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Department of Police Accountability
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PAUL DAVID HENDERSON
EXECUTIVE DIRECTOR

June 12, 2020

Hon. Damali Taylor, Vice-President
Members, San Francisco Police Commission

Re: Department of Police Accountability's 4th Quarter 2019 and 1st Quarter 2020 Policy Work

Dear Vice-President Taylor and Commissioners:

This letter provides an overview of the Department of Police Accountability's 4th Quarter 2019 and 1st Quarter 2020 policy work. During these two quarters, the DPA advanced its policy work on police interrogations of youth, protocols for police interactions with Deaf and hard of hearing individuals, and domestic violence procedures. The DPA also participated in SFPD's Executive Sponsor Working Group that addressed DOJ's Collaborative Reform recommendations concerning bias-free policing and accountability. Lastly, the DPA continued its work on language access projects in the Language Access Working Group that meets monthly with Police Commission Petra DeJesus, SFPD, city agencies and community advocates.

Police Interrogations of Youth

During the 4th Quarter 2019, in response to changes in state and local law concerning police interrogations of youth, the DPA provided recommendations to the Police Department's proposed Department Bulletin that would outline officers' duties. State and local law protections arose in response to the alarming number of false confessions involving youth that resulted in wrongful convictions. Key provisions the DPA recommended to SFPD's proposed Department Bulletin included:

- Explicitly Requiring That A Detained Youth Speak with the On-Call Juvenile Attorney and Be Informed That A Responsible Adult May Be Present During Police Questioning Before an Officer Can Interrogate or Obtain a Miranda Waiver.
- Requiring Officers to Provide Youth the Right to Privacy When Talking with Legal Counsel.

- Requiring Officers to Record the Miranda Admonition and Interrogation as Currently Required by Department General Order 7.01.
- Requiring Officer to Document In their Incident Report Their Compliance with the Department's Interrogation of Youth Procedures.
- Emphasizing the Language Access Requirements Under DGO 5.20 When Interrogating Youth with Limited English Abilities.

Discussions between the DPA and SFPD resulted in a revised Department Bulletin 19-125 (New Requirements when Members Interrogate or Question Youth 17-Years Old or Younger) that the Police Commission adopted on January 8, 2020. This Department Bulletin prohibits police interrogation or *Miranda* waiver or unnecessary conversation of youth not free to leave "unless or until" conditions of attorney consultation and responsible adult presence are met. Officers are required to provide youth the right to privacy when talking with legal counsel. Officers are also required to include in the incident report the name of the attorney consulted by the youth and the name of the responsible adult present during questioning. The Police Department agree to provide training that emphasizes officers' duty to record youth interrogations and provide language access services pursuant to Department General Orders 7.01 and 5.20, respectively.

Proposed Deaf and Hard of Hearing Department General Order

On January 9, 2020, the DPA reconvened the Deaf and Hard of Hearing Working Group. to review the California Department of Justice's (Cal DOJ) revisions to the working group's proposed Department General Order on Police Interactions with Deaf and Hard of Hearing individuals. Cal DOJ changes included an enhanced policy statement, additional definitions, and consolidation of some sections to avoid repetition. The Working Group agreed overwhelming with DOJ's comments and suggestions, except on a few minor points. On January 22, 2020, the DPA submitted to the Department the working group's written responses to the Cal DOJ's comments and suggested revisions. On March 11, 2020, the Deaf and Hard of Hearing DGO was set for the Police Commission's review and possible action but the meeting was canceled due to the COVID-19 pandemic.

By way of background, in November 2017, the Department of Police Accountability invited Deaf advocates and representatives from community organizations and city departments to draft a Department General Order (DGO) on police protocols for interacting with Deaf and hard of hearing individuals. Concerns that domestic violence survivors who are Deaf had not received adequate police services and DPA complaints from Deaf individuals highlighted the need for a Department General Order. Working group attendees included Police Commissioner John Hamasaki, and representatives from Deaf Hope, Deaf Counseling Advocacy and Referral Agency (DCARA), Deaf Services Center (SF Public Library), the San Francisco Hearing and Speech Center, Mayor's Office of Disability (MOD), District Attorney's Office (Victim Witness), Domestic Violence Consortium, Safe and Sound, community members and the San Francisco Police Department.

Throughout 2018, the working group met monthly and reviewed policing protocols for Deaf and hard of hearing individuals from the United States Department of Justice (US DOJ) and several law

enforcement agencies. After conducting a best practice review, the working group drafted a proposed DGO, created a communication card, and identified different technologies to assist SFPD officers at the station and in the field to communicate with Deaf and hard of hearing individuals. The working group submitted its proposed DGO, communication card, and guidelines for effective communication with people who are Deaf and hard of hearing to the Police Department in early 2019.

The proposed Deaf and Hard of Hearing Department General Order:

- Emphasizes the Police Department's dedication to providing the highest level of service to its community members, including Deaf and hard of hearing individuals
- Explains that under federal and state law, the SFPD shall communicate effectively with people who are Deaf or hard of hearing and may not subject them to unlawful discrimination, or exclude, segregate, or deny them SFPD services.
- States that people who are Deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals.
- Outlines procedures for officers when they encounter a Deaf or hard of hearing individual, including identifying the individual's preferred method of communication by using a Communication Card and other appropriate tools for communicating.
- Restricts the use of family members, friends, and other unqualified third parties as interpreters absent emergency situations.
- Defines emergency circumstances where alternative forms of communication are permitted.
- Includes requirements about signage, incident report documentation and data collection.
- Designates the Department's Language Access Liaison Officer as being responsible for addressing services, training, data collection, reporting, and outreach concerning police interactions with Deaf and hard of hearing individuals.
- Requires the Department to provide its officers scenario-based training including appropriate communication tools to effectively interact with Deaf and hard of hearing individuals every two years. Training is to commence within four months of the General Order's adoption.
- Includes a "Guideline for Communicating Effectively with People Who are Deaf or Hard of Hearing."

The Deaf and Hard of Hearing DGO is scheduled for action and adoption on July 15,

2020 before the Police Commission.

Enhancing Domestic Violence Investigations: Proposed Domestic Violence and Intimate Partner Stalking Manual and Revisions to Domestic Violence General Order

On March 20, 2020 the Department of Police Accountability in partnership with the Department on the Status of Women (DOSW) and the Domestic Violence Consortium (DV Consortium) submitted its proposed Domestic Violence and Intimate Partner Stalking Manual for Patrol Officers and revisions to Domestic Violence DGO 6.09. This project represents the collaborative efforts of over fifteen agencies and stakeholders focused on the mutual goals of enhancing services for domestic violence survivors and investigative protocols.

Beginning in 2016, the DPA spearheaded the drafting of a Department Bulletin to address concerns raised by both formal and informal complaints by domestic violence survivors. Working with the Language Access Working Group, the Police Department's Special Victims' Unit, the District Attorney's Office, DOSW, DV Consortium and the Adult Probation Department, the DPA submitted a comprehensive Department Bulletin to address the key steps for successful domestic violence investigations. In November 2016, the Department suggested creating a Domestic Violence Manual instead of issuing the Department Bulletin due to the length and coverage of numerous topics.

Working with SFPD's Special Victims Unit, SFPD's subject matter experts, SFPD training materials, the DPA, DOSW and the DV Consortium drafted a proposed Domestic Violence and Intimate Stalking Manual for Patrol Officers. It is based on a survey of Domestic Violence Manuals of numerous law enforcement agencies and incorporates best practice procedures on topics such as lethality, dominant aggressor, and strangulation. In addition to creating the Manual, the DPA in collaboration with DOSW and the DV Consortium drafted revisions to the SFPD's Domestic Violence DGO and created an officer reference card that summarizes key provisions of the Domestic Violence procedures.

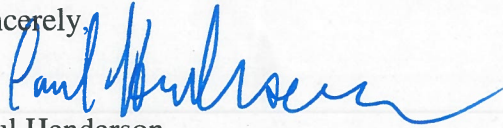
The proposed DV Manual and revisions to the Domestic Violence DGO:

- Emphasizes the critical role patrol officers play as first responders to domestic violence incidents.
- Outlines key investigative steps to interview the parties, preserve evidence, and document the incident.
- Provides an overview of the numerous crimes associated with domestic violence and the steps to obtain and enforce restraining orders.
- Highlights dominant aggressor factors and the significance of offensive and defensive wounds.
- Incorporates lethality assessment, a nation-wide practice that prevents loss of life and serious bodily injury in domestic violence cases.
- Addresses communication protocols for populations who are limited English proficient, Deaf and hard of hearing and transgender, gender variant and nonbinary.

- Highlights signs of strangulation and investigative protocols because of its exceptionally strong predictor of lethality.

Thank you for your continued support in advancing the policy work of the Department of Police Accountability.

Sincerely,



Paul Henderson
Executive Director