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WORKING TOGETHER FOR JUSTICE

June 26, 2020

San Francisco Police Commissioners
San Francisco Police Commission Office
San Francisco Police Headquarters
1245 3rd Street
San Francisco, CA 94158
sfpd.commission@sfgov.org

via E-mail

Re: Proposed Resolution Facilitating Production and Revision Process to San Francisco Police Department General Orders

Dear Vice President Damali Taylor and San Francisco Police Commissioners:

We are writing to you with concern about the proposed resolution to address the San Francisco Police Department general order (“DGO”) revision process. Although a policy and procedure for revising DGO’s is necessary, the proposal as it is written is incomplete and is entirely silent as to the process and procedure before a DGO ever makes its way to internal concurrence.

This letter addresses three issues with the proposed resolution and the DGO revision process:

- First, the drafting and revision portion of the process is encumbered by significant delays. Clear parameters governing the length of time between commencing the process to update a DGO and bringing that DGO before the Police Commission for approval is necessary.
- Second, the proposed resolution should include a mandate to consider the recommendations of the Department of Police Accountability (DPA) and community stakeholders who are subject matter experts and work on the frontlines with victims directly impacted by the policies and procedures DGO’s implement. However, SFPD’s standard practice is to reject all recommendations above and

beyond the bare minimum requirements mandated by the department, and guidance is needed to ensure outside input is meaningfully considered by SFPD.

- Third, DGO's do not need to meet and confer with the Police Officer's Association and the proposed resolution should include this clarification. In fact, DGO's are department procedures encompassing policy decisions that do not implicate the meet and confer provisions concerning working conditions. (*See San Francisco Police Officers Association v. San Francisco Police Commission* (2018) 27 Cal.App.5th 676)

Prolonged Delays Before Reaching Concurrence

The DGO revision process should not take years to complete. For example, upon SFPD's invitation, the Department on the Status of Women (DOSW), DPA, and the Domestic Violence Consortium (DVC) Working Group provided SFPD with detailed recommendations and line-edits to revise DGO 6.09. These recommendations were submitted in October 2019 and were based on four years of meetings with SFPD, the District Attorney's Office, DPA, and key domestic violence community stakeholders to address enhancing patrol officer response to domestic violence calls for service. In March 2020, SFPD requested those recommendations and line-edits be resubmitted on SFPD's specific template. On March 20, 2020, DPA, DOSW and the DVC provided those identical recommendations from October 2019 on SFPD's template form. On April 24, 2020, SFPD provided its written response to these recommendations, rejecting 21 of the 28 recommendations.

In late April 2020, SFPD announced a new Working Group for DGO 6.09 was required. In May 2020, SFPD convened a new Working Group that included DVC, Bay Area Legal Aid, Cooperative Restraining Order Clinic, DPA, DOSW, the District Attorney's Office, Commander Vaswani, Captain Chin, Lieutenant Williams, and Inspector Flores. In this new Working Group, we began discussing each of the 28 recommendations to revise DGO 6.09. At our last meeting in June 2020, Professional Standards Principled Policing Unit (PSPP) Director informed our Working Group that we had to commence the entire revision process for DGO 6.09 from the very beginning, submit our revisions to her directly, and to anticipate at least one more year before DGO 6.09 could move toward concurrence.

These unnecessary delays and administrative interruptions impede any progress on the important policy implementation contained within DGO 6.09. In fact, the impact of these delays was addressed in the US DOJ Collaborative Reform Initiative that issued 272 recommendations for SFPD to enact in order to address systematic problems within the Department. In particular, the US DOJ found that SFPD's process for updating its DGO's "is overly protracted and does not allow the SFPD to respond in a timely manner to emerging policing issues." (US DOJ Finding 70.)

We agree with the US DOJ Findings and we urge the Commission to adopt a resolution that imposes specific deadlines on SFPD to address the lengthy delays in the DGO revision process before reaching concurrence.

Failure to Consider Community Stakeholder Input and National Best Practices

Over the course of four years, key domestic violence stakeholders and SFPD representatives crafted 28 recommendations to enhance DGO 6.09 and also drafted a corresponding Domestic Violence Manual. Of these 28 recommendations, SFPD rejected 21 recommendations even though all the recommendations are consistent with national best practices, address specific SFPD deficiencies identified within lawsuits and DPA complaints, and are even recommendations by SFPD's own subject matter experts. In rejecting the Working Group recommendations SFPD declared them "impossible" to adopt because they reference other DGO's and this is contrary to US DOJ mandates to incorporate "community values" into DGO's. However, there simply is no US DOJ or any other governmental mandate that prohibits SFPD from adopting the Working Group recommendations.

This is not the first time SFPD did not act on the concerns of the community stakeholders. SFPD's failure to comply with Family Code 6228 was raised for years at a variety of meetings—Family Violence Council and Language Access Working Group—where SFPD are regular members. At these meetings, SFPD was informed about the nature of the problem and the need for a resolution. Although lower level SFPD officers were sympathetic, the domestic violence community had to bring these problems before the Commission for SFPD to seriously consider the concerns and input coming from the community stakeholders. Finally, in December 2018, the Commission commenced a Working Group to revise DGO 3.16.

Yet, the Working Group to revise DGO 3.16 only met three times before SFPD stopped communicating with the community members in the Working Group. No explanation was

ever given and SFPD failed to respond to any emails or phone calls requesting information on the status of the Working Group. It is evident that SFPD's efforts to collaborate in good faith are falling short and a clear mandate to consider community input in the DGO revision process is necessary.

Policy Decisions Are Not Subject To A Meet And Confer Requirement

Lastly, DGOs continue to be sent to meet and confer with the Police Officer's Association (POA) resulting in yet another long delay. Yet, DGO's are not subject to a meet and confer requirement with the POA because DGO's involve policy decisions that do not implicate the meet and confer provisions concerning working conditions. (See *San Francisco Police Officers Association v. San Francisco Police Commission* (2018) 27 Cal.App.5th 676). In *San Francisco Police Officers Association v. San Francisco Police Commission*, the Court of Appeal determined the Use of Force DGO was a policy decision which fell under city's police power under the state constitution and was a managerial right outside the scope of bargaining. Similarly, the recommended changes to DGO 6.09 represent policy changes that are not subject to a meet and confer requirement with the POA.

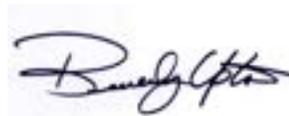
This proposed resolution, if revised to address the issues outlined above, will provide much needed guidance to SFPD's DGO revision process from commencement to concurrence. The DPA's comprehensive revisions to the proposed resolution align with the US DOJ's recommendations to SFPD and comprise all the concerns the domestic violence community has expressed with the DGO revision process. We urge the Commission to adopt the DPA's revisions and encourage the Commission and SFPD to meaningfully collaborate with the community.

Thank you for the opportunity to provide this comment to the Police Commission.

Sincerely,



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