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MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

Memorandum

To: Police Commission

From: LaWanna Preston
SFPD Labor Relations Director

Date: Monday, July 6, 2020

Subject: DGO 5.17 Policy Prohibiting Biased Policing

Attached is the San Francisco Police Officers' Association counterproposal on Department General Order 5.17 Policy Prohibiting Biased Policing.

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June 25, 2020

VIA ELECTRONIC MAIL [DARRYELLE.PRESTON@SFGOV.ORG] & FIRST CLASS MAIL

LaWanna Preston
Labor Relations Director
City and County of San Francisco
Police Department, Headquarters
1245 3rd Street
San Francisco, CA 94158

Re: DGO 5.17 Bias-Free Policing / Meet & Confer

LaWanna:

On behalf of the San Francisco POA we want to thank you and the members of the City meet and confer team for discussing the proposed modifications to DGO 5.07, Bias-Free Policing. During our meet and confer session we raised a number of questions regarding the proposed language. In that regard, we offer the following:

1. In the introductory section of the Policy the Fourth Amendment is cited. We posed the question as to the intent of the City and stated our concern that the reference to the Fourth Amendment seems to be superfluous as we asserted that it is not germane to the purpose of the Policy and should be removed.
2. Article II, A. SFPOA requests that the City identify the specific Penal Code sections referenced in the section.
3. Article II, A. The SFPOA notes that the ambiguous phrase “such as asking questions” is not sufficiently contextualized therefore absent further clarification, the POA proposes that that phrase be removed from the section. Of course our position is subject to change if we are provided additional information.
4. Article II, D. There was much discussion concerning the clarification of the phrase “unlawful bias.” We understand that the City Attorney’s office will be considering our comments and concerns and provide us with further clarification. As we asserted, we are interested in how the City would define “lawful bias”?
5. Article III, D. For purposes of clarity, we propose that the final sentence in that section read as follows: “Any member who becomes aware of biased policing, *as defined by*

LaWanna Preston

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this DG05.17, or any other violation of this policy shall report it in accordance with established procedure.” Further, we are requesting that the Department create a very specific provision of the GO or related procedure which would eliminate confusion and misapplication of the Policy. There are a host of scenarios that might play out and create problems for both the Department and the member. For example, what if a member does not have probable cause to make a citizen’s arrest for a misdemeanor, but the complainant begins to make racist statements about the suspect? Now that the member knows of the bias of the complainant should he/she use that to determine a course of action or should the member just follow the law and accept the citizen’s arrest? One can envision the arrestee making a complaint of bias and the member being accused of violating the policy by promoting bias. There are other very likely scenarios that could lead to an unintended result.

Thank you very much for your time and consideration and we look forward to the City’s response.

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

A handwritten signature in blue ink, appearing to read 'Rockne A. Lucia, Jr.', is positioned below the printed name and firm name.

Rockne A. Lucia, Jr.

RAL:tw

cc: Tony Montoya, President, SFPOA
Tracy McCray, Vice-President, SFPOA