brady*. The SFPD's *Brady* Unit and *Brady* Committee maintain open and positive communication with the DA's Trial Integrity Unit.

The policies of both the SFPD and the DA could be improved. Neither agency's policy contains established deadlines for disclosure of *Brady* material. Further, the SFPD's sole written policy only addresses the existence of *Brady* material within an officer's personnel file, and does not impose any mandatory reporting requirements on officers or employees who discover *Brady* material. Finally, the SFPD's *Brady* Committee meets, at most, quarterly, which may be insufficient to guarantee timely *Brady* compliance.

### **Key Recommendations**

1. Police officers, employees, the SFPD Internal Affairs Division, the DA, and the OCC should reform and coordinate their reporting and disclosure processes to ensure timely communication of potentially exculpatory evidence to criminal defendants.
2. The SFPD should implement a *Brady* policy addressing *Brady* material located *outside* peace officer personnel files.

## **Culture**

### **Key Findings**

Witnesses unanimously agreed that individual biases exist with the SFPD. A segment of officers—primarily furnished by the POA, the politically powerful and well-funded union that represents most SFPD sworn officers—claimed there is no systemic or institutionalized bias within the department. These officers pointed to the diversity of the department and the grants that the POA makes to community groups as indications that bias is not institutionalized, although most conceded that they had seen occasional acts of individual bias.

Another segment of officers relayed their belief that bias in the SFPD is institutionalized and widespread. They recounted numerous instances of unfair treatment that they either experienced or observed that led them to believe that officers of color and women were not seen or treated as equal in the department. They perceived that women, officers of color, and LGBT officers were treated differently in the hiring and disciplinary processes and were not considered members of the dominant culture.

The POA was seen by some witnesses as an impediment to reform. Some stated that the line between it and the SFPD was often blurred. Some witnesses reported that they were reluctant to engage with the Panel out of fear of retaliation, especially after the POA's public denunciation of Sergeant Yulanda Williams's testimony to the Panel.

### **Key Recommendations**

1. The SFPD should demonstrate proactive leadership to eliminate bias in the department and distinguish itself from the POA.
2. The SFPD should make the "Not On My Watch" pledge mandatory and enforce the pledge.
3. The Police Commission should engage an outside entity to examine the SFPD's hiring statistics in order to better understand the extent to which nepotism, favoritism, and the "good old boys' club" affect hiring and promotions within the department.

## **Crime Data**

### **Key Findings**

The SFPD's public reporting of crime data has become less robust, frequent, and detailed over the past five years. The department's data collection practices and data quality have been criticized in the past, and the extent to which they have improved is unclear. The Compstat process focuses on crime statistics, but not the use of statistics to hold departmental management accountable.

### **Key Recommendations**

1. The SFPD should take steps to ensure the accuracy of its crime data and its data practices and quality should be regularly audited.
2. The SFPD should take steps to improve its Compstat process.
3. The SFPD should make crime data regularly available to the public.

# List of All Findings and Recommendations

## **Stops, Searches, and Arrests**

1. The San Francisco Police Department's (SFPD's) stated policies prohibiting biased policing are in line with best practices.
2. Available statistics indicate racial disparities in SFPD stops, searches, and arrests.
3. Community members and others have experienced bias in SFPD stops, searches, and arrests of people of color.
4. Community members have expressed concern that the SFPD does not engage in community policing.
5. The SFPD may use confrontational and intrusive policing tactics in certain neighborhoods.
6. The SFPD's current traffic stop data collection program is outdated and inconsistent.
7. A recently passed city ordinance requires data collection for all encounters and regular analysis and reporting of data.
8. The SFPD has not consistently collected traffic stop data.
9. The requirements of the SFPD's current traffic stop data collection program are unclear.
10. The SFPD has not regularly analyzed its stop data.
11. The SFPD has failed to report the number of Hispanic arrestees to the California Department of Justice.
12. The department's 849(b) release forms do not include demographic information and are kept only in hard copy.
13. Field interview cards include demographic information and are maintained electronically.
14. Body-worn cameras are predicted to reduce the number of citizen complaints and use-of-force incidents.
15. Body-worn camera footage will be used as evidence in legal and administrative proceedings.
16. SFPD and Police Officers' Association (POA) members were disproportionately represented on the body-worn camera policy working group.
17. Members of the body-worn camera policy working group disagreed over the issue of officer review of footage.
18. The Risk Management Office will monitor compliance with the body-worn camera policy.
19. There is anecdotal evidence that some members of the SFPD engage in stop-and-frisk detentions, contrary to official SFPD policy.

## **Personnel**

20. The SFPD prioritizes recruitment outreach to young people and aims to provide them with a positive experience of the department.
21. The Chief of Police, as the appointing authority, makes the final decision about who will be invited to attend the Police Academy.
22. The SFPD's Background Investigation Unit conducts extensive investigations, but its operations are fairly opaque and inefficient.
23. While the SFPD has an explicit policy against nepotism and favoritism, and the department has instituted some practices to guard against nepotism, more can be done to curb actual or perceived nepotism in hiring.

24. The absence of rules governing the selection of promotional candidates and the discretion held by the Chief, along with the lack of programs offering support to those seeking promotions, raises the likelihood of bias or favoritism in promotion decisions.
25. Available data indicate that racial and gender diversity at the SFPD has been stagnant over the past three years, during a time when the department greatly increased its hiring.
26. The percentage of officers of color receiving promotions is rising, and an outsized percentage of women are being promoted.

### **Use of Force and Officer-Involved-Shootings**

27. The SFPD's use-of-force policies are contrary to best practices and should be revised.
28. The SFPD did not provide sufficient information to evaluate its use-of-force training.
29. The SFPD does not collect data sufficient to evaluate whether people of color are disproportionately the subject of police use of force.
30. The SFPD's implementation of a body-worn camera policy is a positive development, but the final adopted policy reduces accountability benefits.
31. Officer involved shooting investigations conducted by the District Attorney's Office suffer from a lack of independence and an outdated notification system.

### **Internal Discipline**

32. The SFPD's internal discipline process is opaque.
33. It is unclear whether the Chief's disciplinary authority is appropriate.
34. The SFPD does not track or evaluate discipline data in a robust manner.
35. The process from the filing of a complaint to resolution is too slow and can be subject to strategic manipulation.
36. Protections for whistleblowers do not appear to be an area of emphasis.
37. Internal Affairs Division positions have traditionally been viewed as a relatively low-status position within SFPD, although there is some evidence that is changing.
38. SFPD leadership sets a highly influential tone regarding discipline and accountability.
39. The POA plays a role in the SFPD's disciplinary process.
40. The SFPD rarely intervenes when Early Intervention System warnings are triggered.

### **External Oversight**

41. San Francisco's police oversight structure is unique and, in some respects, effective.
42. No entity regularly audits SFPD operational effectiveness, high-risk activities, or compliance with policies.
43. In the wake of the texting scandal, no oversight body has undertaken any formal investigation or audit of the SFPD to determine whether there is systemic bias within the department.
44. Time and resource constraints hamper the Police Commission's ability to fulfill its many responsibilities.
45. Complaints made to the Office of Citizen Complaints (OCC) rarely result in disciplinary consequences, and when they do, the discipline imposed is almost always mild.
46. The OCC has failed to meet its own goals for completing timely investigations and suffers from a lack of resources.

47. The Police Commission is currently managing its docket of disciplinary cases and imposing serious discipline, but the lack of available information makes it difficult to evaluate whether the Commission is acting consistently and appropriately in all instances.
48. State law imposes significant restrictions on the transparency of officer discipline.
49. San Francisco is not as transparent about officer discipline as existing confidentiality laws permit, or as its own rules require.
50. Lack of transparency surrounding officer discipline makes it difficult to determine whether disciplinary outcomes are fair and appropriate.
51. Community members report that the lack of information about the outcomes of OCC complaints and officer disciplinary proceedings generates mistrust of the OCC and the SFPD, and a perception that the disciplinary process is ineffective.
52. The current Police Commission has adopted a collaborative and inclusive process for making and revising policy, but the inclusiveness of the policymaking process is limited by collective bargaining rules that give substantial power to the POA relative to other stakeholders.
53. Policy priority-setting at the Police Commission is reactive and the ongoing process of revising existing policies can be slow.
54. Resource and informational constraints limit OCC's ability to contribute to the policymaking process.

### **Brady Policies and Practices**

55. Both the District Attorney's (DA's) Office and SFPD have *Brady* policies and dedicated *Brady* units and committees.
56. The DA's Trial Integrity Unit and SFPD's *Brady* Unit maintain open and positive lines of communication.
57. Both the SFPD and the DA policies lack established deadlines for *Brady* disclosure.
58. SFPD Bureau Order 2010-01 fails to address the treatment and disclosure of *Brady* material outside personnel files.
59. SFPD Bureau Order 2010-01 does not impose mandatory reporting obligations upon officers and employees who discover *Brady* material.
60. There is no reporting chain between the Office of Citizen Complaints and the SFPD's *Brady* Unit or *Brady* Committee.
61. The SFPD *Brady* Committee holds quarterly meetings, which may be insufficient to guarantee timely *Brady* compliance.
62. SFPD officers do not receive regular, quality *Brady* training.

### **Culture**

63. While witnesses unanimously agreed that individual bias exists, a segment of SFPD officers claim there is no systemic or institutionalized bias within the department.
64. Several SFPD officers and other witnesses believe that systemic and institutionalized bias is widespread in the department.
65. Officers were reluctant to engage with the Panel for fear of retaliation from the POA and/or SFPD.
66. The SFPD blurs the line between it and the POA, and allows the POA to take on an outsized role inside and outside the department, making it more difficult to address the issue of bias within the department.
67. The POA has historically taken positions resistant to reform and insisted that there is no widespread or inherent bias in the department. Because the department has consistently ceded the ground of discourse to the POA, theirs is the dominant law enforcement voice heard on this issue.



68. Several witnesses stated that the SFPD and POA functioned like a “good old boys’ club,” making it difficult to impose discipline.
69. Witnesses perceive that a code of silence and lack of transparency creates a failure of accountability in addressing bias within the SFPD.

### **Crime Data**

70. The SFPD’s data collection practices and data quality have been criticized in the past, and the extent to which they have improved is unclear.
71. The Compstat process focuses on crime statistics, but not accountability.
72. The SFPD’s public reporting of crime data has become less robust, frequent, and detailed over the past five years.

## **Recommendations**

### **General**

1. The Police Commission should review department general orders on a regular basis.
2. The SFPD should cease the use of departmental bulletins to modify policies.
3. The SFPD should make all departmental bulletins publicly available online.

### **Stops, Searches, and Arrests**

4. SFPD should engage in community policing and community outreach.
5. The SFPD should improve initial and follow-up training on implicit bias, procedural justice, and racial profiling.
6. The SFPD should incorporate procedural justice language into its department general orders and department bulletins.
7. The SFPD should issue a department bulletin addressing searches of transgender individuals.
8. The SFPD should update its current data collection policy to clearly define when data collection is required.
9. The SFPD’s policies implementing the recent data collection ordinance should clearly define when data collection is required.
10. The SFPD should implement a system to monitor and facilitate officer and supervisor compliance with its data collection policy.
11. The SFPD should make its stop data publicly available on a monthly basis.
12. The city should engage outside researchers or consultants to analyze stop data.
13. The SFPD should internally audit and regularly review its stop data for internal benchmarking.
14. The SFPD should require demographic information on 849(b) forms, analyze the data from 849(b) forms and field interview cards, and issue a certificate of detention to anyone detained and released in accordance with 849(c).
15. The body-worn camera policy should prevent officer review of footage following any reportable use-of-force incident.
16. The SFPD should establish specific criteria for the release of body-worn camera footage to the public.
17. The SFPD should use body-worn camera recordings for internal and external accountability purposes.

18. The SFPD should collect data regarding body-worn camera usage to monitor compliance and should establish a clear policy that body-worn camera violations may be grounds for discipline.
19. After the body-worn camera policy is implemented, it should be actively reviewed every six months and revised if necessary.
20. The body-worn camera training materials should provide more specificity regarding usage.
21. The SFPD should develop and implement a training program for body-worn camera use.
22. The SFPD should eliminate any unlawful stop-and-frisk practices and should collect the data necessary to determine whether such practices are occurring in violation of SFPD policy.

### **Personnel**

23. The SFPD should rededicate itself to recruiting and hiring more officers of color, especially from San Francisco.
24. The SFPD should continue and expand its efforts to build relationships with young people in the community.
25. The SFPD should increase transparency in the selection of background investigators.
26. The SFPD should mandate regular implicit-bias training for background investigators.
27. Background investigators should sign a standardized form stating that there is no prior relationship with the applicant for each assigned case.
28. The SFPD should institute a high-level hiring committee to sign off on the Chief of Police's final hiring decisions, including deviations from the standard hiring and training process.
29. The Police Commission should create and implement transparent hiring and promotions processes and criteria, including a requirement that every candidate's disciplinary history and secondary criteria be considered.

### **Use of Force and Officer-Involved Shootings**

30. The SFPD should regularly update, review, and revise its use-of-force policies.
31. The SFPD's use-of-force policy should clearly and concisely state guiding principles and expectations.
32. The SFPD should limit the circumstances where the carotid restraint is an acceptable use-of-force technique and delineate those circumstances in the written policies.
33. The SFPD should eliminate its "escalating scale" of permissible uses of force in its use-of-force policy and include a focus on "de-escalation."
34. The SFPD should articulate all permissible types of chemical agents, impact weapons, and extended-range impact weapons in its use-of-force policy.
35. SFPD supervisors should be required to evaluate the reasonableness of force after all use-of-force incidents.
36. The SFPD's use-of-force policy should include a provision emphasizing the SFPD's duty to conduct fair and unbiased policing.
37. The SFPD should adopt the "guardian" mentality in its use-of-force training.
38. The SFPD should expand its training on de-escalation and proportionality.
39. The SFPD should expand implicit-bias training, including use-of-force scenario training and community involvement.
40. The SFPD should expand the definition of what constitutes a reportable use of force.
41. For reportable uses of force, the SFPD should expand the types of information that it collects and reports for each instance, including demographic information about each subject.

42. The SFPD should clarify who is responsible for reporting use-of-force information.
43. The SFPD should collect use-of-force reports in an electronic format.
44. The SFPD should evaluate how body-worn camera footage can improve scenario-based training.

### **Internal Discipline**

45. The SFPD should publish and adhere to updated disciplinary guidelines.
46. The SFPD should implement a single, department-wide system to track discipline and regularly report data to the public.
47. The SFPD should document and audit its internal discipline process.
48. Early Intervention System alerts should be reviewed by captains or command staff.
49. SFPD leadership should implement a culture of respect for the Internal Affairs Division.
50. The SFPD should highlight the City's existing whistleblower protections and apply them to people who report all types of SFPD policy violations.
51. The SFPD should implement a strong policy of disciplining any cover-ups of misconduct.
52. The SFPD should employ careful review of prior complaints against the same officer.
53. The SFPD should implement civilian direction/management of the Internal Affairs Division.

### **External Oversight**

54. An Office of Inspector General should be created that should regularly audit the SFPD and OCC for operational effectiveness and compliance with policy.
55. The investigative and policy capabilities of the OCC should be enhanced.
56. The Police Commission should have a dedicated policy analyst and access to a statistician.
57. The Police Commission should develop clear guidelines allowing the use of body-worn camera footage in disciplinary proceedings.
58. Police oversight should be as transparent as the law allows.

### **Brady Policies and Practices**

59. Police officers, employees, the SFPD Internal Affairs Department, and the OCC should be required to provide potential *Brady* material to the SFPD *Brady* Unit within 14 days of discovery.
60. The SFPD should require that its *Brady* Unit review reports of misconduct for *Brady* material within seven days of receipt, and make a preliminary disclosure of potential *Brady* "pending" investigations to the DA Trial Integrity Unit within three days of this determination.
61. The SFPD should require its *Brady* Committee to, absent extraordinary circumstances, complete its review of misconduct and issue recommendations within 45 days of receipt.
62. The DA should update its formal policies to incorporate firm, mandatory *Brady* disclosure deadlines.
63. The SFPD should implement a *Brady* policy addressing *Brady* material located outside peace officer personnel files.
64. The DA and SFPD should track and review *Brady* data and prepare an annual report to the public on *Brady* findings—sustained and unfounded—in order to understand the magnitude of any problem, identify potential problem stations, and better inform training.
65. The SFPD should train and encourage police officers to consult with legal counsel on questions of *Brady* application and compliance.

66. The DA should provide annual interagency *Brady* training tailored to both DA attorneys and SFPD police officers and employees.
67. The SFPD and DA should coordinate and adopt a uniform *Brady* policy and protocol to assure joint, timely, and seamless interagency communication and compliance.
68. The DA should require prosecutors to make a record of written requests to testifying police officers to report any *Brady* information and retain police officer responses.
69. The SFPD should work with the Office of Citizen Complaints to send its sustained findings of misconduct to the SFPD *Brady* Unit and/or *Brady* Committee for review.
70. The San Francisco City Attorney should report civil cases against peace officers to the DA's Trial Integrity Unit.
71. The DA should consider adopting an open file discovery policy.

### **Culture**

72. The SFPD should demonstrate proactive leadership to eliminate bias in the department.
73. The SFPD should make the "Not On My Watch" pledge mandatory and enforce the pledge.
74. The Police Commission should review current implicit-bias training within the SFPD and recommend additional or different training where appropriate.
75. The Police Commission should engage an outside entity to further investigate the presence of bias within the SFPD.
76. The Police Commission should require the Chief of Police to regularly meet with all affinity groups in an effort to enhance communication and access to information.
77. The SFPD should form a community networking group to meet with the POA and the Police Employee Groups.
78. The Police Commission should engage an outside entity to examine the SFPD's hiring statistics in order to better understand the extent to which nepotism, favoritism, and the "good old boys' club" affect hiring and promotions within the department.

### **Crime Data**

79. The SFPD should take steps to ensure the accuracy of its crime data and its data practices and quality should be regularly audited.
80. The SFPD should take steps to improve its Compstat process.
81. The SFPD should make crime data regularly available to the public.