

ANNUAL REPORT 2017



DPA

San Francisco Department of Police Accountability

SAN FRANCISCO
DEPARTMENT OF
POLICE
ACCOUNTABILITY
(DPA)

Issued by Paul D. Henderson, Executive Director
June 2018



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HISTORY AND MISSION

The DPA, formerly the Office of Citizen Complaints (OCC), has a thirty-five year legacy of strong community support for its mission to provide civilian oversight of the San Francisco Police Department (SFPD). It was first established by San Francisco voters through the Board of Supervisor's ballot initiative in 1982.

The DPA is overseen by the San Francisco Police Commission ("Police Commission"). The Police Commission also serves as a civilian oversight body for the San Francisco Police Department. At its inception, the DPA's charter-mandated duties included investigating complaints of misconduct and neglect of duty by San Francisco Police Department officers and making policy recommendations on a quarterly basis to enhance police-community relations while ensuring public safety.

The DPA's charter mandated authority also includes the requirement that City departments, officers and employees cooperate with the DPA's investigations by promptly producing all records requested by the DPA except records the disclosure of which to the DPA are prohibited by law.

In 1995, through a voter initiative (Proposition G), the appointment of the then-OCC director was changed from a Commission appointment to a process where the Police Commission nominated the agency's director with an appointment by the mayor and confirmation by the Board of Supervisors. It also required that for every 150 officers the OCC employ one investigator.

In 2003, another ballot initiative (Proposition H) enhanced the oversight roles of both the Police Commission and the DPA. Proposition H increased the number of Police Commissioners from five to seven and divided appointment power for the Commission between the Mayor and the Police Commission. It also authorized the DPA to file charges with the Commission, after conferring with the Chief, in cases where the Chief disagreed with the DPA's recommendation of charges.

In 2016 the DPA's civilian oversight authority and responsibilities were once again expanded.

Previously, under the City Charter, the DPA's authority to investigate an officer-involved shooting was contingent upon someone filing a complaint about the incident. In June 2016, over 80% of San Francisco voters passed Proposition D that mandated the DPA to investigate all officer involved shootings. In November 2016, over 80% of San Francisco voters passed Proposition G, which further expanded the DPA's oversight of the Police Department to include the authority to conduct audits of the Police Department.

The Board of Supervisors who unanimously voted to place the initiative on the ballot, described Proposition G as "transforming the OCC, a complaint driven office, into the Department of Police Accountability, a proactive department with stronger and independent oversight authority." The Board of Supervisors explained that Proposition G increased oversight of the SFPD by:

1. Removing a conflict of interest by allowing the DPA to submit its budget directly to the Mayor without approval from SFPD.
2. Giving the DPA independent authority to perform regular and discretionary auditing of SFPD's use-of force, officer misconduct, policies and procedures.
3. Creating greater transparency by allowing the public to track claims of misconduct and complaints.

MISSION

To promptly, fairly, and impartially investigate complaints against the San Francisco Police Department, make policy recommendations regarding police practice, investigate all officer-involved shootings, and conduct periodic audits of the San Francisco Police Department.



MESSAGE FROM THE EXECUTIVE DIRECTOR

2017 has seen an increased call for oversight and accountability of law enforcement nationwide and here in San Francisco. As we step into the dawn of a new system of police accountability, I am pleased to present this annual report to showcase the work done by the DPA.

My vision is a model for other cities and states to follow, that defines San Francisco as a city where no community has to fear law enforcement, and where arrest and use of force by law enforcement agencies are a last resort. I want to make sure that there are no barriers to any person or group exercising their civic duties or their rights as they relate to law enforcement. The DPA has made long strides of progress towards this vision with key internal reforms, continued work with the COPS Collaborative Reform Process, and the reshaping of both our policy and auditing functions.

The improvements made within the DPA are all aligned with our mission to investigate the complaints of police misconduct, while also respecting the rights of all parties involved.

To combat the potential backlogging of cases, the DPA has worked diligently to create process improvements to ensure the quality and timeliness of the DPA's investigations. The DPA's core products are policy recommendations, the preliminary intake investigation of a complaint, and completed administrative investigations for recommended findings.

"I want to make sure that there are no barriers to any person or group exercising their civic duties or their rights as they relate to law enforcement."

The DPA's success in 2017 has carried over into 2018. We continue our efforts to decrease the number of pending open cases, as well as the number of cases open past 270 days. As of June 13, 2018 there were 289 open cases and only 23 cases past 270 days, while at the same time last year, these categories reported 414 and 132 respectively. This is a result of a staff increase of approximately 10 percent. The DPA has also reduced the number of case-loads each investigator manages, which previously averaged around 34 open cases. The 2018 average stands at 16.

Overall, the DPA has experienced tremendous change over the past year, and I am honored to be a part of a system seeking to bring increased transparency to the San Francisco Police Accountability system.

Sincerely,



Paul David Henderson
Executive Director, DPA

"I am honored to be a part of a system seeking to bring increased transparency to the San Francisco Police Accountability system."

EXECUTIVE SUMMARY

Section 1: Complaint Activity, Mediation and Outreach

For most San Franciscans, contact with the DPA begins when they file a complaint alleging police misconduct. The DPA strives to build up the relationship between the San Francisco Police Department (SFPD) and the community. One way this relationship is enhanced is through mediation between officers and complainants.

The DPA's national award-winning mediation program provides officers and complainants a unique opportunity for dispute resolution in certain types of complaints. The mediation program creates a forum for officers and complainants to have a frank discussion regarding the complaint and serves as an educational experience for all participants.

In this section, the report discusses the DPA's mediation program, as well as the number of complaints received and their characteristics.

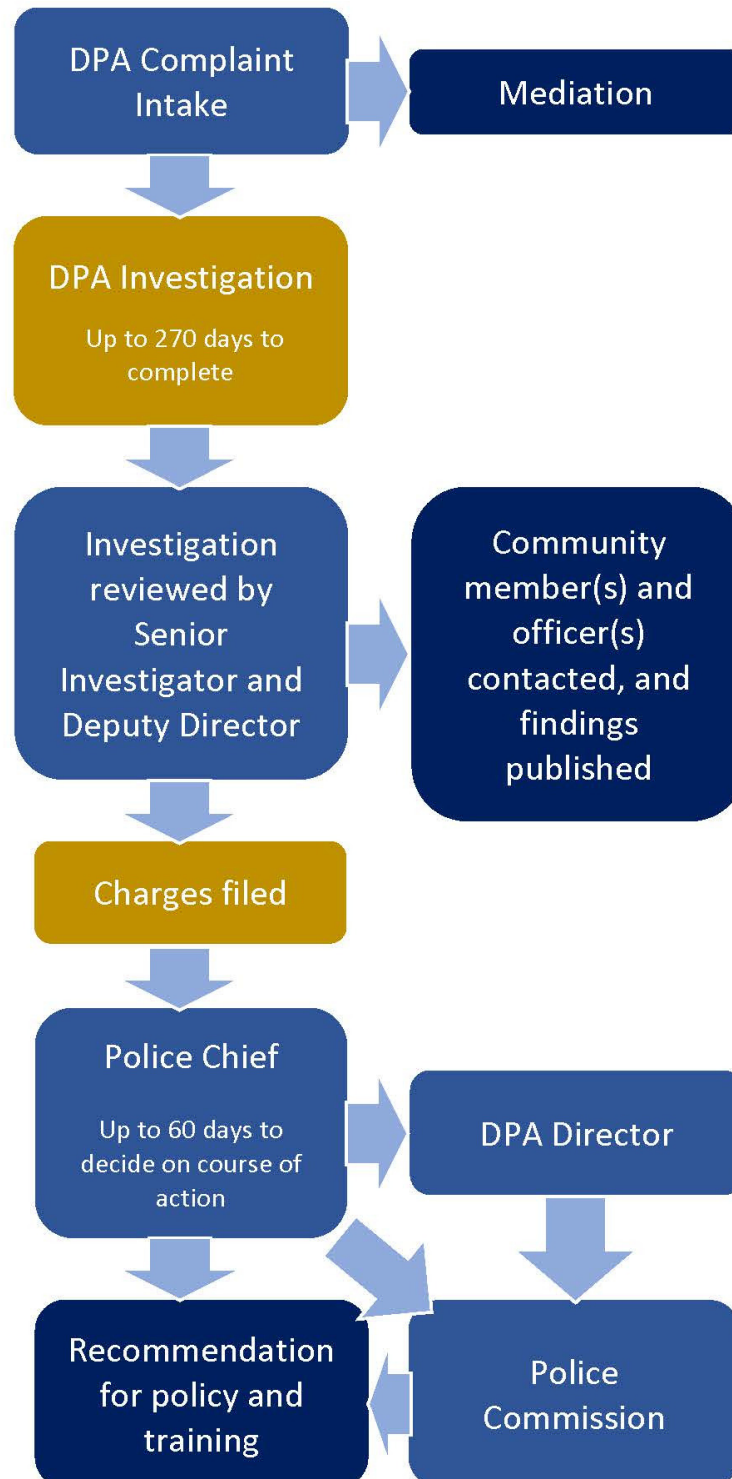
Section 2: Policy

Policy work is an essential aspect of the DPA mission. While discipline of individual officers is a component of law enforcement management, changes to police policies and practices directly impact the entire police force and the community it serves. This section of the report discusses the DPA's policy work.

COMPLAINT PROCESS AND ACTIVITY

For most San Franciscans, contact with the DPA begins when they file a complaint alleging police misconduct. Complaints are processed by the DPA in under 330 days after intake. If the case is mediated, the DPA uses a restorative justice model to bring the community member(s) and the officer(s) closer together. At the conclusion of cases that are investigated, the community member(s) and officer(s) are contacted. After contacting those involved, the Chief of Police can decide on a course of action.

In this section, the report discusses how the complaints are processed, the number of complaints received, and the complaint characteristics.



Definition of Findings and Allegations:

Sustained (S): The evidence provided proves that the complainant's allegations were factual and showed improper conduct based upon Department standards.

Not Sustained (NS): There was not enough evidence to prove or disprove the allegation made by the complainant.

Proper Conduct (PC): The evidence proved that the acts discussed in the complainant's allegations were factual, proper, and lawful.

Unfounded (U): The evidence proved that the acts alleged in the complaint didn't occur, or the officer named in the complaint wasn't involved in the acts.

Policy Failure (PF): The evidence proved that the act by the officer was justified based on Departmental policy or regulation, but the DPA recommends that policy be changed.

Supervision Failure (SF): The evidence proved that the action complained of, was a result of lack of supervision.

Training Failure (TF): The evidence proved that the action complained of was the result of improper training or a lack of training.

Information Only (IO): The evidence proved that the action complained of did not involve a sworn member of the Department.

No Finding (NF): The complainant failed to provide additional requested evidence, or the complainant requested a withdrawal of the complaint.

Mediated (M): The officer and the complainant agreed to mediate and resolved the complaint in a non-disciplinary manner.

Unnecessary Force (UF): Any use of force which exceeds the level of force reasonably needed to perform a necessary police action.

Unwarranted Action (UA): An act or action that wasn't necessary for the circumstance, or was considered to be illegitimate for police purpose.

Conduct Reflecting Discredit (CRD): An act or action which reflects badly on the Department and undermines public confidence.

Neglect of Duty (ND): Failure to take action when some action is required under the applicable laws and regulations.

Racial Slur (RS): Behavior or use of language meant to belittle or defame because of race or ethnicity.

Sexual Slur (SS): Behavior or use of language meant to belittle or defame because of sex or sexual orientation.

Discourtesy (D): Behavior or language commonly known to cause offense, including the use of profanity.

MEDIATION

The DPA's nationally award-winning mediation program provides officers and complainants a unique opportunity for dispute resolution in certain types of complaints. In 2017, the DPA mediated 24 cases, approximately five percent of the total number of complaints filed in 2017.

The mediation program creates a forum for officers and complainants to have a frank discussion regarding the complaint and serves as an educational experience for all participants. The program was established with the belief that officers will at times learn more, and ultimately perform their duties more effectively, by hearing directly from the complainant about perceived wrongdoing rather than from discipline imposed in other ways. It is equally true that complainants, who are often unaware of the requirements under which a police officer must operate, can learn about an officer's mandates during the mediation process. This opportunity is often sufficient to reconcile any misunderstanding between the complainant and the officer.

In addition to the non-confrontational opportunity for dispute resolution, the mediation program provides the following unique benefits which are unavailable under the investigative process:

Time Savings

Mediation allows cases to be processed expeditiously. In 2017, mediated cases were open an average of 143 days compared to all cases, which were open an average of 256 days.

Cost Savings

Cases are mediated by a current roster of over 180 volunteer mediators who conduct mediations without charge. Additionally, mediated cases relieve the investigators from additional casework.

Greater Satisfaction for Complainants and Officers

In the voluntary and anonymous exit survey given to complainants and officers, a vast majority of the participants were satisfied with the mediation program. This result has been consistent with the results in past years, and satisfaction continues to rise. In 2018, the DPA will continue to promote the mediation program and intends to increase the number of appropriate cases that can be resolved through dispute resolution.

OUTREACH

Since 2008, the DPA has followed its annual Community Outreach Strategic Plan which outlines its outreach goals in the areas of community presentations and partnerships, language access, training, website development, media relations, and program effectiveness and resources. By using a community-based approach that relies upon presentations, widely distributed written materials in multiple languages, and the DPA website, the DPA's Outreach Strategic Plan provided a roadmap for strengthening its relationships with communities which historically and statistically, were likely to have encounters with the police. The DPA's Community Outreach Strategic Plan also sought to reach communities that have been racially, culturally or linguistically isolated from police services. The DPA has successfully implemented this ambitious outreach strategy.

TIMELINESS OF INVESTIGATIONS

Section 3304 of the California Government Code dictates that all investigations of police misconduct be completed within one calendar year. The DPA has put into place mechanisms to track cases throughout the investigative process and to identify potentially sustainable cases early in the investigation. Proper case management, along with full investigative staffing, will ensure that all cases be fully investigated within the limits imposed.

To close as many or more cases than the number of new complaints filed annually, and to adequately address the agency's previous backlog, the DPA investigators are required to close four or more cases per month. The average target for 2017 was set at 684. The actual number of cases closed from January 1 through December 31, 2017 was 688, exceeding its target.

98%

cases completed within the one-year statute of limitations from January 1 through December 31, 2017.

25%

more cases were closed in 2017 than the previous year.

37%

cases completed within 180 days.

73%

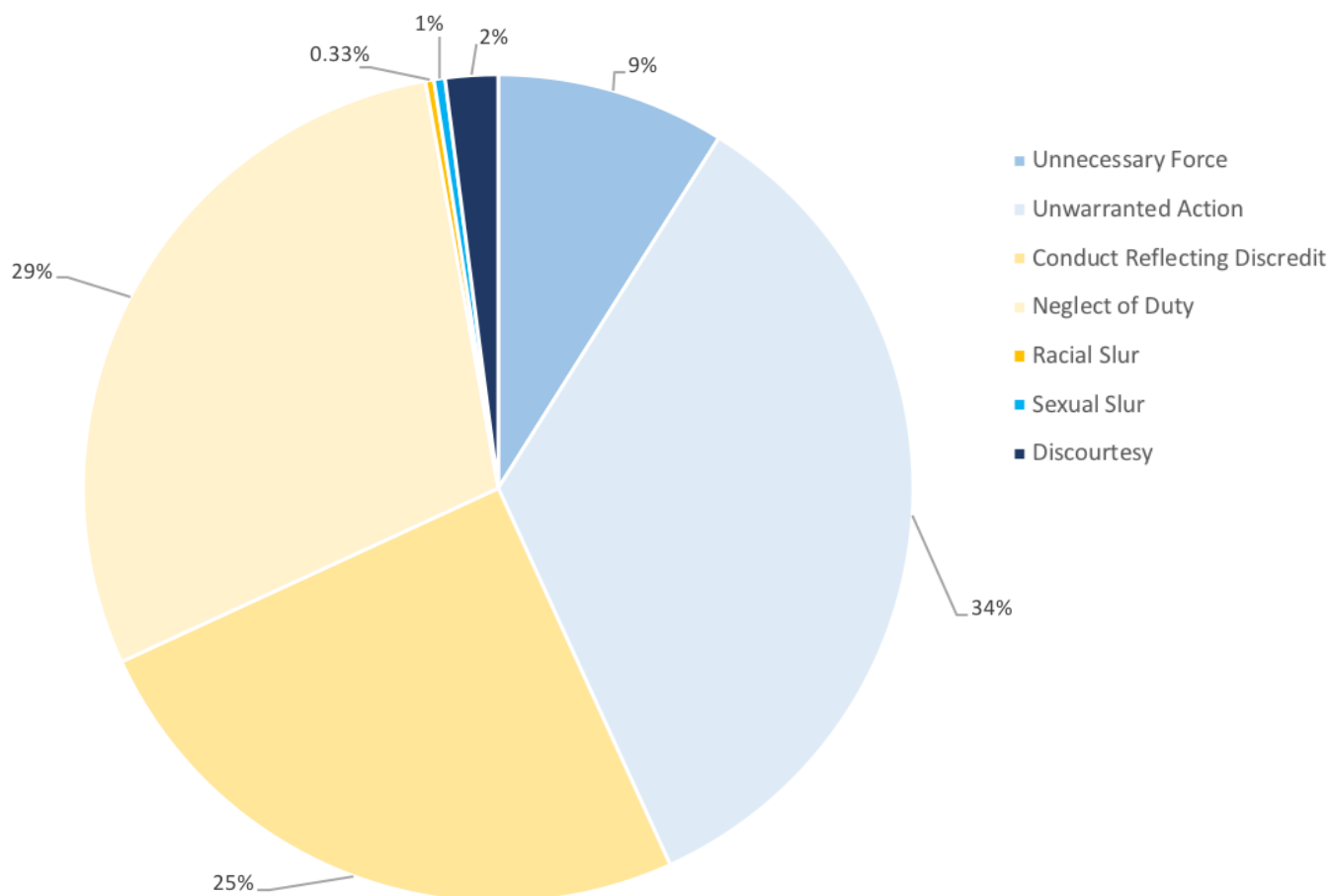
of cases opened in 2017 were closed in the same year.

256

average days to close a case.

MOST COMMON ALLEGATIONS

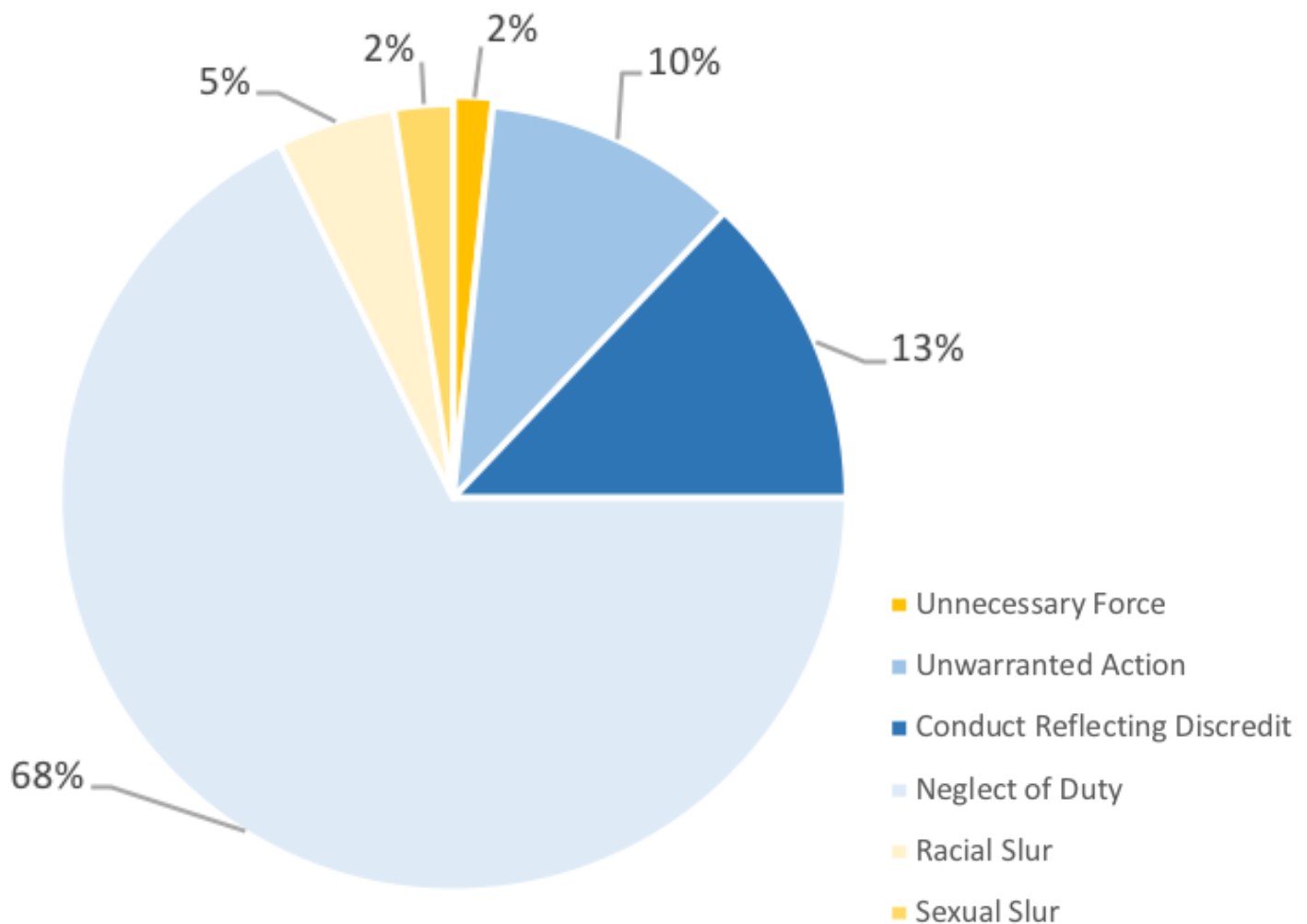
There were 2,095 allegations filed with the DPA in 2017. The percentages of each type of allegation, as well as the number of allegations per type can be found below. For definitions of allegations, see page 6.



SUSTAINED ALLEGATIONS BY TYPE

The sustained rate for 2017 was 9%, which is higher than the average sustained rate in California for civilian oversight agencies of 6.8%*, and the national average sustained rate for civilian oversight agencies of 8%**.

There is no target or projection because such a projection may give the impression that the agency's mission is to find misconduct where there is none.



92%

The percentage of sustained cases that resulted in corrective or disciplinary action.

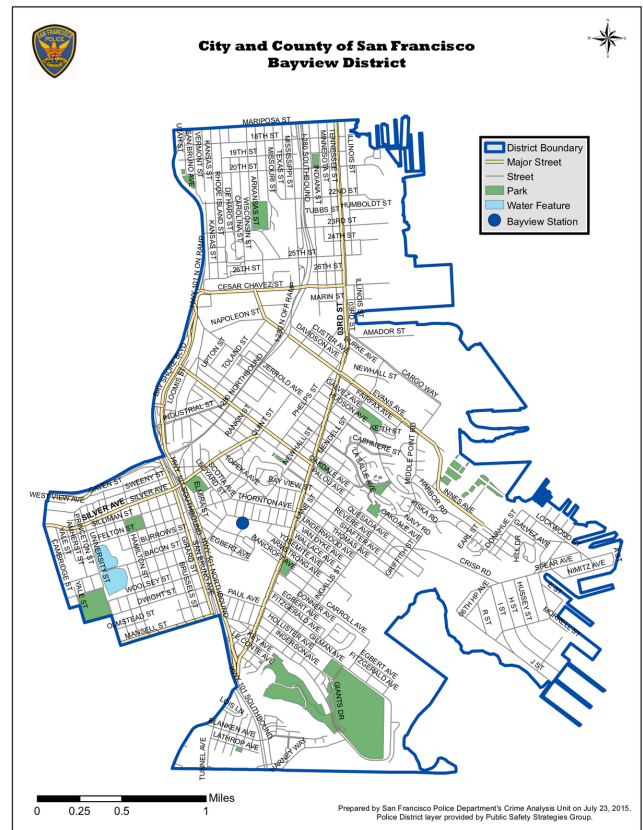
*Civilian Review Boards. The Cato Institute's National Police Misconduct Reporting Project. Retrieved July 2018 www.policemisconduct.net.

**Citizens Complaints Against Peace Officers (CCAPO). (2018, July). Retrieved July 2018 from Open Justice Data Portal <https://openjustice.doj.ca.gov/data>.

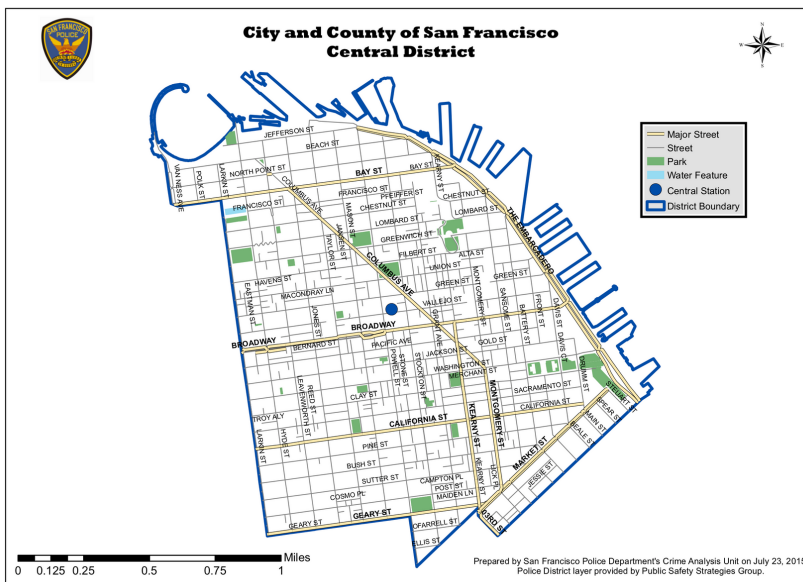
GEOGRAPHICAL BREAKDOWN

In 2017, a total of 601 complaints were filed, with the majority of the complaints featuring "Unwarranted Action" allegations. The 10 SFPD District Stations received a total of 304 complaints. The Tenderloin Task Force had the most complaints filed (53), followed by the Southern District (39).

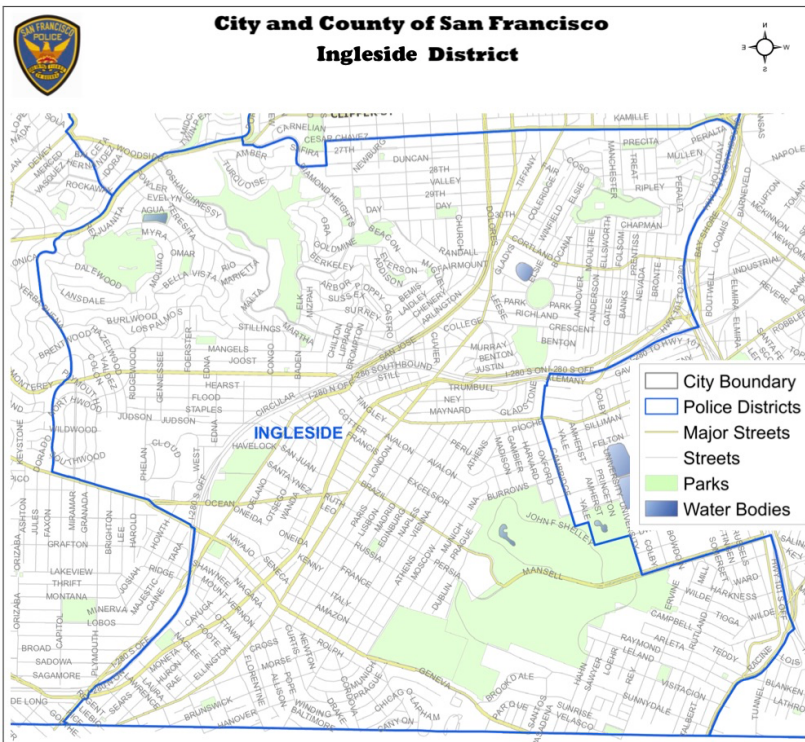
Out of the 601 total complaints filed in 2017, the SFPD received 287 complaints that weren't attached to a specific district. The majority of complaints filed for this subsection featured "Unwarranted Action" allegations.



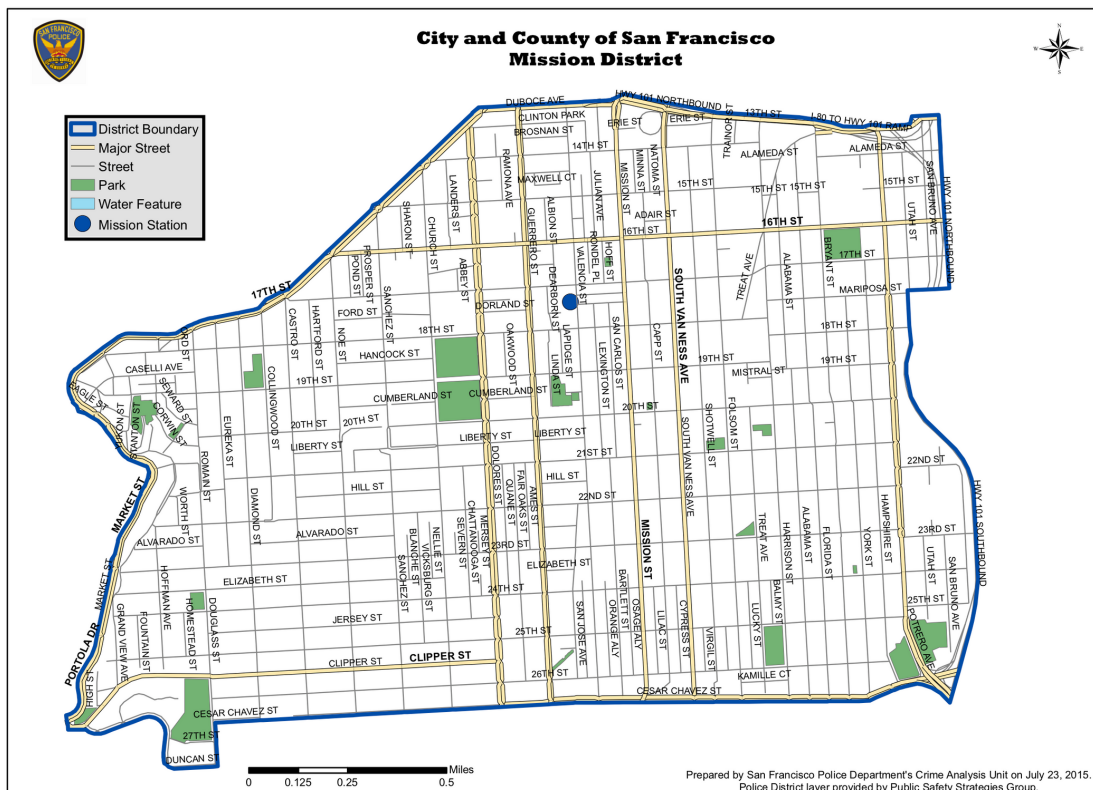
BAYVIEW DISTRICT STATION
30 Complaints
Most Common Allegation:
Unwarranted Action



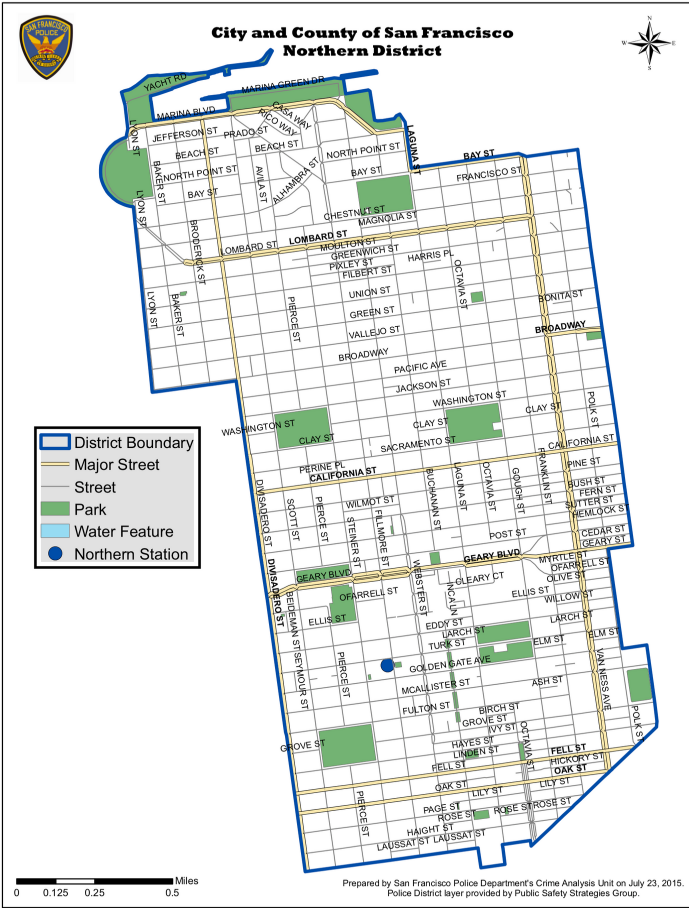
CENTRAL DISTRICT STATION
31 Complaints
Most Common Allegation:
Unwarranted Action



INGLESIDE DISTRICT STATION
27 Complaints
Most Common Allegation:
Unwarranted Action

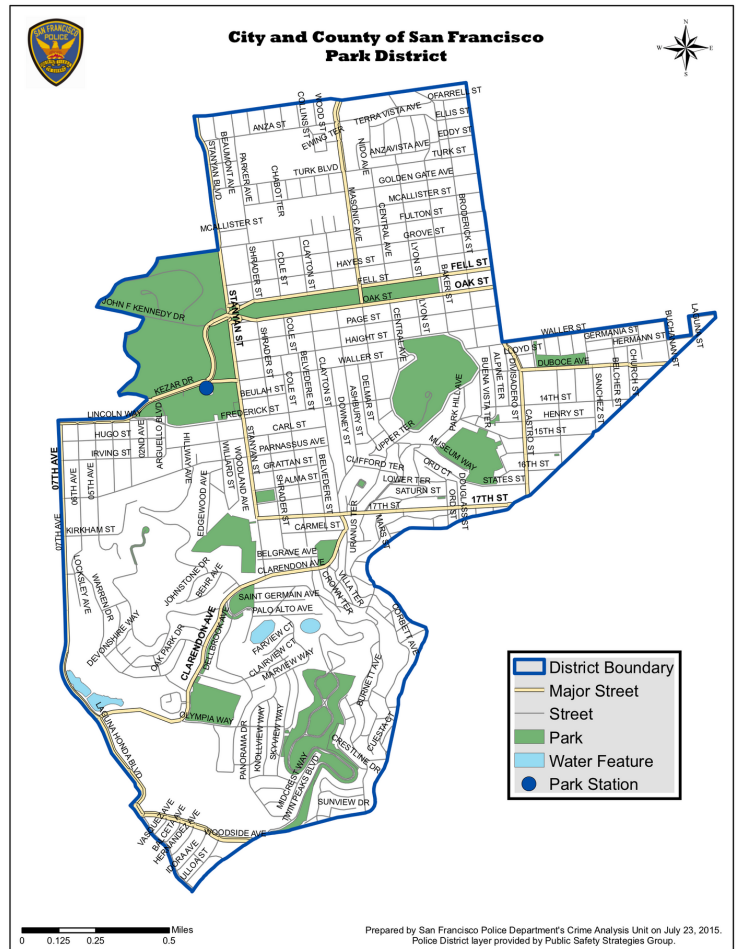


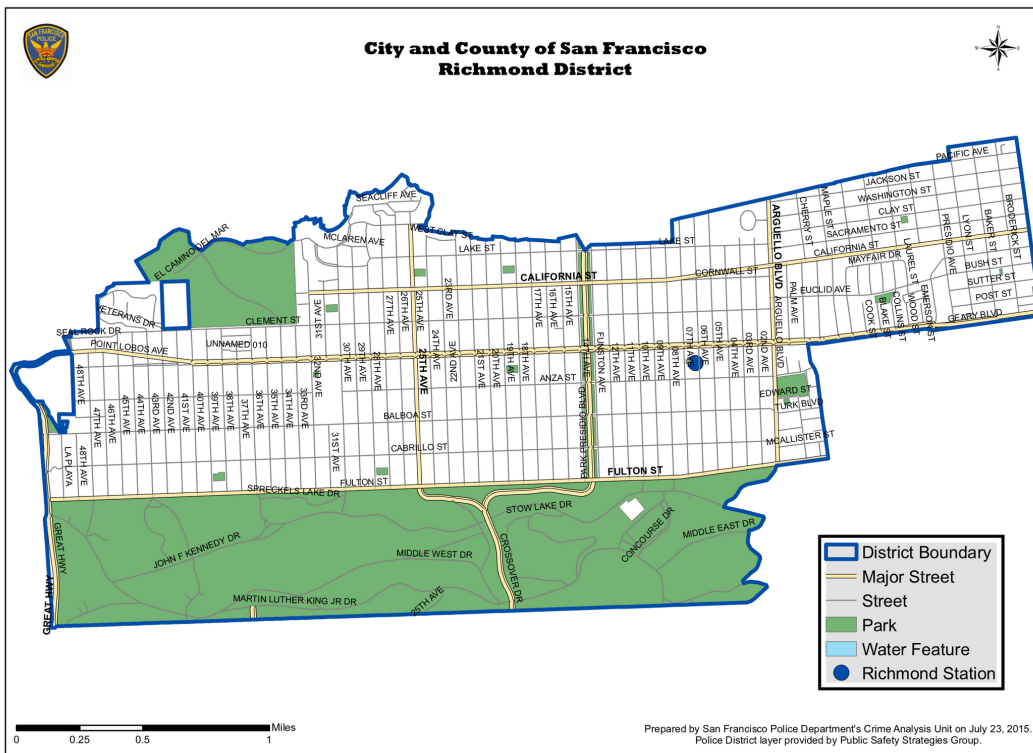
MISSION DISTRICT STATION
31 Complaints
Most Common Allegation:
Unwarranted Action



NORTHERN DISTRICT STATION
31 Complaints
Most Common Allegation:
Neglect of Duty

PARK DISTRICT STATION
22 Complaints
Most Common Allegation:
Unwarranted Action



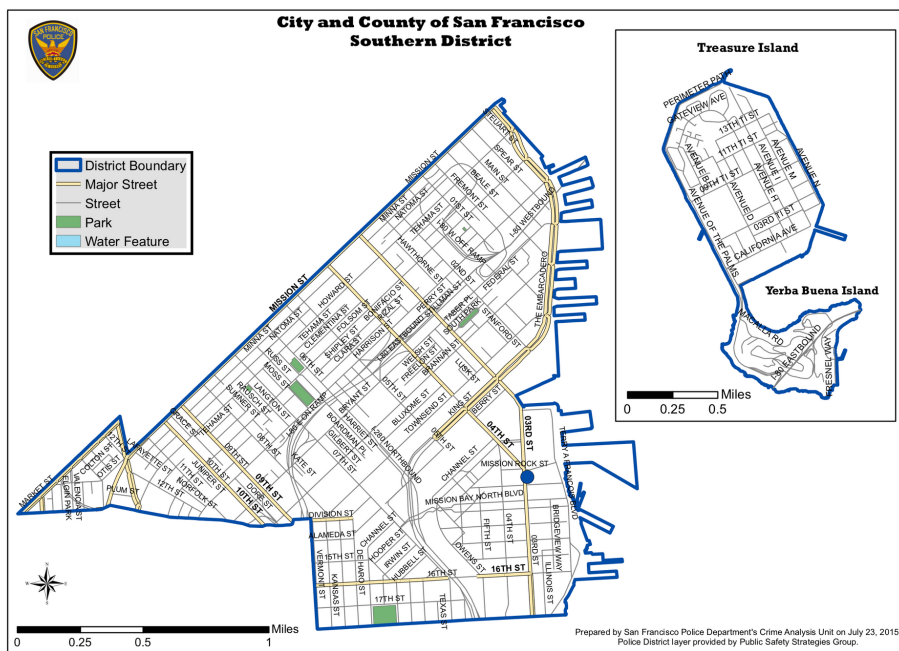


RICHMOND DISTRICT STATION

27 Complaints

Most Common Allegation:

Unwarranted Action and Conduct Reflecting Discredit

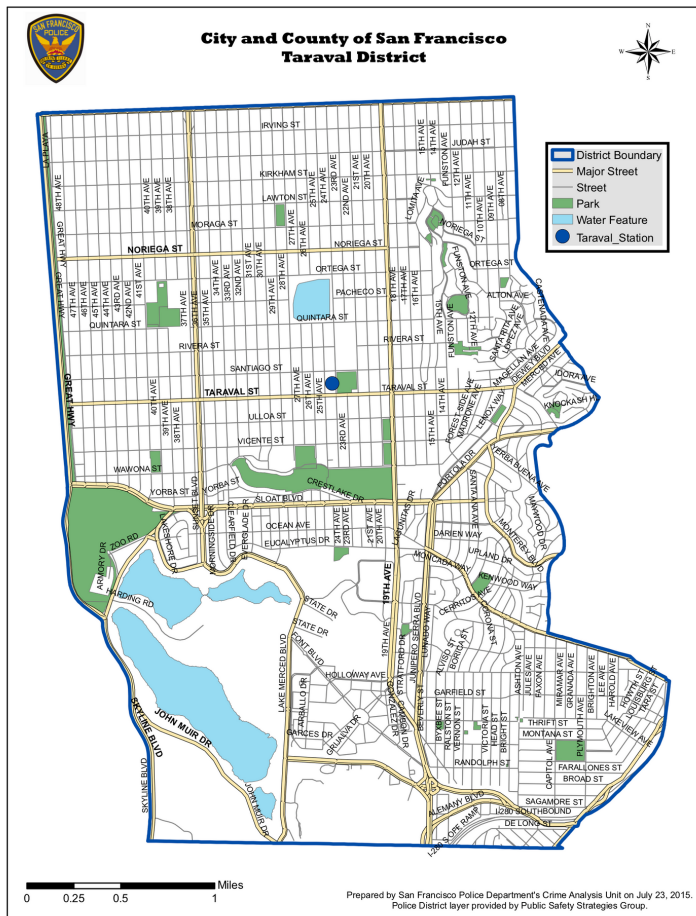


SOUTHERN DISTRICT STATION

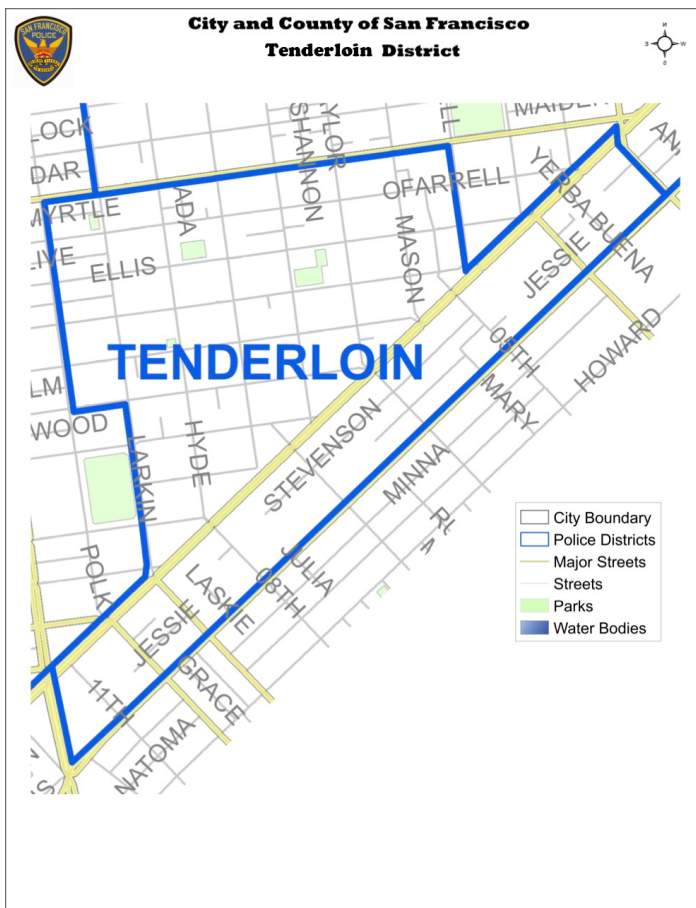
39 Complaints

Most Common Allegation:

Conduct Reflecting Discredit



TARAVAL DISTRICT STATION
13 Complaints
Most Common Allegation:
Neglect of Duty



TENDERLOIN TASK FORCE
53 Complaints
Most Common Allegation:
Unwarranted Action and Conduct
Reflecting Discredit

GENERAL COMPLAINT STATISTICS

Completed	2017
Investigation	688
Mediation	24

Intake Method	2017
In Person	152
Letter	11
Mail	60
Online	46
Other	14
Phone	179
SFPD	43

Complainant Gender	2017
Blank or Declined to State	79
Females	201
Males	237
Transgender Persons	5

Complainant Race/Ethnicity	2017
African-American	115
Asian-American	43
Blank or Declined to State	130
Caucasian/White	155
Latino/a/Hispanic	47
Native American/Pacific Islander	4
Other	28

Complainant Language	2017
English	484
Mandarin	6
Spanish	12
ASL	1
Cambodian	1

Complainant Age	2017
14-16	2
17-19	7
20-30	65
31-40	100
41-50	98
51-60	72
61-70	43
71-80	10
Over 80	3
Blank or Declined to State	122

POLICY ANALYSIS

Policy work is an essential aspect of the DPA's mission. While discipline of individual officers is a component of law enforcement management, changes to police policies and practices directly impact the entire police force and the community it serves.

DOJ'S COLLABORATIVE REFORM INITIATIVE

Throughout 2017, the DPA's policy work focused on the Department of Justice's Collaborative Reform Initiative involving 272 recommendations and 94 findings to "improve trust between the SFPD and the community it serves." The DPA participated in SFPD's Executive Sponsor Working Groups that addressed policies and practices concerning the **use of force, bias policing, complaint and disciplinary processes**, and **community policing**.

In June 2017, the DPA made the following written recommendations to enhance the DPA-SFPD approach to the DOJ Collaborative Approach Initiative.

1 Update Police Complaint Department General Order 2.04

This DGO is fundamental to the complaint, investigation and disciplinary processes, and establishes key aspects of the roles and responsibilities of both agencies.

2 Implement Quarterly Meetings Between SFPD and the DPA to Review Sustained Cases for Policy and Training Issues and Complaint Trends.

The goal of these meetings is to evaluate whether training, policy, or procedure of SFPD needs to be revised, added, or re-issued. If so, the Disciplinary Board will make written recommendations that include the manner in which the recommendations can be implemented, and a timeline for completion.

3 Reinstitute Meetings Between the DPA and the Department's Chief of Staff To Address the DPA's Policy Recommendations.

These biweekly meetings would help the DPA and SFPD discuss and prioritize policy recommendations and DGO revisions.

Department General Orders: Policies and procedures that govern San Francisco Police Department Officer conduct.

DGO 5.17

BIASED POLICING

Biased Policing is the use, to any extent or degree, of actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender in determining the initiation of any law enforcement action, in the absence of a suspect's description. In response to DOJ's recommendation 25.1 that SFPD immediately update Department General Order 5.17 (Policy Prohibiting Biased Policing) to reflect best practices, the DPA presented at several meetings its recommended revisions to DGO 5.17. Consistent with Penal Code §13519.4, the DPA suggested that DGO 5.17 expand the definition of biased policing to include profiling based on racial, identity or cultural stereotypes or mental or physical disabilities. Additionally, the DPA suggested enhancing current detention procedures in DGO 5.17 by having officers provide the individuals they have stopped their business card that would include the identity and contact information of the officer and how to file a commendation or a complaint. The DPA revisions to DGO 5.17 will be before the Police Commission for their review and action in 2018.

DGO 5.21

CRISIS INTERVENTION TEAM RESPONSE

Crisis Intervention(CIT) is the safe resolution of persons in crisis incidents without the use of force, whenever possible, and referral of persons in crisis to community mental health service providers or other resources, as appropriate. Throughout 2017, the DPA worked to implement key provisions of the Crisis Intervention Team Department General Order (DGO 5.21). As a member of the Crisis Intervention Team Working Group since its inception, the DPA spearheaded the completion and adoption of DGO 5.21, which establishes the procedures in which CIT certified officers are dispatched as first responders to mental health crisis calls. DGO 5.21 also requires SFPD to collect and analyze CIT data through an electronic reporting form.

DGO 8.10

FIRST AMENDMENT COMPLIANCE AUDIT

First Amendment Compliance Audit ensures that the First Amendment rights guaranteed by the United States Constitution are protected for all individuals, and to permit police involvement in the exercise of those rights, only to the extent necessary to provide for legitimate needs of law enforcement in investigating criminal activities. The DPA conducted its First Amendment Compliance Audit pursuant to Department General Order 8.10. In its February 2017 report, the DPA explained that it had concluded its investigation of a complaint that alleged that an SFPD officer had violated DGO 8.10 by conducting a criminal investigation involving an individual's First Amendment activities without complying with DGO 8.10's criteria concerning the type of criminal activity subject to investigation and the requisite documentation and authorization. The DPA concluded that the officer's actions were the result of inadequate training.

DGO 5.15

ENFORCEMENT OF IMMIGRATION LAWS

The Enforcement of Immigration Laws purpose is to establish policies regarding SFPD's role in the enforcement of immigration laws with U.S. Immigration and Custom Enforcement ("Ice"), U.S. Customs and Border Protection ("CBP"), or successor agencies whose role is to enforce immigration laws, in conformity with state and federal laws and San Francisco Administrative Code Chapters 12H and 12I. During 2017, the DPA also participated in the Police Commission's working group to review and amend DGO 5.15 (Enforcement of Immigration Laws). The DPA suggested changes to the DGO which would ban officers from threatening members of the public with deportation or other immigration consequences; limit, and require reports regarding, joint criminal investigations with federal immigration authorities; and require training for officers on immigration issues. The DPA also concurred with many of the recommendations suggested by other working group members including implementation of the California law, Transparent Review of Unjust Transfers and Holds, commonly known as the TRUTH Act. The TRUTH Act enhances due process procedures for immigrants held in jails, and provides more public information concerning Immigration and Custom Enforcement actions.

DGO 3.01

WRITTEN COMMUNICATION SYSTEM

The Written Communication System describes the types of written communications and directives within SFPD and also establishes responsibilities for members to maintain them and to comply with their provisions. In response to DOJ's recommendations to improve the timeliness of Department General Order revisions and to discontinue using Department Bulletin as a workaround for the Department General Order approval process, the DPA worked with SFPD on revising Department General Order 3.01 (Written Communication System). The DPA's recommendations limit the use of Department Bulletins and require SFPD to bring before the Police Commission revisions to the relevant Department General Order within six months of the Police Commission's approval of a Department Bulletin.

Electronic Control Weapons or ECWs, also known as Tasers

Throughout 2017, the DPA was an active participant in the Police Commission's Working Group on Tasers (Electronic Control Weapons or ECWs). In partnership with numerous community stakeholder organizations, including the San Francisco Bar Association and the American Civil Liberties Union, the DPA spearheaded the push for revisions to the SFPD's proposed taser policy. This policy is vital to the Department, as it has made San Francisco the leader in training, use, and review of ECWs with the most thoughtful, comprehensive, policy in the United States.

Proposed Policy Approved by the Police Commission December 2017:

- Deploying a taser only when an individual is causing or threatening to cause bodily injury;
- Limiting taser activation to three cycles or 15 seconds against a subject during a single incident;
- Requiring the DPA investigations of taser incidents involving serious injury or death or other special circumstances;
- Providing a quarterly taser review board that includes representatives of the SFPD, the Police Commission, the DPA and the community to review all taser activation;
- Appointing a taser coordinator to oversee the program including training, weapon testing, incident review, data collection, analysis, reporting and subject matter expertise for the taser review board;
- Limiting the use of drive stun mode for the purpose of completing the circuit to enable incapacitation;
- Requiring data collection to enable comprehensive analysis of the weapon's use, effectiveness and trends and to foster policy and training recommendations;
- Calling tasers "weapons" instead of devices to accurately describe their role and risk consistent with several organizations such as the Police Executive Research Forum, the International Association of Chiefs of Police, and the manufacturer Taser International.

LANGUAGE ACCESS

Throughout 2017, the DPA also worked to enhance SFPD's language access services. The DPA provided written recommendations following SFPD's Chief of Police, William Scott's attendance to the Language Access Working Group's meeting on April 18, 2017. The Language Access Working Group is comprised of domestic violence and sexual assault service providers, language access advocates, city agencies, former Police Commissioner Sonia Melara, and SFPD, and meets monthly.

1 Interpreter's Training for Certified Bilingual Officer

It is well established that being an interpreter requires skills and training beyond bilingualism. To ensure that bilingual officers receive interpreter training, Department General Order 5.20 (Language Access Services for Limited English Proficient (LEP) Persons) specifically requires the Department to provide interpreter training for certified bilingual officers on interpreting techniques, roles, terminology, and ethics in accordance with confidentiality and impartiality rules. SFPD has not provided interpreter training for its certified bilingual officers, despite repeated recommendations from the DPA and the Language Access Working Group since DGO 5.20's adoption in 2007.

The DPA recommends:

- SFPD immediately develop interpreter training or alternatively, hire an outside agency to provide bilingual officer training. Interpreter training for bilingual officers should include assessment on interpretation skills to ensure information retention.

2 Re-Certification of Bilingual Officers

Language proficiency is a perishable skill. Currently, once an officer passes the Department of Human Resource's test for language proficiency, the officer is forever entitled to bilingual pay and is considered a "qualified bilingual officer" for the purposes of Department General Order 5.20. SFPD does not have any recertification requirements. The lack of recertification potentially jeopardizes the quality of an officer's interpretation which, in turn, can undermine the investigation and prosecution of cases and negatively impact an officer's ability to communicate with a victim, suspect, witness or community member.

The DPA recommends that SFPD:

- Implement a system of language proficiency recertification that requires retesting of all bilingual officers every 2-3 years;
- Include a requirement of recertification of language proficiency in the 2017-2018 labor contract with SFPD officers; and
- Either obtain DHR's assistance or hire an outside contractor to provide recertification every 2-3 years.

3

Advanced Officer and Field Officer Training and Post Certification of LEP Curriculum

Department General Order 5.20 states that SFPD will provide periodic training on its LEP policies, including how to access in-person and telephone interpreters and how to work with interpreters. DGO 5.20 states that it shall conduct such trainings for new recruits, at in-service training and at roll-call at least every two years. (DGO 5.20 (III)(N)). The two-hours of DGO 5.20 training for recruits is not POST certified. DGO 5.20 updates and language access issues are not included in advance officer or field officer training.

The DPA recommends that SFPD:

- Incorporate language access training into the Field Training program and advance officer curriculum;
- Include language access issues & requirements in all training modules and written materials; and,
- Obtain Police Officer Standard Training (POST) certification for current DGO 5.20 training.

4

Language Services At Stations

Spanish-speaking and Cantonese-speaking domestic-violence survivors have reported significant wait times for language assistance to file a report at certain stations and instances where LEP victims/reportees have been told to come back later or have been sent to other stations. LEP victims/reportees have also reported encounters with Police Service Aides at the stations who do not use language assistance to explain wait times or when a bilingual officer will be available to take a report. LEP reportees and service providers have repeatedly shared their concerns with the Department that many stations are not welcoming or user friendly which is further exacerbated when language assistance is not readily provided. Additionally, there is no privacy in the district station lobby where reportees often need to provide sensitive information about themselves and the nature of an incident. (For further discussion of domestic violence, immigration and language access concerns involving SFPD, see the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement (July 2016), pages 20-21).

The DPA recommends that SFPD:

- Provide easily accessible information in multiple languages at each station that explains procedures such as how an LEP individual can file a report, talk with a bilingual officer, and obtain other police services;
- Prominently post that language services are free and available and include this information in district station newsletters;
- Require stations to identify the top language needs of the community in which the station is located and provide an incentive system so that stations are able to staff the stations with bilingual officers and Police Services Aides who speak the languages most needed;
- In each station and to the public, prominently post when bilingual officers and Police Service Aides are available and the language they speak;
- Conduct an audit using LEP reportees to evaluate the effectiveness of language access at all of the stations and implement improved accessibility where needed.

5 Dispatching Bilingual Officers to the Scene

DGO 5.20 states that officers "shall provide oral interpretation services to LEP persons they encounter in the following order of preference unless deviations are required to respond to exigent circumstances." The priority is direct communication by a qualified bilingual officer, followed by a qualified civilian interpreter and last by a telephone interpreter. (DGO 5.20 (III)(D) Order of Preference.) Department General Order 5.20 requires SFPD's Language Access Liaison Officer to work in conjunction with Department of Emergency Management (DEM) "to establish a system that immediately identifies LEP calls and promptly dispatches language assistance, preferably with a bilingual officer speaking the needed language." (DGO 5.20 (III)(O)(1)(5)).

In 2009, the DPA recommended a communication system that would enable 911 dispatchers to immediately identify the location and availability of bilingual officers to respond to LEP calls for service. For several years, the DPA in partnership with the Language Access Working Group worked with SFPD and the Department of Emergency Management to design and implement such a system. Although this system was to become operational in April 2013, it has never been fully implemented. When DEM dispatchers identify a LEP caller, instead of relying upon the system that identifies an available certified bilingual officer, many dispatchers continue to put out a request for a bilingual officer and wait for a volunteer to respond. This approach is inefficient and does not comply with the system of dispatching available bilingual officers immediately as required under DGO 5.20.

The DPA recommends that SFPD:

- Work with DEM to fully implement the dispatch procedure in which dispatchers identify and dispatch immediately an available bilingual officer to respond to a LEP call for service.
- Explain the new dispatch procedure to SFPD officers through a Department Bulletin.
- Once implemented, monitor compliance under the new procedure through an audit.

6 LEP Data Collection and Analysis

DGO 5.20 states that officers "shall provide oral interpretation services to LEP persons they encounter in the following order of preference unless deviations are required to respond to exigent circumstances." The priority is direct communication by a qualified bilingual officer, followed by a qualified civilian interpreter and last by a telephone interpreter. (DGO 5.20 (II I)(D) Order of Preference.) DGO 5.20 requires the Department to collect and report on data including the number of calls for service, contacts and investigations involving LEP persons where an incident report was required and the manner in which interpretation services were provided. (DGO 5.20 (III)(O)(2-3)).

The DPA in partnership with Language Access Working Group recommended and worked with SFPD to add LEP data collection to the incident report writing system. This data collection will enable the Department to assess language needs and analyze the extent to which language services are being provided by bilingual officers, civilians or telephone interpreters. Mandatory LEP data collection was announced on February 26, 2016 via a Department "A" Bulletin (16-029 LEP Data Collection Crime Data Warehouse) and became effective on March 16, 2016. The Department has accumulated over a year's worth of LEP data though not yet reported publicly upon this data.

Upon the recommendation of the DPA and in partnership with the Language Access Working Group, in 2016 SFPD required all officers to view the training video "Detecting and Overcoming Language Barriers" and to complete an on-line survey about language access services and training. SFPD has not yet analyzed and reported upon this data.

The DPA recommends that SFPD:

- Analyze and report upon the LEP data collected through the Crime Data Warehouse from March 2016-2017.
- Analyze and report upon the data collected through the on-line survey about language access services and training.

By working with community stakeholders, city agencies and the Police Department on a range of projects throughout 2017, the DPA advanced its policy work to enhance police-community relations while ensuring effective police services.

POLICY RECOMMENDATIONS

In addition to accountability, the San Francisco City Charter requires the DPA to present quarterly recommendations concerning SFPD's policies or practices that enhance police-community relations, while ensuring effective policy services. Below are 2017 recommendations that came from specific, Policy Failure (PF) complaints.

● **Type of Allegation:** Neglect of Duty

Complaint: The complainant alleged that he was held at the police station for several hours and was not given food or water when he requested it.

Recommendation: The DPA recommends that the SFPD Booking and Detention Manual be updated to address the issue of providing water or food to prisoners who are held at a district station for an extended period of time.

● **Type of Allegation:** Neglect of Duty

Complaint: The complainant stated that officers refused to release the complainant's scooter to him after he was arrested.

Recommendation: DGO 6.15 on property processing does not address the type or form of proof of ownership for release property, who makes the determination, and the chain of command for appeal when release of the property has been denied. The DPA recommends that DGO 6.15 be updated to address the return of property, notification of the decision to return property, and review of any denial to release property. The DPA also recommends that the public be provided information about SFPD's procedures for obtaining the release of property.

● **Type of Allegation:** Neglect of Duty

Complaint: The complainant filed a complaint with the DPA concerning an allegation of an officer's off-duty conduct. The San Francisco City Charter §4.127, in effect at the time, stated:

The Office of Citizen Complaints shall investigate all complaints of police misconduct, or that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department.

The current City Charter §4.136, states:

The DPA shall promptly, fairly, and impartially investigate all complaints regarding police use of force, misconduct or allegations that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department.

The City Charter grants the DPA the power to investigate complaints against police misconduct and refers to "member[s] of the Police Department." The charter does not distinguish between on-duty and off-duty conduct.

Recommendation: The DPA recommends that DGO 2.04 be updated and amended to reflect DPS's jurisdiction by City Charter 4.136

● **Type of Allegation:** Neglect of Duty

Complaint: The complainant stated that officers did not provide a copy of the search warrant after searching the complainant's home.

Recommendation: The DPA recommends updating both the Search Warrant Manual and Department General Order 5.16 to address procedures and responsibilities when serving a search warrant that the court has ordered sealed.

● **Type of Allegation:** Neglect of Duty

Complaint: The DPA received a complaint requesting that the DPA investigate the murder of a woman by her ex-boyfriend in light of a history of domestic violence and the numerous times the victim called the police and the police responded on the night of the murder.

Recommendation: The DPA recommends that this case be reviewed by a multidisciplinary group of stakeholders including representatives from the Police Department's Special Victim's Unit, the Department on the Status of Women, the Domestic Violence Consortium, the Department of Emergency Management, the District Attorney's Office, and the DPA to determine whether current systems can be improved to protect individuals from domestic violence.

Areas to analyze include:

- 1) communication between 911 dispatch and officers in domestic violence calls, including previous domestic violence calls for service involving the same suspect and location and the suspect's prior criminal history;
- 2) police policies and training, including a supervisor's role, when there are multiple domestic violence calls for service involving the same suspect at the same address;
- 3) civil stand-by procedures, including consideration of circumstances when victims can decline or postpone a civil stand by and/or should be told they can refuse to consent to civil stand by;
- 4) the circumstances and manner in which reportees should be told of their right to make a citizen's arrest for misdemeanor conduct observed in their presence;
- 5) appropriate services and assistance when circumstance may not rise to a felony domestic violence or stalking incident though the victim is ending the relationship (the most dangerous time for a domestic violence victim) and has requested police assistance;
- 6) police procedures concerning third party allegations of a suspect's criminal conduct in light of a victim's denial; and
- 7) police policies and training on evaluating victim's demeanor, suspect threat risks, and the role of previous non-prosecuted domestic violence incidents.

● **Type of Allegation:** Neglect of Duty

Complaint: The DPA investigated a complaint in which officers double-parked in a bike lane and a crosswalk without any hazard or red flashing lights activated while responding to an A-priority call. The complainant stated the pedestrians and cyclists had to swerve to avoid the vehicles and use the main lane of traffic to get around them.

Recommendation: To avoid negative perceptions of SFPD and for the safety of others using the roadway, Department regulations should provide guidelines, including whether hazard or red flashing lights are required, when police vehicles are double-parked, parked in a cross walk or bike lane or other normally restricted area.

● **Type of Allegation:** Neglect of Duty

Complaint: The DPA investigated a complaint involving an individual with Alzheimer's dementia who was living in a residential care facility, and whom police detained pursuant to Welfare and Institution Code §5150.

Recommendation: The DPA recommends that the Chief of Police appoint a member of Command Staff to work with the DPA, stakeholders and subject matter experts to revise the Department's 5150 policies and procedures to address individuals with Alzheimer's dementia.

● **Type of Allegation:** Neglect of Duty

Complaint: The DPA investigated complainant's allegation that he had called police several times to report an illegal homeless encampment blocking the sidewalk across the street from his residence but that police did not abate the violation.

Recommendation: The DPA recommends that SFPD provide the public information about the manner in which the Department is responding to tent encampments, and to implement the necessary systems within the Department to ensure that tent encampments are responded to, including that the callers are notified about what steps the Department has taken to address the caller's request for services concerning tent encampments.

San Francisco Charter, Art. IV, § 4.136

- (a) There shall be under the Police Commission a Department of Police Accountability (“DPA”).
- (b) The Mayor shall appoint a nominee of the Police Commission as the Director of DPA, subject to confirmation by the Board of Supervisors. The Director shall serve at the pleasure of the Police Commission. If the Board of Supervisors fails to act on the appointment within 30 days, the appointment shall be deemed approved. In the event the office is vacant, until the Mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim Director who shall serve at the pleasure of the Police Commission. The appointment of the Director shall be exempt from the civil service requirements of this Charter. The Director shall never have been a uniformed member or employee of the Police Department. The Director shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal, or discipline of employees of DPA.
- (c) The Police Commission shall have the power and duty to organize, reorganize, and manage DPA. Subject to the civil service provisions of this Charter, DPA shall include investigators and hearing officers. The staff of DPA shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this section is not met for more than 30 consecutive days, the Director shall have the power to hire, and the City Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of DPA shall have previously served as a uniformed member of the Police Department. Subject to rules of the Police Commission, the Director may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of Supervisors or by contract approved by the Board of Supervisors.
- (d) DPA shall promptly, fairly, and impartially investigate all complaints regarding police use of force, misconduct or allegations that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department. DPA shall use its best efforts to conclude investigations of such complaints and, if sustained, transmit the sustained complaint to the Police Department within nine months of receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month period, the Director, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief’s timely consideration of the matter.
- (e) DPA shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The Director, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the Director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the Director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or her designee fails or refuses to meet and confer with the Director on the matter, or (3) other exigent circumstances necessitate that the Director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343.
- (f) The Director shall schedule hearings before hearing officers when such is requested by the complainant or a member of the Police Department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that DPA shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

(g) Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the Police Department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

(h) DPA shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the Police Department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services.

(i) DPA shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

(j) In carrying out its objectives, including the preparation of recommendations concerning departmental policies or practices referenced above, the investigations referenced above, and the audits noted below, DPA shall receive prompt and full cooperation and assistance from all departments, officers, and employees of the City and County, which shall, unless prohibited by state or federal law, promptly produce all records and information requested by DPA, including but not limited to (1) records relevant to Police Department policies or practices, (2) personnel and disciplinary records of Police Department employees, (3) criminal investigative and prosecution files, and (4) all records to which the Police Commission has access, regardless of whether those records pertain to a particular complaint. The DPA shall maintain the confidentiality of any records and information it receives to the extent required by state or federal law governing such records or information. The Director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney under state law, including their constitutional and statutory powers and duties under Government Code Section 25303, as amended from time to time or any successor provisions thereto, or other applicable state law or judicial decision.

(k) Every two years, DPA shall conduct a performance audit or review of police officer use of force and how the Police Department has handled claims of officer misconduct. DPA shall also have the authority to conduct performance audits or reviews of whether Police Department personnel and management have complied with federal and state law, City ordinances and policies, and Police Department policies. The Director shall have the discretion to determine the frequency, topics, and scope of such performance audits or reviews. To the extent permitted by law, DPA shall also allow public access to information on the progress and disposition of claims of misconduct or use of force, and the results of the performance audits and reviews conducted by DPA.

(l) The DPA budget shall be separate from the budget of the Police Department. Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year budget directly to the Mayor.

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A heartfelt thank you to the dedicated DPA staff for your hard work and commitment over this past year. I am proud of our collective efforts in handling over 2000 complaints and completing nearly 700 cases/investigations during the year.

- Paul

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