



Key Issue Report: Public Reporting on Officer Misconduct and Discipline

Interim Report for the Audit of SFPD's Handling of Officer Misconduct

November 21, 2022

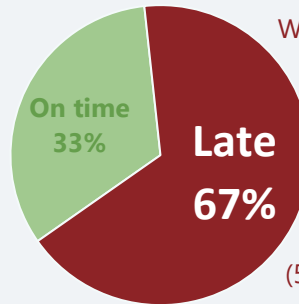
Department of Police Accountability

Executive Director Paul Henderson

Executive Summary

The San Francisco Police Department did not publish required officer misconduct information, weakening transparency and oversight.

SFPD did not produce all required misconduct reports. Without these reports, the Police Commission cannot fulfill its duty to address SFPD delays in discipline on DPA-sustained cases, or provide required information to the Mayor and Board of Supervisors.



Without SFPD's reports, the Police Commission could not address when SFPD was **late deciding discipline** in 67% (56 of 83) of DPA's cases.

Mandate	Reporting Requirement	SFPD Compliance
Administrative Code Chapter 96	Status of DPA-sustained allegations sent to SFPD for the Chief of Police's discipline determination (<i>monthly</i>)	✗
Police Commission Resolution 97-04	Number and type of Internal Affairs investigations opened or closed in the period (<i>quarterly</i>)	✗
	Status of Internal Affairs-sustained allegations with and without the Chief's discipline determination (<i>monthly</i>)	⊖
SFPD Internal Affairs Division Unit Order 18-02	Results of SFPD's biased electronic communications monitoring program (<i>quarterly, annually</i>)	⊖

✔ Fully complies
 ⊖ Partially complies
 ✗ Does not comply

What misconduct information SFPD does provide needs improvement to be useful to policy makers and inform the public.





SFPD's Misconduct Reporting Does Not Meet Best Practices	Police Commissioners Rated SFPD's Misconduct Reporting as Not Meeting Their Needs		Generally meets my needs
	SFPD does not provide, does not meet needs, or needs improvement		
Context ✗	Summary statistics on allegations, investigations, and outcomes	4 icons	1 icon
Meet User Needs ✗	Misconduct data broken down by officer traits (station, experience, race, etc.)	4 icons	1 icon
Key Points ✗	Trends in officer misconduct and Context for understanding	5 icons	0 icons
Visualizations ✗	Level of detail of allegations	4 icons	1 icon
Access ✗	Level of detail of disciplinary actions taken	4 icons	1 icon




Key Issues

Issue 1 - SFPD did not publish all required information on officer misconduct investigations.

Between 2019 and 2021, SFPD did not publish all reports on DPA and Internal Affairs misconduct investigations required by San Francisco Administrative Code Chapter 96, Police Commission Resolution 97-04 (Resolution 97-04), and Internal Affairs Division Unit Order 18-02.¹ These requirements exist to help the Police Commission ensure coordination between SFPD and DPA, prevent the dismissal of sustained cases, and provide some transparency to the public on officer bias. Exhibit 1 summarizes these reporting requirements and SFPD’s compliance.

Exhibit 1 – SFPD did not publish misconduct information required by San Francisco Administrative Code, the Police Commission, and department policy.

Mandate	Reporting Requirement	Compliance
<p>San Francisco Administrative Code Chapter 96 <i>Coordination Between the Police Department and the Department of Police Accountability</i> (passed October 2003)</p>	<p>Monthly reports on the status of all DPA-sustained complaints sent to SFPD for a discipline determination. <i>SFPD did not publish these reports.</i></p>	
<p>Police Commission Resolution 97-04 <i>Resolution Requiring the SFPD to Report to the Police Commission Regarding Pending Disciplinary Cases</i> (adopted November 2004)</p>	<p>Quarterly reports on Internal Affairs investigations newly opened or closed. <i>SFPD did not publish these reports.</i></p>	
	<p>Monthly reports on Internal Affairs-sustained investigations, both with and without the Chief’s disciplinary determination. <i>SFPD published reports for cases with discipline determinations, but not for those still pending the Chief’s decision. The reports were not monthly and did not have the required level of detail.</i></p>	
<p>Internal Affairs Division Unit Order 18-02 <i>Internal Affairs Division Audit Procedure</i> (issued January 2018)</p>	<p>Quarterly reports of the results of SFPD’s biased electronic communication monitoring program, and a year-end report. <i>SFPD published quarterly reports, but they did not include the required information on disciplinary outcomes of investigations. Also, SFPD did not issue year-end reports.</i></p>	

 Fully complies  Partially complies  Does not comply

Source: Auditor analysis of SFPD’s reporting requirements and SFPD’s public reports

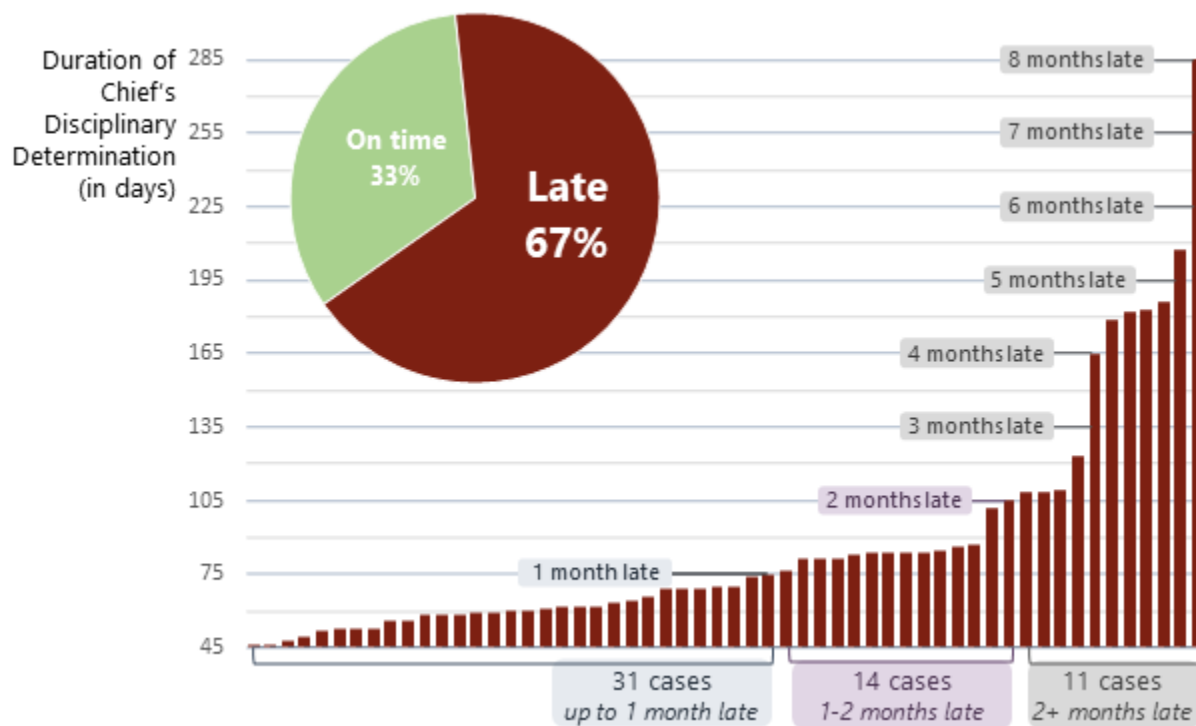
¹ Internal Affairs Division Unit Order 18-02 establishes SFPD’s protocol for monitoring members’ electronic communications (such as e-mails and text messages) for derogatory words, statements, or media. We will discuss SFPD’s compliance with this policy further in the full audit report.

Issue 2 - The Police Commission and city leaders could not address delays in the disciplinary process because SFPD did not provide the information required by Administrative Code Chapter 96.

The administrative code requires SFPD to publish monthly reports on the status of DPA-sustained cases sent to SFPD for a discipline decision, and for the Police Commission to publicly discuss the cases where the Chief of Police has not decided discipline within 45 days. Having this deadline can help the Police Commission ensure that SFPD does not dismiss cases because they failed to comply with the time limits contained in state law.² As shown in Exhibit 2, the Chief of Police took longer than 45 days for 56 of 83 (67%) cases DPA sent to SFPD for a discipline decision in 2019 through 2021.

Exhibit 2 - The Chief of Police must decide on officer discipline within 45 days of receiving DPA-sustained allegations but, in 2019-2021, made his decision late for most cases (56 of 83 cases, or 67%).

When SFPD does not provide the required data, the Police Commission cannot fulfill its oversight responsibility to address delays in the misconduct process.



Note: The 83 cases with sustained allegations were reported to DPA between 1/14/19 to 7/6/21 and sent to SFPD for the Chief's decision between 9/9/19 and 12/29/21. Of those, the Chief decided on time for 27 (33%) cases, with an average duration of 59 days and a range of 7 to 288 days. San Francisco Administrative Code Chapter 96, Section 96.2(b)(2) establishes the 45-day deadline.

Source: Auditor analysis of SFPD and DPA case tracking data.

As the governing body for both SFPD and DPA, the commission has the authority to enforce this administrative code requirement but has not done so – in part because SFPD did not provide the required monthly reports. Further, without these reports, the commission did not have the

² California Government Code § 3304(d)(1)

information necessary to hold quarterly hearings on SFPD’s delays or provide the required notification on these cases to the Mayor and Board of Supervisors.³ SFPD stated that it is the commission’s responsibility to schedule explanations for cases exceeding the 45 days; however, the Police Commission needs SFPD’s case status updates to *identify* these delayed cases.

Misconduct can damage relationships with members of the community and result in a loss of public trust. If law enforcement agencies do not manage communications around misconduct with care, it can contribute to a loss of community confidence. The Chief of Police is in the position to build public trust by taking responsibility for what has happened and letting the community know the steps that the department will take to address the issue.⁴

Issue 3 - Reports on Internal Affairs investigations did not meet the Police Commission’s content and timeliness requirements.

Resolution 97-04 requires monthly public reports on the status of sustained Internal Affairs cases. SFPD issued reports, but not in full compliance with the resolution’s content and timeliness requirements.

4 of police commissioners stated SFPD needs to improve details of misconduct *allegations* and *discipline*.

Although SFPD’s reports showed sustained Internal Affairs cases with discipline imposed, SFPD did not publish these reports monthly and did not include information on sustained cases pending the Chief’s disciplinary decision, as required by Resolution 97-04.⁵ Also, the reports did not have the required level of detail on the alleged misconduct, and instead used broad categories rather than specific descriptions of the officers’ behavior, as shown in Exhibit 3.

Exhibit 3 – Police Commission Resolution 97-04 calls for greater details on alleged misconduct than SFPD provides in its Internal Affairs sustained complaint reports.

Examples Provided in Resolution 97-04	Actual Descriptions in SFPD Reports
<ul style="list-style-type: none"> – The officers initiated a traffic stop without justification. – The officers detained two citizens at gunpoint without justification. – The officers handcuffed civilians without justification. 	<ul style="list-style-type: none"> – Conduct Unbecoming an Officer – Neglect of Duty – Unnecessary Force – Unwarranted Action

Source: Example descriptions from Police Commission Resolution 97-04, Exhibit A; actual descriptions from IAD Sustained Complaints Report, 2nd Quarter 2021

More detailed descriptions of the alleged misconduct can give clarity to members on matters that require reporting, and may also benefit SFPD command staff and personnel. For example, the

³ Administrative Code Section 96.2(d) requires the Police Commission to hold quarterly public hearings to consider sustained complaints awaiting action by SFPD, and to report to the Mayor and the Board of Supervisors information on the timeline and nature of each DPA case awaiting SFPD action.






⁴ U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office), *Strategic Communication Practices: A Toolkit for Police Executives*, 2011.




⁵ Resolution 97-04 also requires SFPD to publish quarterly reports on Internal Affairs investigations, but it did not do so (see Issue 1). SFPD is supposed to send copies of those reports to the Board of Supervisors.

Virginia Beach Police Department distributes a monthly report to all police personnel summarizing allegations and disposition of misconduct cases while protecting the identity of the involved employees. The goal of this practice is to provide transparency to all department members and prioritize the opportunity for observational learning over absolute protections on the information.⁶

Issue 4 - SFPD's misconduct information did not meet best practices for reporting data.

Exhibit 4 - SFPD can improve its reporting on misconduct data by aligning with best practices.

Comparison of Best Practices for Reporting Data and SFPD's Misconduct Reporting		
Key Points	Include a concise and organized executive summary to improve the structure of the report and ensure users can easily follow relevant points.	
User Needs	Include data that is summarized, stratified, and provided in appropriate detail to meet the needs of stakeholders relying on the data.	
Context	Provide context to assist users in interpreting data and facilitate informed decision making.	
Visualization	Represent data, especially more complex data, through graphics that accurately show trends, relationships, and the most significant information.	
Access	Reports or data dashboards, and their underlying data sets, should be made available for stakeholders to easily access. Reports should be compatible with adaptive technologies.	

 Fully complies
  Partially complies
  Does not comply

Note: We evaluated SFPD's sustained complaints reports published between 2019 and 2021, and issued a survey to commissioners about SFPD's misconduct information. As noted in Issue 1, SFPD did not publish other required reports. We also observed similar issues in SFPD's presentation of misconduct information to the Police Commission on Internal Affairs in September 2021 and in its *Departmental Racial Equity Progress Report for 2021*.

Source: Best practices from publications on reporting data; compliance with best practices assessed by DPA.

SFPD's presentation of misconduct information did not meet best practices for reporting data effectively, as shown in Exhibit 4.

SFPD's presentation of data does not help users:

Understand key issues – SFPD's reports did not give key points to guide users in understanding the report content.

See trends – SFPD's case-by-case presentation of data did not give users an idea of department-wide misconduct and discipline trends.

Identify relationships – SFPD's reports did not show relationships between data points, like comparing the total number of allegations sustained relative to the number of sworn officers in the department.

SFPD's website has a section for disciplinary reports, but the link takes users to the Police Commission's website, which no longer contains SFPD's reports.

⁶ U.S. Department of Justice, COPS Office, *Virginia Beach Police Department Enhancing Cultures of Integrity Technical Assistance Guide*, 2012.

Exhibit 5 shows examples from other jurisdictions that find ways to present misconduct data so readers can more easily understand the information and draw insights.

4 of **5** police commissioners said SFPD needs to improve:

- ◆ Summary statistics
- ◆ Allegation details
- ◆ Stratification
- ◆ Discipline details

Exhibit 5 – Other police departments present misconduct data in more meaningful ways.

The Los Angeles Police Department’s April 2022 Disciplinary Penalties Report organizes data by allegation type and penalty.

BODY WORN/DIGITAL IN-CAR VIDEO VIOLATION			
Penalty Type	Term(Days)	Misconduct	
Admonishment		- On-duty, failed to properly activate Body Worn Video as required by policy.	
SUSPENSION			
Penalty Type	Term(Days)	Allegation Type	Misc
Suspension	10	Unbecoming Conduct - Computer Violation	- Off-duty, engaged in a personal relationship with of the relationship.
Admonishment	5	Other Policy/Rule	- On duty, inappropriately used the Department co

Definition of Findings

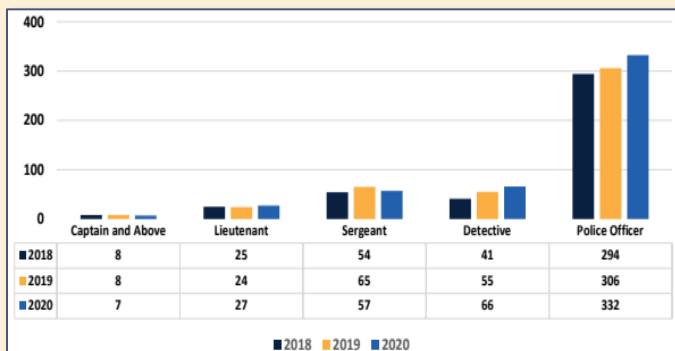
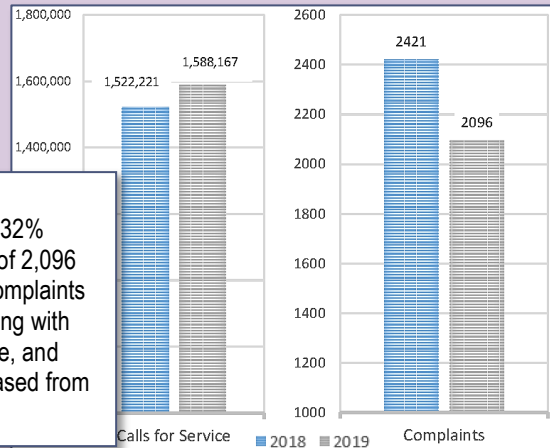
Sustained: Investigation classification when the investigator determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

Unfounded: Investigation classification when the investigator determines, by clear and con-

The Albuquerque Police Department’s Internal Affairs Professional Standards Second Quarter Report April-June 2022 provides users with definitions for the types of investigation findings.

The Las Vegas Metropolitan Police Department’s Internal Affairs Bureau Accountability Report 2018-19 gives context for understanding significance by comparing number of complaints to calls for service.

Complaint Types
LVMPD responded to 1,588,167 calls for service*, of which .132% resulted in a complaint being generated. IAB received a total of 2,096 complaints. This is a 13% decrease compared to the 2,421 complaints received in 2018. Even though calls for service increased, along with the increase in LVMPD’s jurisdiction population, tourist volume, and convention attendance, the total number of complaints decreased from 2018 to 2019, as well as each complaint category.



The New York Police Department's 2020 Discipline Report presents data visually to show trends over time and comparisons across different groups of officers.

Challenges and Opportunities in Addressing These Issues

Police misconduct is an issue about which it is especially important to inform the public, but it also presents significant challenges.⁷ **Addressing the issues discussed in this interim report presents the Police Commission and SFPD with opportunities to streamline reporting requirements, better respond to police misconduct, and build community trust.**

The Police Commission can:

Define needs. In conjunction with DPA and SFPD, the commission can identify what reporting on officer misconduct investigations would meet the needs of:

- ◆ The **Police Commission** for considering policy changes and overseeing the required coordination between DPA and SFPD.
- ◆ **City leaders** in considering changes to local laws.
- ◆ The **public** for transparency and accountability.

Defining needs could reduce SFPD's reporting burden and provide these stakeholders with misconduct information that is more complete, easier to understand, and more meaningful.

Address barriers. The commission can work with SFPD to understand and address barriers posed by the availability of the information and the resources needed to communicate the information.

SFPD can:

Meet user needs. Beyond meeting reporting requirements, SFPD can make sure that misconduct information meets user needs. Periodically asking for feedback from stakeholders can help SFPD decide whether it needs to change its **data collection processes**, **give more context**, or **add analysis and visualization** to better meet user needs.

Communicate barriers. Information communicated to the Police Commission and city leaders should include significant issues that impact misconduct reporting, like data collection, information system, and resource limitations.

Key Terms

Administrative code – San Francisco Administrative Code; specifically referring to Chapter 96, *Coordination Between the Police Department and the Department of Police Accountability*

Commission – San Francisco Police Commission, the governing body overseeing SFPD and DPA

DPA – Department of Police Accountability

Internal Affairs – SFPD Internal Affairs Division, a unit within the Risk Management Office

Misconduct – Any behavior that is a violation of an SFPD policy, including general orders governing bias-free policing, use of force, bodyworn cameras, and general rules of conduct. SFPD defines misconduct in DGO 2.01 *General Rules of Conduct* as conduct that subverts the order, efficiency, or discipline of SFPD.

⁷ U.S. Department of Justice, COPS Office, *Strategic Communication Practices: A Toolkit for Police Executives*, 2011.

Misconduct investigation - Investigation of misconduct; allegations from civilians against on-duty officers are investigated by DPA, while others are investigated by Internal Affairs.

The Audit's Next Steps

DPA will issue a full audit report that assesses whether SFPD handles and reports on allegations of misconduct, including officer bias, effectively and efficiently.

San Francisco Charter Section 4.136 gives DPA the authority to periodically audit SFPD, and mandates that DPA regularly audit use of force and handling of police misconduct.

This interim report provides information from DPA's audit work for the attention of the Police Commission and SFPD. The full report will be issued in the future and incorporate this information in findings with recommendations.

This Interim Report's Objective



- ◆ Does SFPD provide the Police Commission and the public necessary information on officer misconduct?

Overall Audit Objective

- ◆ Is SFPD's handling of officer misconduct, effective, efficient, and transparent?

Auditing Standards – DPA is conducting this performance audit in accordance with generally accepted government auditing standards. These standards require obtaining sufficient, appropriate evidence to provide a reasonable basis for findings to answer the audit objectives and to report every element of a finding, including recommendations if the findings are significant within the context of the audit objectives.

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