



FORMING A SAN FRANCISCO TRUTH COMMISSION

AN OVERVIEW OF ANTI-BLACK POLICE VIOLENCE IN SAN FRANCISCO

October 2021

IHRLC Working Paper Series No. 7

Berkeley Law

International
Human Rights
Law Clinic

ACKNOWLEDGMENTS

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<https://doi.org/10.15779/J2291G>

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INTRODUCTION

During the summer of 2020, the United States experienced the largest social movement in its history. Millions of people took to the streets in more than 550 of the country’s cities and towns to denounce anti-Black state violence and call for accountability and structural change.¹ In San Francisco and around the country, protesters chanted the names of George Floyd, Breonna Taylor, Tony McDade, Michael Brown, and others killed by police. These mass protests prompted a heightened national conversation around structural racism and White supremacy, vitalized police reform initiatives, and gave rise to calls for new mechanisms of justice and accountability, including truth commissions.²

Truth commissions and other transitional justice mechanisms—such as criminal prosecutions, reparations programs, and commemorations—have been used by fractured societies worldwide to confront human rights abuses, fight impunity, improve accountability, and promote democracy.³ Over the last 40 years, more than 40 truth commissions have operated in a wide range of political contexts, including in the United States.⁴ A truth commission is a temporary, independent, and victim-centered investigation of a pattern of acts of violence or repression that occurred over a period of time. Truth commissions investigate human rights abuses by collecting testimonies from the members of affected communities. The work of truth commissions has often culminated with the release of a report that provides findings and recommendations for redress and the prevention of future abuses.

The events of 2020 reinvigorated the public and political discourse focused on establishing truth commission initiatives in the United States. Congress is currently considering a resolution to form a U.S. Commission on Truth, Racial Healing, and Transformation; the New York City government has established a Racial Justice and Reconciliation Commission; and civil society leaders, such as members of community groups, faith-based organizations, and advocacy groups, have pushed forward truth commissions in Minnesota, Iowa, and other states to examine the legacies of racialized state violence.⁵

On July 1, 2020, the San Francisco District Attorney’s Office (D.A.’s Office) along with the district attorneys from Boston and Philadelphia and the Grassroots Law Project announced the formation of local “Truth, Justice and Reconciliation Commissions” in each city. The goal of the pilot project is “to create a process for District Attorneys and their local communities to hear from victims of police and prosecutor misconduct, develop new pathways to justice, and re-examine what justice looks like for marginalized groups.”⁶ In San Francisco, the creation of a truth commission is a politically contentious endeavor: as this Working Paper documents, San Francisco city officials and the police union have historically resisted efforts to reckon with institutional racism. Even among people who agree structural change is necessary, opinions differ on how best to pursue and achieve it.

Zinaida Miller, a transitional justice scholar, recently wrote:

At their best, [truth commissions in the United States] could help to expose and clarify the legal and political structuring of white supremacy, connect

it to global structural inequality, open up narratives of American suppression and repression, and link today's racialized inequality and violence with their long histories. They could help make discussions of reparation and repair real.⁷

The purpose of this Working Paper is to compile information about anti-Black police violence in San Francisco in support of the truth commission initiative. Given this narrow focus, the paper does not address the multiple systems that are responsible for divestment from and displacement of San Francisco's Black communities. The authors aim to provide truth commission proponents with this resource to assist in their efforts to form an impactful truth commission that is responsive to the local context and centers the experiences of those most affected by police violence. This Working Paper, however, is neither the beginning nor the end of the effort to expose the modalities and effects of state violence in San Francisco.

For decades, the San Francisco Police Department (SFPD) has engaged in racial profiling and has maintained one of the highest rates of police shootings in the country.⁸ Prior studies, including by the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement (BRP) and the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS), have extensively documented the pervasiveness of racial and other biases within the SFPD; the impact of discriminatory policing on the lives, dignity, and freedoms of people of color; and the lack of effective oversight and accountability. This Working Paper synthesizes prior research to provide an overview of the history of anti-Black police violence in San Francisco.

Compiling and synthesizing information about San Francisco's history of police violence is a herculean task. In keeping with the demands of the 2020 protests, this Working Paper centers the experiences of Black communities in San Francisco. The authors recognize that other communities have also been and continue to be profoundly impacted by police violence in San Francisco, including Native, Latinx, East Asian, and LGBTQ+ people. The focus on San Francisco's Black communities does not intend to discount the lived experiences or harms endured by these communities.

Time and resource constraints have narrowed the focus of this Working Paper in additional ways. First, this Working Paper examines almost exclusively the SFPD and only briefly discusses other law enforcement actors, such as the San Francisco Sheriff's Department and the D.A.'s Office, that have perpetuated violence and shielded perpetrators from accountability. Second, this Working Paper focuses on the last 40 years of police violence, although the historical roots of today's violence lie outside that period. Finally, the authors relied exclusively on desk research and publicly available sources. Without new research and interviews, this Working Paper is necessarily incomplete.

With the aim of assisting the proponents of the San Francisco truth commission in their effort to create an effective and context-sensitive initiative, this Working Paper documents anti-Black police violence in three parts. Part I provides a brief overview of the history of San Francisco's

Black communities. Part II examines the modalities and characteristics of police violence against those Black communities and the persistence of impunity for those acts of violence. Part III describes the responses of civil society and government actors to police violence in San Francisco. Part IV identifies institutional failings that have shielded the SFPD from accountability, perpetuated impunity, and hindered redress. The appendix includes a timeline of key incidents of police violence that occurred in San Francisco from 1980 to 2020.

This Working Paper represents a small step toward shaping a truth commission addressing police violence in San Francisco. The authors hope that it helps support ongoing dialogue; invites further reflection, research, and analysis; and contributes to meaningful societal change in San Francisco.

I. SAN FRANCISCO'S BLACK COMMUNITIES

This Part provides an abridged history of Black communities in San Francisco to contextualize the discussions of present-day state violence.⁹ Decades of discrimination, segregation, displacement, and gentrification have created persistent and widening racial disparities in access to quality schools, housing, services, jobs, and infrastructure. The section briefly describes the dynamics that have led to the growth, displacement, and—more recently—the rapid decline of the city’s Black population.

When California was admitted to the United States in the mid-1800s, San Francisco had a small number of Black residents, who comprised only 1% to 2% of the city’s population.¹⁰ The Black population remained small even after the American Civil War largely due to employment discrimination, segregation, and White racial solidarity.¹¹ White employers routinely rejected Black job applicants in favor of European migrants, and labor unions refused to permit membership to Black newcomers.¹² It was not until World War II—two decades after the start of the Great Migration—that labor shortages in San Francisco’s shipbuilding and other wartime industries, federal employment discrimination laws, and racial hostilities in the South spurred an influx of Black migrants.¹³

As the Black population grew, racism, segregation, and housing discrimination—including restrictive covenants—pushed new Black residents into wartime housing in the shipyards of Hunters Point and to the Western Addition, where the internment of Japanese Americans in concentration camps had left houses unoccupied.¹⁴ The Western Addition’s Fillmore District became a center for Black business and culture, including a famed jazz scene, and was coined the “Harlem of the West.”¹⁵ San Francisco’s Black population grew from 5,000 in 1940 to more than 21,000 by 1945.¹⁶ By 1950, the Black population had more than doubled, comprising over 43,000 residents or 6% of the city’s total population.¹⁷

The Fillmore’s Black residents faced inadequate housing, poverty, and crime.¹⁸ Political leaders weaponized these conditions¹⁹ to justify racialized demands for postwar “urban renewal” that targeted the Fillmore for redevelopment as a means to combat crime and stimulate the local economy.²⁰ Starting in the mid-1950s, the San Francisco Redevelopment Agency forcibly displaced approximately 8,000 residents from the Fillmore and destroyed 6,000 low-income housing units to make way for skyscrapers, retail, and upscale housing.²¹ Many of the Fillmore’s Black-owned homes, businesses, and cultural anchors were demolished; Black residents were pushed away from the heart of the city to the Bayview-Hunters Point.²² Black residents also relocated to the Tenderloin and to the Haight-Ashbury.²³

San Francisco’s Black population continued to increase. By 1960, San Francisco had approximately 75,000 Black residents, about 10% of the city’s population.²⁴ The Black population peaked by 1970, at 13% of the city’s overall population.²⁵ Since 1970, a variety of factors have contributed to a steep decline in the Black population (although the city’s overall population has steadily increased), including new redevelopment projects, “redlining,”²⁶ insufficient job opportunities, high crime and victimization rates in Black districts, gentrification, and soaring rents.²⁷

Another round of “urban renewal” in the Fillmore in the 1970s displaced over 13,000 residents and razed another 5,000 low-income housing units.²⁸ The redevelopment of the Fillmore failed to generate the anticipated economic growth, and instead confined many low-income Black residents to public housing in an increasingly disinvested district with few job opportunities and increasing rates of victimization.²⁹ The closing of the Bayview-Hunters Point shipyards in 1974 increased unemployment for the neighborhood’s Black residents.³⁰ The city also failed to maintain or increase its low-income housing supply.³¹ From 2000 to 2015, the percentage of Black households that live in high-poverty, segregated districts increased from 41% to 65%.³² The dot-com and tech booms of the late 1990s and late 2000s exacerbated these trends as high-earning and highly skilled transplants moved to San Francisco, pushing rents and property values out of reach for the working poor and middle class.³³

Over the last several decades, the Black population in San Francisco has declined at a rate faster than in any other large U.S. city.³⁴ Nearly one in seven San Francisco residents were Black in 1970; by 1990, that rate had dropped to one in 10, and by 2016, to less than one in 20.³⁵ Today, Black San Franciscans comprise approximately 5% to 6% of the city’s total population of approximately 900,000 residents.³⁶

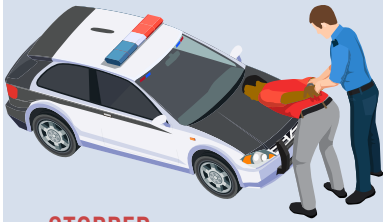
Despite the city’s small—and steadily declining³⁷—Black population,³⁸ Black San Franciscans remain overrepresented in data concerning socioeconomic barriers to prosperity. For example, 31% of public housing residents, 19% of unemployed persons, and 57% of people in San Francisco jails are Black.³⁹ Moreover, as discussed in the following section, the percentages of police stops, arrests, and uses of force that involve Black residents have increased year after year.

II. CHARACTERISTICS OF VIOLENCE

RACIALIZED POLICING IN SAN FRANCISCO

Two decades of police data indicate that Black people are disproportionately more likely to be stopped, searched, arrested, convicted, and subjected to use of force by the SFPD than are people of other racial groups.

Black San Franciscans comprise approximately 5% to 6% of the city's total population but are . . .



STOPPED

18-20%

of SFPD traffic stops between 2018-2020 were of Black drivers. Black drivers and passengers comprised over 40% of SFPD searches without consent, even though searches of Black drivers were "significantly less likely" to result in evidence of criminality.



ARRESTED

43%

of SFPD arrests from 2005 to 2014 were of Black people.

In 2013, Black women were arrested for narcotics, prostitution, and traffic violations at rates 34 times, 31 times, and 17 times greater, respectively, than non-Black women.



SUBJECTED TO FORCE

38%

The approximate percentage of Black individuals killed by the SFPD since 1985.

Between 2013 and 2019, SFPD officers failed to first try non-lethal force in 73% of shootings.



CONVICTED

28X

Black people convicted of drug felonies in San Francisco were 28 times more likely than White people to receive a prison sentence for their offenses.



LACK OF ACCOUNTABILITY

98%

of use-of-force complaints and 92% of police bias complaints were closed without bringing disciplinary action against officers from 2016 and 2019.

In 2020, the SF District Attorney filed the first homicide charges against an SFPD officer in San Francisco's history.

Studies have repeatedly and extensively documented the SFPD’s over-policing of Black people and neighborhoods. Decades of policing data reveal the prevalence of racial profiling within the SFPD and the interactions between race, gentrification, and under- and over-policing. This section first explores some of the various dimensions of the violence perpetuated by the SFPD by examining the specific manners in which Black San Franciscans—including those belonging to various intersectional identities—experience violence through racial profiling. It then examines the SFPD’s discriminatory policing of historically Black and gentrifying neighborhoods. Finally, the section examines how impunity has shielded SFPD officers from accountability for discriminatory policing against Black communities.

A. Racial Profiling and Violence Against San Francisco’s Black Communities

Comprising only 5% to 6% of San Francisco’s current population,⁴⁰ Black people are disproportionately more likely to interact with the police and to be subjected to police brutality than are members of other racial groups.⁴¹ Additionally, Black people are significantly more likely than members of any other racial group to be observed and reported as criminal suspects by officers and civilians.⁴² While these manifestations of violence threaten the well-being of San Francisco’s Black population as a whole, an intersectional analysis reveals how multiple forms of discrimination—based on race, class, age, and sexual orientation—operate to produce dire policing outcomes for specific members of the city’s Black communities.

1. SFPD stops, searches, arrests, and uses of force against Black people

Two decades of police data indicate that Black people are disproportionately more likely to be stopped, searched, arrested, and subjected to use of force by the SFPD than are people of other racial groups.⁴³ Each of these policing practices is discussed in turn.

SFPD traffic stop data, to start, demonstrates the intensity of racial profiling faced by Black people. In 2002, the American Civil Liberties Union (ACLU) released a report that analyzed data from approximately 50,000 SFPD traffic stops conducted from 2001 to 2002, finding that SFPD officers were significantly more likely to stop Black drivers.⁴⁴ As San Francisco’s Black population declines, the SFPD has continued to stop Black drivers at disproportionate rates. In comparison to California’s seven other largest police departments, the SFPD had the widest racial disparity in traffic stops.⁴⁵ In the 2001-2002 and 2014-2015 periods, Black people accounted for around 15% of all traffic stops.⁴⁶ That number increased to 20% by 2018 but decreased to 19% in 2019 and nearly 18% in the beginning of 2020.⁴⁷

Similarly, SFPD traffic stops are significantly more likely to lead to searches if the vehicle occupants are Black. The ACLU’s report revealed that compared to stops involving White people, Black drivers and passengers were three times more likely to be searched following a traffic stop and more than twice as likely to be asked to be searched without probable cause, even though searches of Black drivers were “significantly less likely” to result in evidence of crimi-

nality.⁴⁸ The representation of Black people in search data has increased in recent years. According to traffic stop data from 2015, the SFPD searched Black people at rates nearly eight times greater than those for White people.⁴⁹ Black drivers and passengers also made up over 42% of all police searches without consent that year despite accounting for less than 15% of all stops.⁵⁰ In both the final quarter of 2019 and the first quarter of 2020, Black drivers and passengers comprised nearly 40% of searches although Black residents made up less than 6% of the city's population.⁵¹

Arrest data corroborates the prevalence of the SFPD's racial profiling of Black San Franciscans. For decades, the SFPD has arrested Black people at alarming rates. In 1986, for example, San Francisco's Black felony arrest rate was almost 45% and 51% greater than in Los Angeles and Oakland, respectively.⁵² More recent data shows that Black people were arrested five to eight times more often than were White people in San Francisco,⁵³ with Black people making up 43% of all arrests from 2005 to 2014.⁵⁴ Black people were disproportionately more likely to be arrested across all offense categories, including nonviolent minor offenses and low-level offenses such as drug possession and disorderly conduct.⁵⁵ Moreover, studies of arrest data have found that San Francisco's disparity in Black and White arrest rates has been increasing despite a general decrease in the disparity statewide.⁵⁶ For example, even though San Francisco's overall drug-arrest rate declined from 1994 to 2013, arrest rates for Black people increased for every drug offense category relative to the rates for White people.⁵⁷

Historically, arrests for drug offenses, and drug interdiction more generally, have driven interactions between San Francisco law enforcement and the city's Black population. The War on Drugs has fomented aggressive forms of policing with disproportionate impact on poorer communities of color—Black communities in particular.⁵⁸ For over 40 years (most concentrated in the late 1980s and after 1995), Black San Franciscans experienced felony drug arrests at a rate 19 times higher than that for other racial groups, and seven times higher than that for other Black people across California.⁵⁹ As of 2013, out of all mid-sized cities in the country, San Francisco had the highest drug-arrest rate for Black people, and one of the greatest disparities in Black and White drug-arrest rates.⁶⁰ Black people convicted of drug felonies in San Francisco were also 28 times more likely than White people to receive a prison sentence for their offenses.⁶¹

Drug sweeps that took place in 2013 and 2014 typify law enforcement's aggressive targeting of San Francisco's Black communities for arrests for low-level drug offenses.⁶² In an operation called "Operation Safe Schools," the SFPD collaborated with the U.S. Drug Enforcement Agency and the U.S. Attorney's Office for the Northern District of California to apprehend people selling small amounts of crack cocaine in the Tenderloin.⁶³ All 37 of the individuals prosecuted for federal drug offenses were Black, despite research indicating that nearly 40% of past drug arrestees in the Tenderloin were White and Latinx.⁶⁴ A video recorded during one of the sting operations shows an officer declining to purchase from an Asian American woman and then arresting a Black woman nearby, and captures another officer referring to a group of Black people as "f***** BMs [Black males]."⁶⁵ During the federal criminal proceedings, the judge observed that there was "substantial evidence suggestive of racially selective enforcement" by the SFPD.⁶⁶

Compounding the violence engendered by arrests, stops, and searches, the SFPD disproportionately uses force against Black San Franciscans. Racial profiling by the SFPD increases the likelihood that officers will use force, including lethal force, against Black people. For instance, racial stereotypes portraying Black men as dangerous may induce officers to believe that violent force is “both necessary and proportionate.”⁶⁷ Moreover, repeated interactions with officers, including but not limited to stops and searches, “overexpose[] African Americans to the possibility of police violence.”⁶⁸ When these interactions result in arrests, which involve an officer handcuffing a person and placing them in a patrol car, officers are more likely to use force.⁶⁹

SFPD officers have displayed a propensity to use force, including lethal force, more frequently than other police departments. Between 2013 and 2019, the SFPD used less-lethal force (such as batons, strangleholds, Tasers, and other weapons) and deadly force more frequently than the majority of California police departments.⁷⁰ SFPD officers also failed to first try nonlethal force in 73% of shootings.⁷¹ Moreover, when SFPD officers use force, they are much more likely to do so against Black civilians.⁷² COPS’s review of SFPD use-of-force data from 2013 to 2016 found that 37% of SFPD use-of-force incidents involved Black people and approximately 35% involved White people.⁷³ At the time, Black residents comprised approximately 6% of the city’s population and White residents made up 48.5%.⁷⁴

More recent use-of-force data indicate that the frequency of incidents involving Black people has increased, even while the total number of reported use-of-force incidents has nearly halved and San Francisco’s Black population continues to shrink. From 2016 through 2019, approximately 45% of SFPD use-of-force incidents involved Black people.⁷⁵ In 2020, the percentage of use-of-force incidents involving Black people doubled the percentages for White and Latinx people.⁷⁶ For example, in the first quarter of 2020, SFPD pointed firearms at people in 259 instances; 110 of those instances (about 42%) involved Black people, whereas only 54 instances (about 21%) involved White people and 72 instances (about 28%) involved Latinx people.⁷⁷

SFPD data also indicate the overrepresentation of Black people in deadly use-of-force incidents. Since 1985, approximately 38% of individuals killed by the SFPD have been Black, even though the Black population has never exceeded 13% of San Francisco’s total population.⁷⁸ From 2010 to 2015, approximately 40% of the victims of officer-involved shootings were Black.⁷⁹ Only 22% of victims were White.⁸⁰ And from 2013 to 2017, Black people were killed by police in the San Francisco-Hayward-Oakland metropolitan area at a rate greater than in every other U.S. metropolitan area but Oklahoma City.⁸¹

2. Intersectionality and police violence

Data on stops, searches, arrests, and use of force help begin to uncover the scope and nature of police violence against San Francisco’s Black communities. This section applies an intersectional analysis to reveal additional dynamics of violence and patterns of victimization. Inter-

sectionality is conceptualized as “the complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups.”⁸² This section will examine the compounding forms of police violence experienced across intersecting dimensions of race, gender, age, socioeconomic status, ability, and health status, including by Black men and women, Black youth, Black unhoused individuals, and Black people with mental disabilities and mental health issues.⁸³

Black men have been the most frequent victims of SFPD violence. Although male identity, often considered to bestow privilege, is not routinely included in discussions of intersectionality, Black men are dramatically overrepresented in policing data in San Francisco, historically accounting for 30% to 40% of all recorded use-of-force instances.⁸⁴ The shooting death of Mario Woods is but one example. On December 2, 2015, SFPD officers took a report from a victim of a stabbing in the Bayview, noting that the assailant had been “erratic” and appeared to be under the influence at the time of the stabbing.⁸⁵ At least five SFPD officers, responding to reports of someone matching the assailant’s profile, approached Woods, a 26-year-old Black man who was waiting to board a Muni bus.⁸⁶ After Woods brandished a knife, the officers tried to subdue him using nonlethal rounds.⁸⁷ When Woods attempted to walk away from the officers and toward the bystanders, five officers fired 26 rounds at him—multiple in his back—killing him.⁸⁸ The district attorney’s investigation and various bystander videos of the incident showed that Woods had never threatened the officers with the knife.⁸⁹

Black women in San Francisco, like Black men, also face much higher use-of-force rates. In the first quarter of 2020, Black women accounted for nearly 44% of all SFPD use-of-force incidents involving women, compared to about 27% for White women.⁹⁰ Fifty-one percent of the women the SFPD pointed their weapons at were Black.⁹¹

Black women are also arrested at alarming rates and dramatically overrepresented in numbers for certain offenses. In 2013, Black women, comprising less than 6% of San Francisco’s female population, constituted nearly half of all female arrestees and were arrested 13 times more often than were non-Black women.⁹² Black women also represented two-thirds or greater of all arrests of women in San Francisco for felony weapon offenses, for felony narcotics offenses, and for prostitution, and over half of all arrests of women for felony robbery, for felony drug offenses, for felonies as a whole, and for traffic violations.⁹³ Indeed, in 2013, SFPD arrested Black women for narcotics, prostitution, and traffic violations at rates 34 times, 31 times, and 17 times greater, respectively, than the rates for non-Black women.⁹⁴ These disparities between Black and non-Black women have skyrocketed over the course of more than three decades. In 1980, Black women were four times more likely to be arrested than were non-Black women; in 2013, they were 13 times more likely.⁹⁵ The 2013 disparities were on average four times greater than those throughout the rest of California.⁹⁶

Black youth of both genders in San Francisco face heightened rates of arrest, both generally and for drug offenses specifically. Compared to young White people, who frequently receive

low-level offenses like marijuana possession, Black youth are often entered into the juvenile justice system.⁹⁷ From 2005 to 2014, 52% of juvenile arrestees in San Francisco were Black—even greater than the 43% figure for Black people generally in that period.⁹⁸ Rates were especially high in the latter half of the period: from 2009 to 2014, Black youth made up approximately 62% of juvenile arrests.⁹⁹ As a result, Black youth are particularly overrepresented in felony drug offenses. In 2009, Black youth made up more than half of all juvenile drug felonies despite comprising only 9% of San Francisco’s youth population.¹⁰⁰ The problem is particularly acute for Black girls, who experience extraordinarily high felony drug-arrest rates.¹⁰¹

Another group historically overrepresented in policing data is Black unhoused people. San Francisco government has a long history of mistreating and criminalizing those without permanent housing.¹⁰² In 1993, for example, former Mayor Frank Jordan, who took office just after serving as chief of the SFPD, launched a joint effort between the police and social services staff to enforce a variety of rarely used municipal and state ordinances creating “quality of life” violations.¹⁰³ Enforcement of laws that prohibited public drunkenness, public urination, trespassing, obstruction of sidewalks, and camping and lodging in public parks allegedly served to restore order and get unhoused people off the streets.¹⁰⁴ Referred to as the “Matrix program,” the initiative received widespread criticism for criminalizing and exacerbating poverty and homelessness, and was abandoned in 1996.¹⁰⁵

Black people today make up around one-third of the unhoused population in San Francisco but less than 6% of the entire population.¹⁰⁶ Housing insecurity is particularly common for Black transgender people, 13% of whom have been recorded as unhoused.¹⁰⁷ Moreover, the 311 hotline receives over 50,000 calls concerning homelessness issues each year, calls to which SFPD officers have typically been the first responders.¹⁰⁸ Perhaps due to these calls, unhoused Black people have reported being approached by police at high rates: in a 2014 survey of formerly unhoused individuals throughout San Francisco, 81% of Black respondents reported having been approached by police.¹⁰⁹ The overwhelming majority of Black respondents also reported having been searched, forced to move, cited, and arrested and incarcerated, at rates higher than those for any other racial group.¹¹⁰ Black men and Black trans women experienced the highest rates of arrest and incarceration.¹¹¹ Black respondents also reported the highest rates of past incarceration of all racial groups: 74% of Black respondents, compared to 51% of White respondents, reported having been incarcerated in the past.¹¹² Similarly, 64% of Black female respondents, compared to 45% of White female respondents, reported past incarceration.¹¹³

Finally, anecdotal evidence suggests the heightened policing of Black individuals with mental disabilities and mental health issues. From 2010 to 2015, more than 60% of all fatal SFPD shootings involved people with mental health problems or who were acting “erratically.”¹¹⁴ Numerous documented uses of force by the SFPD have involved Black people experiencing various mental health issues. For example, on June 12, 2001, Idriss Stelley, a 21-year-old man with bipolar disorder, was shot more than 20 times by SFPD officers after he allegedly lunged at them with a knife.¹¹⁵

B. Disproportionate Policing of Black Neighborhoods

The trends in data underscoring the disparities in policing of San Francisco’s Black population are not uniform across the city. Data recorded by the SFPD indicate that stops, searches, and arrests disproportionately occur in districts with the largest Black populations. These include the Bayview-Hunters Point, the Tenderloin, and the Western Addition. Neighborhoods subjected to the most aggressive policing tactics tend to be gentrification battlegrounds or areas that were offset to maintain racial segregation during the redevelopment of San Francisco.

As post-World War II “urban renewal” projects pushed Black communities into the Bayview-Hunters Point, the SFPD maintained racial segregation through the over- and under-policing of Black districts. One scholar described the policing of these neighborhoods as “a contradictory blend of neglect and coercive, even violent[,] intervention.”¹¹⁶ Police departments may define minority neighborhoods as problem areas “due to a stereotypical association between racial composition and crime,” thereby driving up arrest rates.¹¹⁷ Police then exploit these arrest rates to justify continued geographical and racial targeting, including through the deployment of more aggressive forms of policing.¹¹⁸

SFPD officers carry out more stops, searches, arrests, and uses of force in districts with larger Black populations. For example, from 2013 to 2015, the majority of searches following traffic stops were concentrated in the Bayview-Hunters Point, the Downtown/Civic Center area (which includes the Tenderloin), and in the Mission.¹¹⁹ The Tenderloin also leads all districts in reported use-of-force incidents.¹²⁰

Since 1985, the majority of killings by the SFPD has occurred in the Downtown/Civic Center area, the Bayview-Hunters Point, and the Western Addition—the districts with the city’s highest concentrations of Black residents.¹²¹ The vast majority of the killings in these neighborhoods have involved Black victims.¹²² Black drivers are also stopped at much higher rates. According to COPS, Black drivers in the Bayview “are about 87 percent more likely to be stopped by SFPD officers than would be expected based on their estimated representation of drivers in the population”; in the Tenderloin, Black drivers are 47% more likely to be stopped.¹²³

Various accounts from community members and SFPD officers corroborate these findings. Community members have shared “countless anecdotes” concerning unwarranted and disproportionate stops, searches, and arrests in the Bayview-Hunters Point, the Tenderloin, and the Western Addition, particularly for minor infractions and frequently performed in an “overly aggressive manner.”¹²⁴ One officer has stated that the SFPD polices districts like the Bayview more aggressively because of greater numbers of “criminals,” compared to districts such as Pacific Heights, the Richmond, and the Sunset, which all have lower crime statistics (as well as very low Black populations).¹²⁵ Another officer has stated that police interactions differ by neighborhood, and officers in certain districts stop people who “do[n]’t fit the [suspect] description at all.”¹²⁶ A former officer also testified that the SFPD uses Black neighborhoods to train new officers in aggressive policing practices.¹²⁷

Gentrification drives extreme police presence and practices in Black neighborhoods. As San Francisco has developed into what some scholars refer to as a “consumer city,” order maintenance has been prioritized.¹²⁸ This type of policing focuses specifically on the aggressive enforcement of minor offenses, such as low-level drug possession and panhandling, and more generally on controlling and excluding those who may detract from a city’s consumerist appeal.¹²⁹

Drawn to a consumerist San Francisco, newcomers—predominantly young White tech workers with high incomes—have moved into neighborhoods that for many years were the only places where minorities were allowed to live. Sometimes, these newcomers have misconstrued certain people of color as “criminal suspects” and reported them to law enforcement.¹³⁰ For example, in 2013, Mayor Edwin Lee launched the mobile app SF311, encouraging residents to report public disorder by submitting a photo with their location.¹³¹ After the app’s release, SF311 posts mostly concerned gentrifying neighborhoods, including the Mission, South of Market (SoMa), the Bayview-Hunters Point, the Western Addition, Downtown/Civic Center, and the Tenderloin.¹³² These sorts of reports create risks for all people of color, who are significantly more likely to be reported for suspected criminal activity.¹³³ For example, in 2014, Alex Nieto, a 28-year-old Latino security guard eating a meal in Bernal Heights Park, was shot dead by SFPD officers responding to a 911 call.¹³⁴ The call was placed by a white-collar White couple that had lived in the city for a year.¹³⁵ On the call, the couple reported seeing Nieto moving “nervously” and putting his hand on a handgun.¹³⁶ The “handgun” was actually Nieto’s work Taser, and Nieto had just experienced an altercation with a new White neighbor whose dog tried to eat his food.¹³⁷

Neighborhoods most impacted by gentrification—especially those with the highest numbers of Black residents, including the Tenderloin, SoMa, and the Bayview-Hunters Point—are also home to the highest rates of drug-related police incidents.¹³⁸ The Tenderloin, where the SFPD engages in intense “quality of life” policing, is the district with the highest levels of drug enforcement.¹³⁹ In 2009, Chief of Police George Gascón, who later became district attorney, ramped up drug enforcement in the Tenderloin, launching a three-week drug sweep that resulted in about 300 low-level drug arrests, predominantly of people of color.¹⁴⁰ In 2010, 30% of drug-related police incidents occurred in the Tenderloin.¹⁴¹ These incidents resulted in arrests 60% of the time—double the average for other districts.¹⁴² Drug-related police incidents also made up nearly a quarter of the Tenderloin’s total police incidents that year—over double the share of the next-highest district.¹⁴³

The SFPD also has concentrated drug enforcement efforts in the Bayview-Hunters Point, which now houses the largest share of San Francisco’s Black population.¹⁴⁴ These efforts are largely a form of broken windows policing, in which officers enforce minor violations to get to more serious felonies.¹⁴⁵ Several SFPD officers have justified these efforts, claiming the district is fraught with drug problems and that Black drug dealers are more likely to use violence than are drug dealers in neighborhoods with larger White populations.¹⁴⁶ Heightened drug enforcement in the Bayview has eroded community trust and deepened the divide between the police and the people they swore to serve.¹⁴⁷

C. Impunity for Police Violence

For decades, SFPD officers have been shielded from accountability for the violent policing of San Francisco’s Black neighborhoods and residents. Despite an extensive record of violent and discriminatory policing, disciplinary actions and criminal prosecutions are rarities. Civil suits against the city for officer misconduct have provided limited redress to a small number of victims and their families.

Between January 2016 and December 2020, there were 3,520 civilian complaints of police misconduct.¹⁴⁸ The complaints alleged neglect of duty, unprofessional conduct, unwarranted action, unnecessary use of force, and racial slurs, among other concerns. The vast majority of civilian complaints did not result in disciplinary actions against the officers. For example, only one in 15 complaints of police misconduct filed between 2016 and 2019 was resolved in favor of the civilian; 98% of use-of-force complaints and 92% of police bias complaints were closed without bringing disciplinary action against officers.¹⁴⁹ Comprehensive and detailed information about the specific disciplinary sanctions taken against an officer found to have engaged in misconduct is not available.

The most serious allegations of police misconduct involve shooting deaths. Since 2013, SFPD officers have killed 21 individuals, five of whom were Black.¹⁵⁰ Almost all involved officers have faced no criminal or disciplinary action for their conduct, as city prosecutors have declined to bring charges in the vast majority of cases.¹⁵¹ Indeed, in 2021, the D.A.’s Office brought the first homicide charges against an SFPD officer in the city’s history.¹⁵²

Although a systematic analysis of civil suits is unavailable, it is likely that the city has paid millions to compensate victims of unnecessary force, unlawful action, sexual harassment, and other types of misconduct.¹⁵³ From 2015 to 2020, for example, San Francisco paid \$2.5 million to victims and surviving family members for excessive use of force and wrongful death.¹⁵⁴ This sum includes the \$400,000 in compensation paid to Mario Woods’s mother to settle her wrongful death suit.¹⁵⁵ In 2019, the city also approved “\$13.15 million in settlement money for two separate civil cases that cover a range of SFPD officer misconduct, including lying on the job, fabricating evidence, and using excessive force.”¹⁵⁶

Recent reforms have sought to curb impunity. In 2016, the D.A.’s Office created the Independent Investigations Bureau to investigate all officer-involved shootings, in-custody deaths, and other uses of excessive force.¹⁵⁷ In 2020, the Office announced the formation of the Post-Conviction Unit to review convictions resulting from prosecutorial and law enforcement misconduct, as well as an all-volunteer Innocence Commission to support its work.¹⁵⁸ Additionally, the District Attorney has enacted reforms to address the lack of support and services available for victims of police violence and their families.¹⁵⁹ These efforts comprise some of the most recent measures to reform law enforcement in San Francisco by addressing the legacy of impunity. The next part provides a more detailed overview of past and recent reform measures.

III. RESPONSES TO POLICE VIOLENCE

This Part examines the history of the response by civil society and the government to police violence against Black communities.¹⁶⁰ In San Francisco, incremental reform has been achieved through sustained grassroots organizing by community-based organizations, activists, and victims and their family members.¹⁶¹ This Part also describes several California legislative efforts and federal law enforcement initiatives to improve transparency and raise standards for officer conduct. First, it describes advocacy efforts by civil society and provides an overview of key stakeholders' needs and priorities. Second, it examines government responses at the city, state, and federal levels to police violence. Last, it describes the response by city agencies to the unprecedented Black Lives Matter protests which took place over the summer of 2020.

A. Civil Society Actors and Priorities

An in-depth examination of San Francisco's complex ecosystem of activism is beyond the scope of this Working Paper. However, this section begins the work of compiling information about the history of civil society's response to police violence in San Francisco. The term "civil society" became popular in the 1980s to identify nongovernmental movements that challenged repressive and authoritarian regimes. Today, it is commonly used to refer to a wide array of organizations and representatives of nongovernmental organizations, community groups, faith-based organizations, charities, professional associations, trade unions, social movements, coalitions, and advocacy groups. This section first identifies key civil society stakeholders, including racial justice coalitions and family members of victims.¹⁶² Second, this section provides an overview of the demands and priorities articulated by civil society actors in response to police violence in San Francisco. The section identifies two broad categories of demands: justice and accountability for SFPD officers involved in violence and investment in San Francisco's Black communities. Coalitions, community organizations, activist groups, victims, and their family members have pursued these priorities through a range of activities, such as demonstrations and protests, coalition building, policy advocacy, and establishing new organizations.

1. Stakeholders

This section will discuss individuals, groups, and communities that have worked to challenge police violence. The section first focuses on affected communities—the victims, families, neighborhoods, and communities—that have been directly impacted by police discrimination and violence. Next, the section describes the racial justice and anti-police violence coalitions that work to hold law enforcement accountable.¹⁶³

a. Affected communities

For decades, the residents of majority-Black neighborhoods have denounced the adverse impacts of racial profiling in San Francisco. In San Francisco, incidents of police violence have evoked public repudiation and spurred activism that often manifests in protests and civic engagement. The residents of the Mission and the Bayview have been particularly vocal and active in pressing for government action and police reform.

The voices of victims' family members have featured prominently in efforts to challenge police violence.¹⁶⁴ Family members—and friends—of victims ground abstract conversations of “police violence” in their very real experiences of pain and grief and lend moral legitimacy to calls for truth and justice. Expressions of grief and anger also facilitate public awareness and memory around incidents of police violence.

In recent years, Dolores Piper, the aunt of Derrick Gaines, who was 15 when police shot and killed him in 2012;¹⁶⁵ Gwen Woods, the mother of Mario Woods;¹⁶⁶ Jose Góngora Pat and Luis Armando Poot Pat, the brother and cousin of Luis Góngora Pat, who was killed by SFPD officers in 2016;¹⁶⁷ and many other family members of police violence victims have organized around SFPD violence. They have staged protests, met with officials, participated in Board of Supervisors meetings, and founded organizations to actively engage in policy discussions, press for structural change, and call for criminal prosecutions.¹⁶⁸ Community responses to officer-involved deaths have been shaped by networks centered around the families and friends of the victims, such as the Justice 4 Mario Woods, Justice 4 Alex Nieto, Justice for Luis Góngora, and Justice 4 Amilcar coalitions. These victim-centered groups have organized marches,¹⁶⁹ demonstrations,¹⁷⁰ vigils, and memorials, and published information about incidents and efforts to secure accountability.¹⁷¹

Days after her son was killed, Gwen Woods told a crowd of almost 1,000 protesters, “They’re going to portray my child as horrible, I guarantee you that. . . . I’m going to be his voice.”¹⁷² In 2018, Woods and Luis Góngora Pat denounced San Francisco District Attorney George Gascón’s decision not to pursue charges against the officers involved in the shooting deaths. Moments after the announcement, Woods vowed to continue the fight for justice: “I will never let you forget his name, Mario Woods, Mario Woods, Mario Woods.”¹⁷³ Luis Góngora Pat’s brother told the press: “Les hablo hoy con el corazon partido. Yo amo a mi hermano Luis, hoy y siempre. . . y voy a buscar justicia. . . ” (“I speak today with a broken heart. I love my brother Luis, today and always. . . and I am going to seek justice. . .”).¹⁷⁴

Many affected community members express deep frustration with the lack of police accountability and question the SFPD’s commitment to serving and protecting Black communities. Multiple reports by city, state, and federal officials have documented how and why policing measures generate deep distrust within Black communities and have urged police leadership to reestablish trust between the SFPD and Black residents as both a crucial goal and a precondition for achieving other key reforms.¹⁷⁵ These reports provide insight into the nature and scope of residents’ concerns and the impacts of over-policing on San Francisco’s Black communities.

In 2015, the D.A.’s Office convened the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement (BRP) to investigate institutionalized bias and racism within the SFPD. The BRP was established in the wake of the public release of racist text messages sent by SFPD officers, which came to be known as the “Textgate” scandal.¹⁷⁶ Given the “extreme prejudice” expressed in the officers’ text messages, the BRP sought to examine information from communities of color about their experiences with the SFPD.¹⁷⁷ To that end, the BRP inter-

viewed community and coalition leaders, conducted listening sessions, and held meetings and focus groups with Black residents.¹⁷⁸ The panel conducted five public hearings, including one hearing in the Bayview devoted exclusively to soliciting community feedback and perspectives.¹⁷⁹

Many community members who spoke to the BRP viewed the Textgate scandal as confirmation that community mistrust of police officers was justified.¹⁸⁰ According to the BRP Report, the SFPD had generated community distrust in five main areas:

1. **Lack of community policing in Black and Latinx neighborhoods:**¹⁸¹ Residents called for assigning more officers to the neighborhoods where the officers also live or grew up; to foot patrol rather than in cars; and to particular neighborhoods longterm in order to get to know and build relationships of respect and trust with residents.¹⁸² Community members also suggested internal measures such as mandatory continuing education on community policing and regular evaluations of officers.¹⁸³
2. **The SFPD's over-policing of Black and Latinx people, in particular Black men:**¹⁸⁴ Black residents consistently raised concerns that they were unfairly profiled and could not walk in their neighborhoods without being approached, often "aggressively," by SFPD officers.¹⁸⁵ Underscoring the feeling of being overpoliced, community members related experiences of officers frequently asking people of color whether they were on probation or parole.¹⁸⁶
3. **More frequent use of force and greater escalation of force used by police during interactions involving Black people:**¹⁸⁷ Residents expressed anger that the SFPD frequently resorted to violence, shot victims multiple times, and often would not seek emergency medical services for shooting victims in a timely manner.¹⁸⁸ In addition, community members perceived that rather than accountability, the SFPD's priority in the wake of use-of-force incidents was to construct a narrative for the media that portrayed the SFPD in a positive light, disparaged victims to justify the use of force, and disseminated misleading or biased information.¹⁸⁹ Residents observed that the SFPD often released information to the media before informing the victims' families about use-of-force incidents.
4. **The SFPD's cooperation with federal agencies on immigration enforcement:** Several members of civil rights and legal services organizations and community members underscored the residents' fear and reluctance to call the police, even for emergencies, because the SFPD shared information with federal immigration authorities.¹⁹⁰ The community members expressed their concern that a call for help to the police could result in the deportation of undocumented community residents.
5. **Poor handling of domestic violence incidents:**¹⁹¹ Domestic violence survivors described experiences of officers arresting the survivor instead of the perpetrator; transgender survivors facing ridicule from officers; officers engaging in victim-blaming, refusing to file reports for lack of perceived physical signs of abuse, or even refusing

to respond to domestic violence calls; language barriers; and the lack of transparency regarding data about their interactions related to domestic violence.¹⁹²

Federal authorities confirmed many of the BRP's findings related to community views of discriminatory policing. In early 2016, in response to the fatal shooting of Mario Woods, former Mayor Ed Lee and Chief of Police Greg Suhr requested that the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS) assess the SFPD's activities and operations.¹⁹³ COPS's mandate was established explicitly in response to the lack of community trust and aimed "to address the agency's needs proactively in a long-term manner to improve trust between the SFPD and the communities it serves."¹⁹⁴ Federal authorities "gather[ed] insights and comments regarding the SFPD's policies, practices, and relationships" from community leaders and residents by conducting listening sessions and numerous interviews.¹⁹⁵ The listening sessions took place at high schools in the Mission, the Bayview, and the Western Addition and were attended by a total of approximately 300 individuals.¹⁹⁶

The COPS Report found that the frustration with the SFPD expressed by many members of San Francisco's Black communities was rooted in experiences of police bias and the failure of leaders to address concerns about police misconduct.¹⁹⁷ One community member, for example, stated that "wariness and mistrust of the police" was widespread among Black community members and explained: "[the SFPD] see us as criminals, but I'm trying to go to college, and I'm tired of me going to stores. I'm getting stopped."¹⁹⁸

Many of the problems identified by the BRP and COPS reports persist. Residents of the Bayview, for example, continue to express frustration with respect to the "revolving door" of police captains assigned to the Bayview station and have called on the SFPD to assign officers that have a stronger personal connection with the neighborhoods they are meant to serve.¹⁹⁹ Family members of victims also have persisted in their calls for truth and justice.

b. Coalitions

The goal of this section is to describe the informal networks of individuals and groups that have developed in San Francisco in response to police violence. The history of activism against police violence in San Francisco stretches back many decades. In 1997, a news article observed that an in-custody death had "unleashed racial tensions many believed did not exist in their town" and "culminated in calls for far-reaching reforms of the department's disciplinary system, hiring practices, arrest policies and training programs."²⁰⁰ The article also pointed out that the SFPD's old-guard culture "deeply resent[ed] the multicultural, tolerant city" and put up resistance to the pressures it faced to reform.²⁰¹ More than 20 years later, the COPS Report conveyed similar calls for change, noting that "The community voice was loud and consistent in expressing that the SFPD needs to be more transparent and accountable regarding its use-of-force practices."²⁰²

In San Francisco, the calls for change have often come from dynamic coalitions of survivors, victims, family members, activists, and advocates. Social justice activists working in related areas, journalists, faith leaders, and groups such as nonprofits, community organizations, and labor unions have also played an important role. Informal networks have often formed organically in the aftermath of incidents of violence or the perceived failures of accountability mechanisms. For example, in 2016, a diverse coalition of family members and advocacy groups came together to form the “Black and Brown United Coalition” after a jury with no Black or Latinx jurors exonerated law enforcement of civil liability for the 2014 death of Alex Nieto.²⁰³

This section refers to these informal networks as “racial justice coalitions” to highlight their focus on working towards social and racial equity. Unfortunately, significant gaps in available documentation make it difficult to provide a comprehensive and detailed history of community activism sparked by police violence in San Francisco. Much of the news reporting on civil society’s response to policing in San Francisco glosses over the organizing efforts and demands of victims, activists, and community-based groups to focus on national organizations, such as the ACLU, NAACP, or National Lawyers Guild.²⁰⁴

Despite gaps in available information, this section attempts to identify some of the key groups and organizations, prioritizing those groups that have focused most directly on issues related to state violence harming Black communities:

- **MegaBlack SF** was formed in 2019 and appears to be one of the more recent racial justice coalitions. However, members of the coalition include individuals and organizations who have been working for racial justice for decades.²⁰⁵ MegaBlack’s mission is to achieve “visibility, sovereignty, dignity, and justice for Black San Franciscans,” and to “[celebrate] and [recognize] the contributions of Black people in the San Francisco Bay Area.”²⁰⁶ The coalition includes five subcommittees that focus on economic empowerment, education equity, housing justice, public health, and mental wellness.²⁰⁷ In addition, MegaBlack advocates for reparations for Black San Franciscans.²⁰⁸
- **Wealth and Disparities in the Black Community** was co-founded by Phelicia Jones, previously the co-chair of the Justice 4 Mario Woods coalition, and its mission is to continue to fight for justice for Mario Woods “and other victims of police violence, and for racial equity in San Francisco.”²⁰⁹ In January of 2021, the organization hosted a virtual press conference discussing the 2016 COPS Report’s recommendations and called on the Board of Supervisors to oversee full completion of the COPS recommendations by the end of 2021.²¹⁰
- **Anti-Police Terror Project** is “a Black-led, multi-racial, intergenerational coalition that seeks to build a replicable and sustainable model to eradicate police terror in communities of color.”²¹¹ Based in Oakland, its mission is to support families with relatives in the criminal justice system and those who have experienced police

violence and terror.²¹² It also seeks to document police abuses and “connect[] impacted families and community members with resources, legal referrals, and opportunities for healing.”²¹³

In addition to these groups, there are many organizations dedicated to the health and well-being of Black residents that work closely with advocates for police reform:

- **HOPE SF** is “the nation’s first large-scale community development and reparations initiative aimed at creating vibrant, inclusive, mixed-income communities without mass displacement of the original residents.”²¹⁴ Its core goal is to build racially and economically diverse neighborhoods, which it works to achieve through close collaboration with city agencies, local groups, and the philanthropic sector to develop high-density and affordable residential buildings.²¹⁵ Although HOPE SF does not directly address issues of police violence, it is one of the many organizations focusing on improving the quality of life for Black residents by supporting calls for police reform and reinvestment into San Francisco’s Black communities.²¹⁶
- **Rafiki Coalition**²¹⁷ was founded in 1986 as a community organization dedicated to addressing the needs of Black people being affected by the HIV/AIDS crisis.²¹⁸ Originally called the Black Coalition on AIDS, its goal was to ensure that Black communities were adequately served and represented in policy decisions. Its mission expanded over time, and in 2015, the coalition was renamed the Rafiki Coalition for Health and Wellness to reflect the organization’s broader mission to “eliminate health inequities in San Francisco’s Black and marginalized communities through education, advocacy, and by providing holistic health and wellness services in a culturally affirming environment.”²¹⁹
- **Causa Justa::Just Cause** was formed in 2010 through the collaboration of St. Peter’s Housing Committee and Just Cause Oakland to promote housing and racial justice for Black and Latinx people.²²⁰
- **Haywood Burns Institute** was founded in 2001 by James Bell as a national institute to challenge systems of racial hierarchy and control. Its mission is to “dismantl[e] structural racism and build[] community-centered structural well-being,” through collaboration between community groups and “cross-system stakeholders.”²²¹ Through capacity-building, the Haywood Burns Institute aims to empower community members to strengthen existing programs and engage in policy advocacy on behalf of their community.²²² The Haywood Burns Institute will take a leadership role in establishing a truth commission to examine anti-Black police violence in San Francisco.

- **Black to the Future** is a “city-supported, community-driven” collaborative working to empower San Francisco’s Black communities through strengthening support for families, education, health, employment, and violence prevention.²²³ Its model of change relies on close collaboration with city agencies and community groups, among them HOPE SF and many others.²²⁴ A report by the organization lists violence prevention as one of its main goals and refers to the “diminished trust of law enforcement” as a sign of the needed racial justice work.²²⁵
- **SF Black Wallstreet** was founded in June 2020 by seven Black San Franciscans in response to the city’s racism, laid bare by COVID-19 health disparities and other acts of anti-Black racism.²²⁶ The focus of the grassroots organization is to drive economic development of Black communities, increase Black homeownership, and foster “cultural, commercial, and retail space . . . where Black people can find joy, economic health, and safety while experiencing the warmth of community.” The organization invests in Black-owned businesses, hosts wealth-building seminars, organizes community events, and advocates for policies that protect and empower Black retail spaces.

In addition to the many groups and individuals advocating on behalf of the needs of San Francisco’s Black communities, there are groups who engage in anti-violence advocacy within a racial justice framework. Groups and individuals within these coalitions focus on issues of police violence or violence in the community more broadly.²²⁷

- **Community United Against Violence** was founded in 1979 in response to the assassinations of Harvey Milk and George Moscone as well as broader trends of police violence against LGBTQ+ people in San Francisco.²²⁸ Its mission is to use grassroots community organizing to help victims of violence and trauma heal, and to address cultures and institutions of violence in San Francisco to create a safer and more just community.²²⁹ In addition, CUAV partners with other organizations working towards greater justice for transgender people, survivors of domestic violence, immigrants, and justice-impacted communities.²³⁰
- **Act Now to Stop War and End Racism (ANSWER) Coalition** was founded in the wake of September 11 to oppose the U.S. invasion of Iraq. ANSWER “has played an important role in the fight against racist and religious profiling, in support of immigrant and workers’ rights, and for economic and social justice for all.” Members engage in “a range of struggles, from the local battles against police brutality to the international campaigns against militarism and war.”²³¹

In addition to community groups, local media has exposed violence by the SFPD and made space for community voices to address policing issues. For example, Mission Local and San Francisco Bay View extensively cover policing and community responses.²³²

2. Demands

As described above, civil society’s response to police violence in San Francisco has been robust, persistent, and diverse. Individuals and organizations have identified specific issues causing or exacerbating police violence and articulated goals and policy prescriptions. Their actions have pressed city leaders to acknowledge and address some of the impacts of discriminatory policing by SFPD.

This section will provide an overview of recent and common demands and priorities articulated by community leaders and organizations. The section organizes civil society’s agenda to address anti-Black violence into two broad categories: demands related to police accountability and calls for investment in the welfare of San Francisco’s Black communities.²³³

It is important to acknowledge these demands are interrelated. Recent calls to “Defund the Police,” for example, reflect an understanding that structural change requires steps to reduce harm immediately by improving use-of-force policies and longer-term efforts to divest funds from the police and to reinvest in community housing, jobs, living wages, and education. A June 2020 public letter signed by a coalition of 45 civil society actors, including advocacy groups, religious organizations, and academics, reflects this approach. The letter calls on the city’s elected officials to defund the SFPD, to increase investment in community well-being and community-based organizations, and to prosecute police officers involved in a series of recent killings.²³⁴ The letter also calls for swift action to install a memorial for Alex Nieto in Bernal Heights, speaking to a broader community desire for public memory of victims.²³⁵

a. Police accountability

Demands for police accountability have featured prominently on San Francisco civil society’s agenda for decades. Although prosecution of police officers involved in incidents involving uses of excessive force is a central demand, civil society’s accountability agenda is broader than retributive justice. Civil society has called for greater transparency and access to information, the firing of SFPD officers involved in misconduct, and the elimination of institutionalized racism and bias within the SFPD. Despite the decades-long push for structural change, progress has been slow and incremental. Advocates for police reform have expressed frustration that multiple official studies have documented “the problem” and made recommendations for a path forward, but these efforts have failed to translate into improvements in accountability.

Over the years, family members and activists have called for increased public access to information about cases and a full, official accounting of the circumstances and the conduct of officers involved in use-of-force incidents. This demand responds to the view of family members and advocates that the SFPD often fails to provide in a timely manner family members and oversight bodies key information about use-of-force incidents.²³⁶ Instead, police have sought to shape the narrative around the incident and to publicly discredit the victim or depict the victim as the aggressor.²³⁷

In the absence of a full, transparent, unbiased, and official accounting by the SFPD, family members and activists have conducted parallel investigations to compile information about officer-involved killings. In the case of Luis Góngora Pat's death, for example, the Justice 4 Luis coalition compiled official records and tracked reports by eight witnesses that contradicted the SFPD narrative of the incident.²³⁸ Racial justice coalitions have also called on the SFPD to fire “killer cops” in the absence of criminal prosecutions.²³⁹

Officials and community organizations have also denounced decisions to close criminal investigations without pursuing charges against officers involved in killings. Following the highly publicized shootings of Luis Góngora Pat and Mario Woods, former District Attorney Gascón decided not to charge the officers responsible. The Justice 4 Mario Woods and Justice 4 Luis Góngora coalitions, and the late San Francisco Public Defender Jeff Adachi, a longtime vocal advocate for police reform, denounced the decision.²⁴⁰ Adachi underscored the zeal with which prosecutors pursued civilians and the lack of political will to prosecute police officers as well as the relationship between police accountability and structural reform. He told the press:

In both the Woods and Gongora killings, officers were not in immediate danger when they fired their weapons. The San Francisco District Attorney's decision not to prosecute any officer on any charge is mindboggling and fails to hold police to the same laws we, as citizens, are expected to abide. To date, not a single officer in San Francisco has ever been criminally charged as the result of shooting a citizen, yet citizens are charged with crimes every day despite prosecutors being unable to prove their guilt beyond a reasonable doubt. It is clear prosecutors are using a different standard in judging police officers' conduct. The reforms proposed by the Department of Justice's review are empty promises without officer accountability.²⁴¹

In addition to holding individual officers accountable for their actions, racial justice coalitions have demanded that the SFPD eliminate the institutionalized racial bias that pervades its “disciplinary system, hiring practices, arrest policies and training programs.”²⁴² With each new revelation about the extent and nature of institutional bias, racial coalitions renew calls for structural change, the city promises to study the phenomenon, recommendations are issued, modest reforms are implemented, and the cycle repeats.

For example, in 2006, police data revealed that the SFPD disproportionately arrested Black people in San Francisco, prompting a new round of attention to institutionalized bias within the SFPD.²⁴³ One article noted that “Black people in San Francisco are arrested for felonies at nearly twice the rate they are in Sacramento. They are arrested at twice the rate of black people in Fresno, three times the rate in San Jose, Los Angeles, Long Beach and San Diego, and four times the rate in Oakland.”²⁴⁴ At the time, the Sheriff commented: “The disparity is just incredibly dramatic. . . . If you are an adult white male, your chances of being in my jail are 1 in 365, and if you are an adult black male, your chances are 1 in 23.”²⁴⁵ While former Mayor Gavin

Newsom and former Chief of Police Heather Fong expressed dismay, they also dismissed the possibility that the data reflected discriminatory policing and announced they were “consulting experts” to get to the bottom of the arrest numbers through “aggressive data analysis.”²⁴⁶

In 2016, the most recent round of data analysis by the BRP and COPS reaffirmed community concerns about racial profiling by the SFPD.²⁴⁷ Although city and police leaders are committed to implementing the reforms formulated by COPS, progress has been slow.²⁴⁸ City elected officials have refused to enforce a mandatory deadline for implementation.²⁴⁹

In response to the George Floyd protests in 2020, Mayor London Breed announced a set of police reforms focused on four priorities: “ending the use of police in response to non-criminal activity; addressing police bias and strengthening accountability; demilitarizing the police; and promoting economic justice.”²⁵⁰ Breed’s announcing that reforms would be implemented on an ongoing basis rather than establishing deadlines for implementation was not poorly received by some civil society actors.²⁵¹ One news article noted that Breed’s reforms “seemed groundbreaking—which they were back when the SFPD, in fact, embarked on a number of them long ago.”²⁵² A police accountability advocate commented, in reference to Breed’s reform package, “What we have is a statement—more promises—completely devoid of context. . . . [W]e’ve already been through this.”²⁵³

b. Investment in the welfare of Black communities

Over decades, civil society has repeatedly called for greater investment in Black communities, including increased funding for historically Black neighborhoods and reparations for Black people. While the call for reparations has gained steam and support more recently, there have been prior attempts to secure monetary reparations for Black individuals and communities through litigation and legislation.

In 2000, grassroots activists led efforts to place a measure on the ballot that proposed financial assistance to the Bayview-Hunters Point. The ballot measure, which “opponents . . . derided as impractical, costly and misdirected, ask[ed] City Hall to allocate \$150 million for jobs in the Bayview-Hunters Point area, to waive property taxes for five years on area homes valued at less than \$500,000 and to forgo city payroll taxes for five years for all the area’s small businesses.”²⁵⁴ Over 62% of voters voted against the measure, albeit less than 45% of registered voters cast a ballot.²⁵⁵

In 2002, two San Francisco brothers, Chester and Timothy Hurdle, filed a class action suit in California state court (later removed to federal court) seeking reparations for descendants of slaves against corporations that had unfairly profited from slavery.²⁵⁶ The suit was seen as groundbreaking by reparations advocates, in part because unlike in similar suits, the brothers were only one generation removed from slavery—their father was born enslaved in North Carolina.²⁵⁷ The suit prompted strong reactions on both sides of the issue and was ultimately unsuccessful. However, the litigation was widely reported and helped bring the idea of reparations for slavery into the mainstream consciousness.²⁵⁸

In 2019, U.S. Representative for Texas Sheila Jackson Lee convened the first congressional hearing to consider the national reparations legislation that former U.S. Representative for Michigan John Conyers had first introduced in 1989.²⁵⁹ The bill would authorize \$12 million to support a 13-member commission in studying the impact of slavery on Black Americans and recommending “appropriate remedies” to Congress.²⁶⁰

Locally, San Francisco Supervisor Shamann Walton announced in early 2020 an initiative to come up with a plan for reparations in San Francisco.²⁶¹ In making the announcement, he underscored that conversations about reparations had been going on “for far too long” without any tangible action.²⁶² In February 2020, Walton introduced a resolution calling for the creation of a task force to develop a plan for monetary and other forms of reparations while addressing the legacy of slavery and racism in San Francisco.²⁶³ In August 2020, the resolution passed unanimously,²⁶⁴ and in May 2021, the Board of Supervisors approved the appointment of a 15-member African American Reparations Advisory Committee.²⁶⁵ Within the next two years, the committee will submit draft legislation intended to establish a citywide reparations program and determine eligibility for compensation. Although other cities have implemented reparations programs—the first Evanston, Illinois—San Francisco is the largest U.S. city to have taken this step.²⁶⁶

In the wake of increased national attention to incidents of racialized police violence, recent calls to invest in the welfare of Black communities have coincided with the call to defund the police and to reinvest SFPD funding directly into development for Black communities.²⁶⁷ The SFPD’s budget for FY2021 was \$706 million,²⁶⁸ reflecting an increase of over \$100 million over the past decade, adjusted for inflation.²⁶⁹ Evidence indicates that a larger police budget does not increase community safety, but rather “allows police departments to increase force size, militarize equipment, and sustain high arrest rates.”²⁷⁰

In the midst of a resurgence of Black Lives Matter protests in June 2020, Mayor Breed and Supervisor Walton announced a plan to reallocate \$120 million from SFPD’s budget to Black communities to create “The Dream Keeper Initiative.” The San Francisco Human Rights Commission solicited input on how to invest the funds from community members through surveys, emails, and more than a dozen public meetings held in June and July 2020.²⁷¹ Although the consultative process is ongoing, many community groups and members have called on city leadership to invest reallocated funds into various economic justice initiatives, improving access to health and other essential services, building community, empowering cultural and artistic growth, and addressing concerns of homeownership to counter the trend of displacement.²⁷²

In response to Breed’s funding-reallocation announcement, MegaBlack SF published a letter with specific recommendations on reinvestment and police reform.²⁷³ The letter identified as key priorities investment in childhood education, prosecution of officers for use of excessive force, analysis of 911 calls and police responses, reduction of the police budget, and increased investment in community safety and restorative justice.²⁷⁴ MegaBlack SF also highlighted the need for reparations for San Francisco’s historically disenfranchised Black communities.²⁷⁵ In April 2021, the San Francisco Human Rights Commission began issuing grants from the Dream

Keeper fund to nonprofits supporting restorative justice, food security, Black home ownership, training and development for Black youth and adults, and Black-owned small businesses, among other issues.²⁷⁶

B. Government Investigations and Mechanisms

Over the last three decades, city, state, and federal governments have created panels, working groups, and committees to investigate and address discriminatory policing in San Francisco. This section provides an overview of the agencies and mechanisms established to improve oversight of the SFPD and hold the police accountable for racially discriminatory policing. The section also identifies some of the ways these initiatives have failed to enact structural change.

1. Civilian oversight of the SFPD

Since 1856, the SFPD has operated under the authority of the Police Commission, its governing body.²⁷⁷ The Police Commission establishes official policy for the SFPD and conducts disciplinary hearings on charges of officer misconduct.²⁷⁸ Its seven members are civilian volunteers who are nominated by the mayor or the Board of Supervisors' Rules Committee and approved by a majority of the supervisors.²⁷⁹ In addition to establishing rules and ethical regulations for the SFPD, the Police Commission has the exclusive authority to remove the chief of police.²⁸⁰ The Police Commission also collects and publishes quarterly reports on disciplinary actions taken against officers.²⁸¹

The Department of Police Accountability (DPA) investigates civilian complaints against SFPD officers and makes policy recommendations based on its findings. Like the SFPD, the DPA operates under the authority of the Police Commission.²⁸² Previously known as the Office of Citizen Complaints (OCC), the department was added to the city's charter in 1982 as a civilian oversight mechanism to address complaints of officer misconduct.²⁸³ City officials amended the charter after civil society organizations—including African-American Officers for Justice—pressed city leaders for greater oversight in response to a series of incidents involving police violence against protesters.²⁸⁴ City officials invested the OCC with the authority to investigate complaints against SFPD officers suspected of committing criminal acts or violations of SFPD policy.²⁸⁵

In 2016, following the fatal police shootings of Mario Woods, Luis Góngora Pat, and Jessica Williams,²⁸⁶ there was a public outcry to reform the OCC. The first of two measures was placed on the ballot in June 2016 and required the OCC to investigate every incident that resulted in an SFPD officer firing a gun, a killing, or a physical injury.²⁸⁷ At the time, the OCC was required to investigate incidents only after a citizen had filed an official complaint.²⁸⁸ Eighty percent of San Francisco voters approved the measure.²⁸⁹

A second measure was placed on the ballot in November of 2016 that expanded the OCC's authority and independence.²⁹⁰ The ballot measure sought to change the name of the over-

sight agency from the Office of Citizen Complaints to the Department of Police Accountability; transferred authority to approve the DPA's budget from the Police Commission to the mayor; and required the DPA to conduct regular audits of SFPD policies, practices, and procedures, including its use-of-force policies and its handling of claims of police misconduct.²⁹¹ The measure did not attempt to change the DPA's mandate to "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." The ballot measure was generally viewed as proposing "relatively mild reform."²⁹² Once again, 80% of voters approved the measure.

During the past three years, the DPA has aimed to improve the transparency and accountability of the SFPD through audits, analysis, access to information, and community engagement.²⁹³ However, there are several significant limitations to the oversight that the Police Commission and the DPA provide. Although the DPA examines citizen complaints to make disciplinary and policy recommendations, the SFPD is not obligated to implement the DPA's proposals.²⁹⁴ Additionally, the DPA has limited authority to enact reform through Department General Orders (DGOs).²⁹⁵ Although the DGOs are meant to establish "authoritative" policy positions in consultation with police oversight mechanisms, including the DPA, the SFPD has disregarded directives the DPA helped craft.²⁹⁶ For example, the BRP Report noted that despite a DGO that established the SFPD's commitment to community policing, the SFPD "did not engage in community policing in neighborhoods like the Bayview, the Western Addition, the Mission, and other areas with a critical mass of Black and Latino populations."²⁹⁷

2. The San Francisco Human Rights Commission

The San Francisco Human Rights Commission (SF HRC) is a charter-based body mandated to eradicate inequality and promote human rights for all people in San Francisco.²⁹⁸ The SF HRC advocates for human and civil rights by investigating and mediating discrimination complaints, implementing policy initiatives to empower marginalized groups, and liaising between the community, the mayor, and the Board of Supervisors.²⁹⁹ In its current form, the SF HRC is comprised of a maximum of 11 commissioners appointed by the mayor for four-year terms.³⁰⁰

The SF HRC first took shape during the civil rights movement of the 1960s.³⁰¹ In response to nationwide demonstrations against businesses that discriminated against Black people, former Mayor John Shelley appointed an Interim Committee on Human Relations in 1964.³⁰² Months later, Shelley signed an ordinance creating a permanent commission to address prejudice and discrimination in the city,³⁰³ and in 1990, San Francisco voters amended the city charter to establish the SF HRC.³⁰⁴ In 1993, the SF HRC's Committee on African American Parity published *The Unfinished Agenda* which assessed the status of San Francisco's Black communities from 1964 to 1990.³⁰⁵ Conceived as an investigation of whether Black San Franciscans were better or worse off in 1990 than in 1964, the study did not mention or address issues related to discriminatory policing or police violence. The report, however, noted that "African Americans have benefited from the consent decrees addressing the hiring and promotional policies of the fire department and police department even though they have not fully met the goals."³⁰⁶

Since its founding, the SF HRC has expanded its mission beyond issues of racial discrimination to address other areas of discrimination.³⁰⁷ The SF HRC aims to influence policy in support of marginalized communities, including communities of color, LGBTQ+ communities, and low-income communities.³⁰⁸ The SF HRC invites community involvement through citizen advisory committees and community events.

The SF HRC, under the leadership of longtime community organizer Sheryl Davis, is currently playing a significant role in the effort to create a citywide reparations program and in the reallocation of funding from the SFPD to San Francisco's Black communities.³⁰⁹

3. Ad hoc city and federal initiatives

In recent years, the D.A.'s Office convened the BRP and the DOJ's COPS investigated SFPD's record of policing and use of force against members of Black communities.³¹⁰ Both initiatives examined SFPD policies and practices, solicited input from community members, and issued recommendations.³¹¹

The BRP was established as an advisory body to the D.A.'s Office after the revelation of the Textgate scandal.³¹² When news broke of the officers' messages (nearly two-and-a-half years after the SFPD first had learned about the text messages), the chief of police, the president of the Police Commission, and the president of the Police Officers Association (POA) all condemned the text messages.³¹³ However, no local, state, or federal body decided to investigate the text messages as an expression of institutionalized racism.³¹⁴ Former District Attorney George Gascón established the BRP after his office's request for an investigation was denied by the mayor.³¹⁵

The BRP was comprised of three former judges "with decades of experience in law enforcement oversight, all based outside of San Francisco to ensure neutrality."³¹⁶ The BRP conducted a one-year investigation of the SFPD to determine whether the racism and bias displayed in the text messages indicated a deeper culture of racism, bias, and intolerance. The panel reviewed nearly 4,000 police reports authored by the officers involved in Textgate to determine whether bias played a role in their policing³¹⁷ and examined SFPD policies and practices to determine the extent to which discriminatory attitudes and bias had been institutionalized.³¹⁸ The final BRP Report found evidence of institutionalized bias and made recommendations to address institutionalized racism.³¹⁹

In 2016, following the shooting of Mario Woods, former Mayor Ed Lee and former Chief of Police Greg Suhr requested that the COPS assess SFPD policies and practices.³²⁰ COPS had established a national program to provide police departments with a "proactive, non-adversarial, and cost-effective form of technical assistance . . . with significant law enforcement-related issues."³²¹ Referred to as the Collaborative Reform Initiative for Technical Assistance, federal officials worked with law enforcement agencies from several cities.³²² In early 2016, when COPS announced plans to conduct an assessment of the SFPD, COPS had already begun to examine the police departments in Chicago,³²³ Baltimore,³²⁴ Philadelphia,³²⁵ and Milwaukee.³²⁶

At the time that former Mayor Lee requested COPS's assistance, the Board of Supervisors, the ACLU of Northern California, and other community groups also had requested that the COPS instead open a pattern-and-practice civil rights investigation of the SFPD involving a more thorough investigation, a consent decree, and mandatory timelines for implementing reform measures.³²⁷ The groups shared skepticism of a voluntary collaborative reform process resulting in structural and far-reaching change.³²⁸ COPS nonetheless opted for the collaborative reform review.³²⁹

Published in October of 2016, the COPS Report identified 272 reform recommendations around five main issues: use-of-force policies and practices; bias in policing; community policing; accountability in the complaint and disciplinary processes; and recruitment, hiring, and personnel practices.³³⁰ The SFPD established a bureau to oversee the proposed reforms in collaboration with COPS.³³¹ In September 2017, COPS withdrew from the process, and in February 2018, the California Department of Justice (California DOJ) stepped in to oversee the implementation of the remaining reform recommendations.³³²

Since 2016, the California DOJ has published reports about the SFPD's progress in implementing the various reforms.³³³ In March 2020, the California DOJ expressed concern that the SFPD's progress in implementing reforms was "too slow" and noted with alarm the existence of "reports of anti-Black bias within the department and with the persistent disproportionate use of force against African American and Latino individuals."³³⁴ In June 2021, the California DOJ found that nearly 68% of the reform recommendations met compliance measures, with the remaining measures still requiring further implementation.³³⁵ Despite progress, local stakeholders have expressed concern with the slow implementation and failure to enforce the mandatory deadline for implementation.³³⁶

4. Local, state, and federal legislation

Over the last 15 years, several local, state, and federal legislative initiatives have been proposed, and some approved, to address accountability for law enforcement misconduct and abuse. One such local bill, the CAREN Act, was approved unanimously by the Board of Supervisors.³³⁷ The bill, which stands for Caution Against Racial and Exploitative Non-Emergencies Act (CAREN Act), responded to San Franciscans' frustration over emergency calls made without cause against Black residents, as well as the deep divides among neighbors along lines of race and class.³³⁸ More recently, in November 2020, San Francisco voters approved a measure that created an oversight board and the Office of Inspector General to improve oversight of the San Francisco County Sheriff.³³⁹ These new bodies will investigate complaints against the Sheriff's department, recommend a new use-of-force policy, and refer evidence of criminal misconduct to the D.A.'s Office.³⁴⁰ While all of the supervisors and District Attorney Chesa Boudin supported the measure,³⁴¹ Sheriff Paul Miyamoto has described it as "wasteful bureaucracy."³⁴²

In addition to local measures, over the last several years the California state legislature has improved public access to police data and records of police misconduct and raised standards for unbiased policing and use of excessive force.³⁴³ Some of the new laws seek to address

racialized policing indirectly, such as the recent AB 3121 reparations task force bill signed into law by Governor Gavin Newsom in September 2020, which established a nine-member task force to study and develop reparations proposals for Black Californians.³⁴⁴ State efforts that directly address the issues of discriminatory policing and police violence include the following bills and laws:

- **SB 1019 Improve Public Access to Police Disciplinary Records (June 2007):** The proposed legislation was passed in the California Senate³⁴⁵ but stalled in the Assembly.³⁴⁶ The bill would have allowed police commissions and civilian review boards to publicly release information on discipline for misconduct. The bill had support from the police chief and mayor of Los Angeles and Oakland, the San Francisco County Sheriff, the San Francisco Supervisors, the ACLU, and immigrant rights groups,³⁴⁷ but faced strong opposition from law enforcement groups. A second attempt in 2008 to pass the bill failed.³⁴⁸ In 2018, the California legislature voted to improve public access to police misconduct records (see below).
- **Proposition 47 Safe Neighborhoods and Schools Act (November 2014):** The successful measure recategorized some nonviolent offenses as misdemeanors,³⁴⁹ and diverted savings into a Safe Neighborhoods and Schools Fund.³⁵⁰ The Black Priorities Project (a Just Cause::Causa Justa project) organized a voter mobilization campaign in support of the measure.³⁵¹ The fund redistributed \$103 million across 23 California cities and counties for intervention programs aimed at reducing recidivism.³⁵² Police later attributed an uptick in some crimes to the passage of the bill.³⁵³
- **AB 953 Racial and Identity Profiling Act (October 2015):** Signed into law by former Governor Jerry Brown,³⁵⁴ the legislation requires state law enforcement agencies to report all data on traffic and pedestrian stops to the California DOJ³⁵⁵ and established a board to analyze and report on data annually.³⁵⁶ The act also expanded the definition of racial and identity profiling to include “the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop.”³⁵⁷
- **AB 71 Criminal Justice Reporting (October 2015):** Signed into law by former Governor Brown, the legislation requires law enforcement agencies to report to the DOJ annually on use-of-force incidents.³⁵⁸
- **SB 1421 Right to Know Act (October 2018):** Signed into law by Governor Newsom, the legislation granted public access to police complaint and misconduct records.³⁵⁹ This act built on past efforts of legislators to overturn *Copley Press, Inc. v. County of San Diego*, a 2006 California Supreme Court decision blocking public access to records of complaints of police misconduct.³⁶⁰

- **AB 392 California Act to Save Lives (June 2019):** Signed into law by Governor Newsom, the legislation redefined the circumstances under which law enforcement is authorized to use deadly force. Although the final version of the law did not go as far as advocates for police accountability had proposed, the new language requires that law enforcement use deadly force only when “necessary,” instead of when it is “reasonable.”³⁶¹
- **SB 731 Police Officer Certification Act (August 2020):** The bill would have required decertification of police officers with records of serious misconduct.³⁶² The bill failed to get enough votes despite public support for the legislation. California thus remains one of only five states that does not have a decertification process for serious officer misconduct.³⁶³
- **AB 1506 Deadly Force Accountability Act (September 2020):** The new law requires the California Attorney General’s Office to investigate officer-involved killings of unarmed civilians in order to bypass inconsistent use-of-force standards and conflicts of interest.³⁶⁴
- **AB 1196 Peace Officers Use of Force Act (September 2020):** Signed into law by Governor Newsom, the bill prohibits law enforcement from using a carotid restraint or a chokehold at any time.³⁶⁵
- **AB 1299 Peace Officers Employment Act (September 2020):** Vetoed by Governor Newsom after passing the Assembly and the Senate, the bill would have made it more difficult for police departments to hire officers with a history of misconduct.³⁶⁶
- **AB 3070 Anti-Discrimination Jury Selection Act (September 2020):** Signed into law by Governor Newsom, the legislation aimed to address the exclusion of Black and Latinx jurors in California courts. It requires attorneys exercising peremptory strikes against jurors to provide “clear and convincing evidence that their action is not related to the potential juror’s group identity.”³⁶⁷
- **AB 2542 Racial Justice Act (September 2020):** Signed into law by Governor Newsom, the new law prohibits prosecutors from “seeking, obtaining, or imposing a conviction or sentence on the basis of race” by “expanding opportunities for defendants to challenge racial bias in their case.”³⁶⁸ The law allows a person charged with or convicted of a crime to challenge their detention or conviction by proving that discrimination played a role in their apprehension or prosecution.³⁶⁹

C. City Leaders’ Response to Black Lives Matter

The Black Lives Matter (BLM) movement, a transnational racial justice movement,³⁷⁰ originated in Oakland with the words and actions of local activist Alicia Garza.³⁷¹ The birth of #BlackLives-

Matter and the subsequent BLM project were direct responses to the acquittal of George Zimmerman for the fatal shooting of Trayvon Martin.³⁷² Although BLM has a transnational scope, the experiences and environment that produced the movement were distinctly Bay Area: Garza was raised in Marin County, then introduced to political theory and activism by Oakland's School of Unity and Liberation, a training program for social justice organizers.³⁷³ As the BLM movement gained momentum, drew attention to police violence,³⁷⁴ challenged White supremacist and anti-Black police practices and policies,³⁷⁵ and helped convene protests in over 500 U.S. cities and towns, citizens demanded that public officials and political leaders articulate their position in support of or against the movement's goals and methods.³⁷⁶

1. The Mayor and the Board of Supervisors

Mayor Breed has stated her support for the Black Lives Matter movement,³⁷⁷ although some critics say she has not gone far enough.³⁷⁸ In an interview that took place during the BLM protests of summer 2020, Breed criticized the call for defunding police as the product of a White-led movement pushing “progressive policies.”³⁷⁹ She called on non-Black people to “listen to Black voices, not tell Black people in this city and this country what is best for them,” including “listening to those who have long lost faith in City Hall to deliver on promises that are so often made, but not kept.”³⁸⁰ In response to her comments, some police reform advocates have criticized her record of increasing police presence by adding more officers to the force and increasing foot patrols.³⁸¹

Breed's response to BLM protests has also been mixed. In late May 2020, Breed responded to protests by imposing a citywide curfew,³⁸² which she said was “absolutely necessary for public safety.”³⁸³ The Board of Supervisors was divided in their support of Breed's curfew. Supervisor Matt Haney claimed it was one of the more “extreme and far-reaching orders” compared to responses by other city governments, while Supervisor Sandra Lee Fewer expressed full support and Supervisor Hillary Ronen asked for the curfew to be decided on a day-by-day basis.³⁸⁴ Civil liberties advocates, among them the ACLU of Northern California and Haney, denounced the curfew as an unnecessary, costly, and unjust violation of San Franciscans' right to protest.³⁸⁵ After more than 10,000 people took to the streets in defiance of the curfew to march in honor of George Floyd and the BLM movement, Breed lifted the curfew, which had been in effect for four days.³⁸⁶

On June 4, 2020, Breed and Supervisor Shamann Walton announced their commitment to redirect funding from the police department towards Black communities.³⁸⁷ Black community organizations have called for the Board of Supervisors to commit to supporting Breed and Walton's plan to reallocate funding from the SFPD to Black communities. The San Francisco Human Rights Commission conducted community listening sessions and consulted with members of Black communities about the reallocation of funding. Following the publication of SF HRC's report³⁸⁸ compiling the community responses, Breed and Walton announced the reallocation of \$120 million from the SFPD to Black communities.³⁸⁹ In May 2021, the Board of Supervisors approved the establishment of the African American Reparations Advisory Committee which will draft legislation to determine the citywide reparations program and eligibility for compensation within the next two years.³⁹⁰

2. The District Attorney's Office

In 2019, former Deputy Public Defender Chesa Boudin ran for San Francisco District Attorney on a progressive platform and was backed by BLM co-founders Alicia Garza and Patrisse Cullors.³⁹¹ Since taking office, Boudin has supported the BLM movement and instituted policies that reflect BLM's goals and priorities. For example, the district attorney banned prosecutions that rest solely on the testimony of "untrustworthy" officers;³⁹² made financial resources available to victims and family members of police violence;³⁹³ and ended the practice of charging civilians with possession of contraband resulting from "stop-and-frisk style pretextual searches."³⁹⁴ Additionally, Boudin supports banning district attorney candidates from accepting political donations from police unions.³⁹⁵ When protesters took to the streets in May 2020 in support of BLM, Boudin supported not only their right to do so, but the cause itself, saying that he would join the protests.³⁹⁶ Although he condemned looting and other non-peaceful manifestations of protest, he committed to not prosecuting peaceful protesters who had been arrested.³⁹⁷

In November 2020, Boudin became the first district attorney in San Francisco history to file homicide charges against a police officer for the fatal shooting of a civilian.³⁹⁸ Boudin charged former officer Christopher Samayoa for the 2017 fatal shooting of unarmed civilian Keita O'Neil.³⁹⁹ In December 2020, Boudin also filed charges against officer Christopher Flores for the 2019 shooting of Jamaica Hampton.⁴⁰⁰ And later that month, Boudin filed charges against former officer Terrance Stangel for the 2019 beating of a Black man.⁴⁰¹ More recently, Boudin faced criticism for his decision not to file charges against SFPD officers who shot and killed Jesus Delgado-Duarte with 99 bullets.⁴⁰² The criticism of his decision was sparked in part by the promises he had made during his campaign to secure justice for the Delgado-Duarte family.⁴⁰³

3. The SFPD and the Police Commission

SFPD Chief of Police Bill Scott has responded to BLM by acknowledging that the SFPD has to listen to protesters and demonstrate through SFPD practices and policies that Black lives do matter to the SFPD.⁴⁰⁴ Scott has also worked closely with Breed to make broad changes in policy and funding. Scott has distinguished himself from chiefs of police in other cities by expressing openness to working with a reduced budget.⁴⁰⁵ Recently, Scott said that police would no longer respond to calls involving noncriminal activities or release booking photos.⁴⁰⁶ However, Scott publicly denounced Boudin's decisions to file charges against police officers.⁴⁰⁷ Expressing his full support for members of the SFPD, Scott called the present moment "a difficult time for policing."⁴⁰⁸

In July 2020, the Police Commission voted unanimously to require the SFPD to post BLM signs in every city SFPD station.⁴⁰⁹ In response to the mandate, San Francisco Police Officers Association President Tony Montoya said: "The Police Commission should put away their soap boxes and stop their political grandstanding. . . . It's time for the commissioners to get beyond hashtags, posters and politics."⁴¹⁰ Montoya expressed his full support for former SFPD officer Samayoa, after he was charged with homicide by the D.A.'s Office, stating, "[w]e are committed to ensuring

that Christopher and his family are supported during this difficult time and that he is accorded his due process rights and provided with a vigorous defense against these charges.”⁴¹¹

IV. BARRIERS TO ACCOUNTABILITY

This Part examines barriers to holding to account the individuals and institutions responsible for decades of anti-Black police violence to account.⁴¹² Research reveals a range of legal, cultural, and institutional factors that have served to shield police officers from accountability, prevent effective oversight, inhibit reform, and promote or facilitate repeated abuse. Impunity—the systemic failure to prevent acts of violence, satisfy the rights of victims’ family members to truth, and remedy the harms suffered—is not only the consequence of ineffective oversight and accountability; it is the cause of violence to the extent it sanctions or legitimizes abuse against Black communities.

Criminal charges against SFPD officers have historically been extremely rare, particularly in the case of officer-involved shootings. Since the 1960s, for example, only one SFPD officer has been criminally prosecuted for homicide, and the D.A.’s Office has prosecuted less than 20 officers for other crimes related to incidents of excessive use of force. Legal doctrines, such as qualified immunity and indemnification, have hindered civil suits against officers.⁴¹³ From 2015 to 2020, San Francisco paid \$2.5 million to victims of use of excessive force and plaintiffs in wrongful death cases.⁴¹⁴ The paucity of legal actions against officers stands in stark contrast to the alarmingly high rates of violence perpetrated by SFPD officers as described in Part II.

In addition to criminal and civil suits, officers who engage in use of excessive force and discriminatory policing may be subject to disciplinary action, an administrative procedure for holding officers accountable. The DPA investigates allegations of police misconduct and makes recommendations for officer discipline when the DPA finds the officer’s conduct was improper. However, only the chief of police and the Police Commission have the power to discipline officers.⁴¹⁵ The chief has authority over cases when the recommended discipline is less than a 10-day suspension, which is the majority of cases, and the Police Commission has authority over cases involving more than a 10-day suspension.⁴¹⁶

Chiefs of police and the Police Commission have rarely exercised their discretion to discipline officers. The vast majority of investigated SFPD officers receive one- or two-day suspensions, written reprimands, or no disciplinary consequences.⁴¹⁷ For example, the DPA recommended discipline in 349 incidents of misconduct that occurred between June 2017 and December 2019 that involved 260 SFPD officers.⁴¹⁸ The chief of police agreed with DPA’s finding of improper conduct in only 49% of the cases and ordered discipline in 45% of the cases of misconduct.⁴¹⁹ Approximately 12% of DPA’s cases involved more serious allegations of misconduct and fell within the authority of the Police Commission.⁴²⁰

According to its quarterly reports, the Police Commission opened 96 misconduct cases between 2013 and 2020.⁴²¹ In 35% of these cases, the Police Commission took disciplinary action, such as suspension or termination, or ordered that the officer receive retraining, counseling, or therapy. The investigation ended in 17% of the cases when the officer resigned and in 12.5% of the cases when the officer retired. The officer was terminated in 8% of the cases investigated by the Police Commission. The Police Commission investigated three use-of-force cases between

2013 and 2020 and only one resulted in disciplinary action against the officer. In 2019, the Police Commission imposed a 45-day suspension of the officer who shot and killed Jessica Williams despite the DPA's original recommendation to terminate the officer.⁴²² During the same seven-year period, the Police Commission opened 12 investigations involving incidents of racial bias but suspended or terminated officers in only three cases.

The Police Officers Association exercises extraordinary influence over criminal, civil, and disciplinary investigations of police misconduct and use-of-force policy.⁴²³ According to the BRP, the POA has become the most dominant law enforcement voice on issues of misconduct and racism, historically denied widespread or systemic bias within the SFPD, interfered with the SFPD's disciplinary processes by opposing any discipline of officers, and used collective bargaining rules to hinder policy reform.⁴²⁴

Recent efforts by Black Lives Matter and other activists have created greater awareness of police violence and impunity in the United States, and an unprecedented groundswell of support for structural changes. This public outrage has spurred some concrete action in cities and states across the country. However, significant barriers to effective oversight and accountability remain.

While lack of public disclosure impedes precise conclusions about the scope of impunity in San Francisco, it is evident that most police officers who commit acts of misconduct do not face criminal, civil, or disciplinary actions. In San Francisco, laws, culture, and institutions play a role in the perpetuation of impunity for the violence described in Part II. This section relies heavily on the work of the BRP and COPS to provide a glimpse into the structural causes of impunity. This section describes how flawed use-of-force standards; a culture of bias and racism within the SFPD; the lack of independence, impartiality, and transparency of disciplinary proceedings; the historical failure by the D.A.'s Office to exhaustively investigate or prosecute officer misconduct and abuse; and limited auditing of the SFPD by city agencies contribute to ineffective oversight and lack of accountability.

A. Use-of-Force Laws and Policies

Use-of-force laws and policies regulate officers' actions while on duty and constitute the standards by which officer actions are evaluated.⁴²⁵ Use of force by police in San Francisco is governed by SFPD DGO 5.01 – Use of Force,⁴²⁶ DGO 5.02 – Use of Firearms and Lethal Force,⁴²⁷ and California's AB 392,⁴²⁸ which went into effect January 1, 2020.⁴²⁹

Under AB 392, officers in California may use deadly force only “when necessary in defense of human life,” which is “determined in light of the particular circumstances of each case” and requires officers to “use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.”⁴³⁰ DGO 5.01 allows the reasonable use of force to effectuate an arrest, prevent an escape, gain compliance with a lawful order in self-defense, and prevent a person from injuring themselves.⁴³¹ DGO 5.02 allows an officer to discharge a firearm or use other lethal force in self-defense or in defense of another person when the officer has

reasonable cause to believe that there exists imminent danger of death or serious bodily injury, which is consistent with AB 392.

DGO 5.01 establishes that the reasonableness of use of force is determined “from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.”⁴³² Under the objective reasonableness standard, the shooting of an unarmed person by an officer who believed the victim had a weapon, even if that belief is mistaken, is reasonable. The objective reasonableness standard does not require police to use the minimum amount of force necessary to achieve a legitimate objective. Nor does it require that SFPD officers use a type of force that is proportionate to the threat posed by the person against whom force is used or that police exhaust available, less-harmful force alternatives.

The SFPD’s use-of-force policy remained unchanged from 1995 until 2016, when the Police Commission enacted a set of reforms in response to several killings by police and pressure by community activists. In 2016, the Police Commission banned officers from shooting at moving vehicles and using the carotid restraint.⁴³³ The POA sued the Commission to stop these reforms, arguing that the city was obligated to negotiate these changes with the union, but was ultimately unsuccessful.⁴³⁴ In July 2020, following the death of George Floyd, San Francisco’s Police Commission banned officers from kneeling on a person’s neck or forcing people to sit or lie on the ground.⁴³⁵

While these changes are positive signs of progress toward narrowing the instances when police can use force, challenges remain. One such challenge is the lack of clear communication on use-of-force policy developments, which are communicated through department bulletins. The COPS Report, for example, documented instances in which the police academy’s training staff did not have advance knowledge of policy changes, resulting in staff members developing training guidelines without incorporating new policies.⁴³⁶ Given the dire consequences police use of force can have on communities, this lack of clarity and consistency is troubling.

B. The SFPD’s Culture of Discrimination and Violence

Empirical and anecdotal evidence suggests that the culture of a police department has a significant impact on incidents of misconduct by police officers.⁴³⁷ Organizational culture, a broad concept which encompasses a range of behaviors and characteristics, has been described as “invisible but all-determining.”⁴³⁸ For purposes of this Working Paper, “culture” is used to refer to the dominant practices and attitudes that influence the department’s and individual officers’ actions or omissions with regard to violence and misconduct. Department-wide practices—such as hiring, training, and discipline—both shape and are shaped by institutional culture.

This section briefly describes the role of racism in SFPD culture. The section identifies concerning aspects of the SFPD’s culture, including its culture of dehumanization and tolerance of violence; its culture of silence and intimidation, which discourages whistleblowers and further

institutionalizes the culture of dehumanization; and the department's hiring and training practices, which signal institutional acceptance of officers' biases and discrimination. The goal of this section is to contribute to an understanding of how culture perpetuates violence, discrimination, and impunity for misconduct and abuse.

1. Culture of dehumanization

The SFPD has a long history of dehumanizing members of Black communities and tolerating racist attitudes. In 1968, African American Officers for Justice sent a white paper to the Police Commission and the chief of police calling for more responsibility for Black officers, in part because Black officers were more successful at de-escalating incidents without the use of force and could thus help combat the SFPD's "bad" image in the community.⁴³⁹ The Black officers referred to the "Ku Klux Klan attitudes" of White officers and the failure of police leadership to hold officers accountable for racism.⁴⁴⁰ The paper also underscored the relationship between the racist attitudes of officers and police violence against members of Black communities.⁴⁴¹

In recent decades, periodic scandals indicated the persistence of racist attitudes against members of Black communities. In 2005, approximately 20 SFPD officers participated in racist and sexist parody skits.⁴⁴² After videos of the skits were made public, the scandal became known as "Videogate."⁴⁴³ Segments of the videos released to the public revealed uniformed and plain-clothes officers "mocking the homeless, women, Asians, African Americans, and gay men."⁴⁴⁴ Most of the officers involved worked at the Bayview-Hunters Point station in a largely Black and low-income district.⁴⁴⁵ The president of the POA said the videos were meant as "comic relief" but acknowledged they were offensive and issued a public apology.⁴⁴⁶ Twenty officers were suspended.⁴⁴⁷

The Textgate scandal erupted in 2015, when prosecutors investigating a corruption case involving a former SFPD sergeant publicly disclosed a series of racist and homophobic text messages exchanged between the former officer and four active police officers.⁴⁴⁸ The officers' text messages referred to "White power" and stated "I still hate black people!" and "All n***** must f***** hang."⁴⁴⁹ In response to a text message by an officer that said "my wife friend is over with their kids and their husband is black!" an officer replied: "Get ur pocket gun. Keep it available in case the monkey returns to his roots. Its not against the law to put an animal down. . . . U may have to kill the half breed kids too. Don't worry. Their an abomination of nature anyway."⁴⁵⁰ Four of the officers involved had been on the force for over 10 years, and two had faced prior disciplinary action. The messages had been sent between 2011 and 2012, but prosecutors waited two years before releasing them to the public.⁴⁵¹

The SFPD expanded its investigation beyond the original group of officers to examine the behavior of at least 10 additional officers. Former Chief of Police Suhr recommended the dismissal of at least eight officers over the messages, though disciplinary proceedings moved forward for only four officers, who challenged the proceedings on the grounds that the statute of limitations had expired since the texts had been exchanged in 2010 and 2011.⁴⁵² All four officers

remained on the SFPD payroll throughout the appeals process, together receiving over \$2 million in pay over several years, until each of them retired, resigned, or received criminal convictions for other offenses.⁴⁵³ In another incident in 2016, a sergeant at the Bayview station made racist comments, using derogatory and bigoted language to tell officers that the reason he wanted to be transferred to Bayview was to kill Black people.⁴⁵⁴

In reference to Textgate, the COPS Report observed that “officers would not have used such hateful and intolerant language if it were culturally unacceptable.”⁴⁵⁵ Nonetheless, some officers have denied the existence of systemic racism in the department, and instead have placed blame for racist acts on “a few bad apples.”⁴⁵⁶ One officer interviewed by the BRP reported: “I can say with confidence that there is no racism in the police department, but there are members who are racist.”⁴⁵⁷

Many officers, however, testified that bias was “widespread in the department.”⁴⁵⁸ For instance, a Black female SFPD officer described feeling “isolated among her classmates”⁴⁵⁹ upon joining the department, and observed a “clear divide between White and Black cadets” and “glaring” differences in the treatment of officers based on race.⁴⁶⁰ Two SFPD officers believed that Black officers received harsher discipline than their White colleagues.⁴⁶¹ For example, a Black officer involved in Videogate was suspended for 365 days without pay, though he appeared in but did not create or distribute the videos, while the White officers involved in the incident received lighter disciplinary consequences, despite having greater involvement with the videos.⁴⁶² There were numerous other examples of “differential disciplinary standards” described, and anecdotal evidence suggests the differential treatment was not uncommon.⁴⁶³ A female SFPD officer said “she encountered significant discrimination based on her gender, race, and age.”⁴⁶⁴ She added that the SFPD “‘break[s] down your self-confidence a little bit at a time’ as an institutional weapon to ensure that certain officers are promoted and other officers are kept in place through isolation.” The officer stated that she believed the conduct was “malicious, methodical, and systemic.”⁴⁶⁵

In February 2020, Dante King, the outgoing manager with the San Francisco Department of Human Resources, who led implicit bias training for more than 1,000 SFPD officers and staff, denounced the “extreme” degree of “anti-Black sentiment throughout SFPD” in his departure letter.⁴⁶⁶ During testimony before the Police Commission in December 2020, he stated:

The entirety of this two-and-a-half-year experience led my employees and I to understand and conclude that there are both covert and underlying tenets of disdain, resentment, disrespect, and anger towards Black people overall, and especially Black people who reside in San Francisco’s institutionally and structurally racist impoverished communities. . . . My employees and I got the impression that in some cases, there are individuals on the force who have enjoyed having a career that allows them to patrol, exert power over, and harm Black people.⁴⁶⁷

These anecdotal accounts contradict the assertion that racist attitudes are limited to “a few bad apples,” instead suggesting that racism is tolerated and perpetuated at the institutional level.

2. Culture of silence

Research indicates a culture of silence is common within police departments throughout the nation.⁴⁶⁸ Sometimes referred to as the “blue wall of silence” or the “blue code,” or more generally the “code of silence,” this aspect of police culture dissuades police officers from reporting a colleague’s misconduct. A culture of silence appears to thrive within the SFPD. According to investigators, there exists an “informal pressure for officers to ‘fall in line’ and not report observed misconduct” which “makes it difficult to identify and respond to bias within the department”⁴⁶⁹ or hold officers engaged in misconduct accountable.⁴⁷⁰

POA actions have reinforced the “blue wall of silence.” The POA and the SFPD maintain a close relationship but, by design, do not always share an agenda or priorities: The POA is meant to serve the interests of its officer-members, while the SFPD, as a department of the city, is mandated to act in the public interest.⁴⁷¹ Yet, under the POA’s influence, the SFPD has prioritized its officers’ interests even to the detriment of the public interest, especially with respect to officer misconduct and abuse.

The POA has historically opposed reform and insisted that widespread bias does not exist within the SFPD. In 2016, the BRP found that the SFPD “consistently ceded the ground of discourse” about bias and reform, allowing the POA, rather than SFPD leadership, to become the dominant law enforcement voice on those issues.⁴⁷² For example, the POA once sent threatening emails to San Francisco supervisors so they would change their votes on a resolution, introduced in the wake of the Michael Brown shooting, that sought to condemn the country’s “broken and racially biased police and justice system.”⁴⁷³

The POA portrays SFPD officers, and police in general, as “free from all bias and unfailingly altruistic.”⁴⁷⁴ POA spokespeople forcefully reject the need for police reform, framing any call for improvement or reform as “misinformed, malicious, untruthful, opportunistic, and anti-police.”⁴⁷⁵ Moreover, POA spokespeople often speak in absolutes: “there is no more diverse, culturally enlightened, better trained, and better educated urban law enforcement agency than is the SFPD”; “not a single law enforcement agency in this nation has done more outreach to the community it serves than has the SFPD”; and “there is no more proactive police association than the SFPOA that has done more to seek fair and relevant dialog with the communities served by its members.”⁴⁷⁶ This perspective deflects the SFPD’s responsibility for community mistrust, and suggests that any problems perceived by the community exist within the community itself. According to one active SFPD officer, “the POA was the main obstacle to positive change in the SFPD, as it consistently denied that problems related to racism exist.”⁴⁷⁷ Another witness who testified before the BRP described the POA as a “bullying organization” and “frat house”⁴⁷⁸ that would sometimes slow investigations.⁴⁷⁹ Other witnesses, however, have accused the SFPD of this conduct, too, collectively describing the SFPD and the POA as a “good old boys’ club.”⁴⁸⁰

Indeed, the system is designed to discourage disclosure of police misconduct. Local regulations do not afford specific formal protections to whistleblowers exposing police misconduct or abuse. Section 4.115 of the San Francisco Campaign and Governmental Conduct Code “applies to all city employees” and “creates some protections for whistleblowers.”⁴⁸¹ However, according to the COPS Report, “it is unclear if [Section 4.115] extends to those who report all types of SFPD policy violations,” thus obfuscating “whether all complaints [about police officers] would be encompassed within the ordinance’s scope.”⁴⁸² Without formal protections, many officers fear speaking out against misconduct they observe among their peers.⁴⁸³ Some officers have reported that “the POA and SFPD retaliate against and ostracize those who speak out against the department.”⁴⁸⁴ Retaliation included “frequent transfers, desk duty, and work in undesirable . . . units.”⁴⁸⁵

The culture of silence prevented many officers from testifying before the Blue Ribbon Panel. According to the BRP, “every current officer who was willing to be interviewed by the Panel did so on condition of anonymity” and “indicated that the reason for requesting anonymity was a fear of retribution by the POA and SFPD.”⁴⁸⁶ Two SFPD officers—one who was a retired officer, and the other who was an officer at the time of the panel’s investigation—refused to participate at all in the investigation because of fear of retribution.⁴⁸⁷ In some cases, officers expressed fear not just of career consequences but for their physical safety and that of their families, specifically if their fellow officers were to retaliate by “not having their back” during dangerous field situations.⁴⁸⁸

POA leadership has been explicit about not tolerating whistleblowers. Gary Delagnes, a former POA president and later a paid POA consultant, “publicly expressed his anger” about reports of an officer in the Bayview who made racist statements,⁴⁸⁹ and called the officers who reported the statements “‘trained snitches.’”⁴⁹⁰ He also expressed anger that the SFPD, via the “Not On My Watch” pledge,⁴⁹¹ encouraged officers to report misconduct.⁴⁹² According to the BRP, “Delagnes’s message was clear: police officers were not supposed to ‘snitch’ on other police officers, especially not for making biased and bigoted statements.”⁴⁹³

The SFPD’s culture of silence disincentivizes officers from reporting misconduct, which in turn “impede[s] free flow of information, lower[s] employee morale, and worsen[s] working relations within the department,” according to the BRP Report.⁴⁹⁴ The culture of silence also feeds the culture of tolerance: The BRP Report described the view of a then-current officer that the messages sent in Textgate “amplified the fears of officers of color that there would be retribution for speaking out about discrimination because the officers involved were not immediately terminated.”⁴⁹⁵ Thus, the Report concluded that “the way the texting scandal was handled reduced the likelihood that officers of color would report bias within the department.”⁴⁹⁶ Each failure to hold perpetrators of misconduct accountable reinforces and solidifies the pressure on potential whistleblowers to remain silent.

3. Hiring and training culture

The methods used for hiring and training officers—in particular the processes by which decisions are made about who joins the department and the skills and values the job instills—has a profound influence on institutional culture. Police departments nationwide, including the SFPD, often hire officers who have been dismissed for misconduct from other cities.⁴⁹⁷ Because there is a lack of transparency around officer misconduct and disciplinary records, many hiring departments may not have access to an applicant’s record of misconduct. To address this problem in San Francisco, Supervisor Walton successfully introduced a resolution in June 2020 urging the city to adopt rules disqualifying any applicant for employment in city law enforcement based on prior acts of misconduct.⁴⁹⁸ When misconduct records are kept secret and officers are able to join another department without scrutiny, the communities the hiring department serves, particularly marginalized communities, are endangered.

Police training exposes new officers to departmental culture from day one and continues to shape their expectations and attitudes throughout their employment. Seth Stoughton, a law professor and former police officer, has observed that police officers shoot “because they are constantly barraged with the message that they should be afraid, that their survival depends on it.”⁴⁹⁹ Fostering an “us-versus-the-world siege mentality” foments a “cultural regime of dehumanization” that can permeate every aspect of an officer’s conduct.⁵⁰⁰ However, creating a culture of fear within a department is a choice, as Stoughton explains, “[t]he police forces that have done well in reducing crime do not train their officers to see themselves as superheroes attacking bad guys. They have a stronger community-service ethos.”⁵⁰¹

Training is key for eliminating bias in policing because it shapes and reinforces attitudes and practices. The COPS Report describes training as “the primary mechanism to ensure officers are aware of the potential for implicit bias and its impact on their policing decisions and the communities they serve.”⁵⁰² Effective training should be “multidimensional and include recruit training, Continuing Professional Training, and remedial training.”⁵⁰³ Multiple trainings to address bias at every level are “key tools in ensuring a procedurally just policing approach that goes beyond accountability” and should be “part of a routine and ongoing organizational focus such as that provided through roll-call training and informally through day-to-day supervision.”⁵⁰⁴

At the SFPD, recruits receive 136 hours of training related to bias in policing.⁵⁰⁵ There are two tracks: use-of-force theory and biased policing. Both tracks exceed the requirements of the prevailing standards.⁵⁰⁶ Though the SFPD has shown a “willingness to address bias in policing through training,” according to the COPS, the SFPD’s “operational approach and execution” of the training has been “disjointed” and failed to “significantly institutionalize[] training on bias or ensure[] that it is a part of an overall strategy aimed at reducing bias.”⁵⁰⁷ After teaching anti-bias classes to 1,000 officers and staff, former Department of Human Resources manager Dante King expressed “deep concerns about racism being pervasive within San Francisco’s police force.”⁵⁰⁸ He provided a “damning assessment of the SFPD” in April 2019, alleging that many at the SFPD “possess and exude deeply rooted anti-black sentiments.”⁵⁰⁹

The SFPD’s shortfalls in officer training reflect criticisms of police training nationwide. Training begins at the police academy, where, in Stoughton’s characterization, “the concept of officer safety is so heavily emphasized that it takes on almost religious significance.”⁵¹⁰ New officers are taught “the first rule of law enforcement”: that “an officer’s overriding goal every day is to go home at the end of their shift.”⁵¹¹ Training often emphasizes that every encounter and every individual is a “potential threat” by showing officers “painfully vivid, heart-wrenching dash-cam footage of officers being beaten, disarmed, or gunned down after a moment of inattention or hesitation.”⁵¹² These lessons also are taught through hands-on exercises which teach that “hesitation can be fatal.”⁵¹³ Accordingly, officers are often “trained to shoot before a threat is fully realized, to not wait until the last minute because the last minute may be too late,” training in line with the sentiment of a common phrase: “Better to be judged by twelve than carried by six.”⁵¹⁴ Stoughton describes the impact of training officers to be afraid:

In most police shootings, officers don’t shoot out of anger or frustration or hatred. They shoot because they are afraid. And they are afraid because they are constantly barraged with the message that that they should be afraid, that their survival depends on it. Not only do officers hear it in formal training, they also hear it informally from supervisors and older officers. They talk about it with their peers. They see it on police forums and law enforcement publications.⁵¹⁵

While violent attacks on officers certainly occur, statistics paint a very different picture than the message that is often emphasized in training. In general, policing is now safer than it has ever been, with officers nationwide experiencing assault in approximately 0.09% of all interactions on the job and 0.02% of officers sustaining injuries from interactions.⁵¹⁶ In only 0.00008% of interactions were officers feloniously killed.⁵¹⁷ While officers do face risks, keeping those risks in perspective can help create a more community-focused police culture, rather than a culture that sees residents as a threat.⁵¹⁸

C. Disciplinary Procedures

The processes and procedures used to investigate complaints of misconduct and abuse against the SFPD lack independence, impartiality, and transparency. Oversight mechanisms have failed to conduct effective investigations, set or follow clear standards, or consistently sanction officers involved in misconduct or abuse. As a result of these shortcomings, affected community members have consistently criticized the efficacy of the disciplinary process.⁵¹⁹

The positions and agencies involved in the internal disciplinary process include:⁵²⁰

- **Internal Affairs Division** (IAD, formerly Management Control Division) of the SFPD has primary responsibility for internal discipline. The IAD consists of two divisions: the Administrative Division, which investigates complaints raised internally by officers and allegations concerning officers’ off-duty conduct, even when initiated by civilians, and the Criminal Division, which investigates officers’ possible violations of the law.⁵²¹

- **Department of Police Accountability** (formerly OCC) investigates complaints made by civilians regarding officers' on-duty misconduct and makes recommendations to the SFPD and the Police Commission regarding discipline.
- **POA** provides representation for officers in disciplinary hearings and interviews—either an attorney or defense representative (active-duty officers trained to review complaints and protect officers' rights and generally be an advocate). Attorneys are paid for by the union if alleged conduct falls within the scope of an officer's duty. Although membership in the union is optional, in 2016, only 14 out of 2,000 SFPD officers (less than 1%) were not members.⁵²²
- **Chiefs of Police and Deputy Chiefs** have authority to impose up to 10 days' suspension and can recommend further discipline, including termination, to the Police Commission. They conduct hearings for any disciplinary matter brought by the IAD that could lead to 10 days' suspension or less.⁵²³
- **Police Commission** sets policy for the SFPD and adjudicates all disciplinary cases, whether arising through the IAD or the DPA, in which an officer faces a potential punishment of either termination or a suspension of longer than 10 days. The Police Commission also hears appeals from cases adjudicated by the chief of police.

1. Lack of independence and impartiality

Independence and impartiality are important for fostering trust and legitimacy in the view of the community and ensuring the thoroughness of an investigation of alleged misconduct. When civilian witnesses believe the investigative body is independent from the law enforcement agency being investigated, they are more likely to participate and contribute information to the investigation.⁵²⁴ Similarly, civilians who believe the investigative body has integrity and is independent will be more likely to file a complaint after experiencing misconduct.

The IAD receives mostly internal complaints, but some from the public as well. Under a 2004 resolution by the Police Commission, the SFPD is required to report to the Police Commission the status of IAD cases. Incomplete data documents the complaints or the outcome of the disciplinary process.⁵²⁵ Between 2013 and 2015, the vast majority of complaints were about neglect of duty (597), followed by allegations about conduct unbecoming of an officer (297) and failure to appear in court (222).⁵²⁶ Twenty-five complaints were made about unnecessary force.⁵²⁷ It does not appear that any unnecessary force complaints resulted in disciplinary action.⁵²⁸

The IAD is part of the SFPD and falls under the authority of the chief of police, raising an obvious concern about the independence of the IAD's investigations.⁵²⁹ The COPS Report describes how IAD investigations, specifically during interviews of involved officers, have been obstructed by officers' supervisors and other district personnel attempting to shield officers.⁵³⁰ The BRP expressed skepticism over whether the chief of police has consistently and fairly applied

disciplinary guidelines.⁵³¹ For these reasons, the BRP recommended that the city place the IAD under civilian direction or management in order to mitigate the influence of officers and other interest groups as well as to foster efficacy and public trust.⁵³² As of March 2021, this recommendation has not been adopted.⁵³³

In contrast to the IAD, the DPA exists outside of the SFPD hierarchy as it is staffed by civilians and is independently funded outside of the police department's budget.⁵³⁴ However, the BRP reported that complaints made to the department, when it was still the OCC, rarely resulted in disciplinary actions. Fewer than 10% of complaints made to the OCC resulted in disciplinary action because the OCC required corroborating testimony from more than one witness, or a confession by the officer.⁵³⁵ Almost all complaints in "he said, she said" situations were resolved in favor of the officer.⁵³⁶

Trends of investigating complaints have improved since the BRP and COPS Reports. In 2017, the DPA found improper biased conduct by an SFPD officer for the first time in the history of the agency.⁵³⁷ According to its 2019 annual report, the most recent published report from the agency, the DPA received 773 new complaints yielding 2,470 allegations⁵³⁸ against 1,815 officers of police misconduct (a 53% increase from the previous two years) and found improper conduct in 19% of cases.⁵³⁹ Most frequently, the DPA found improper conduct in cases involving neglect of duty—or 77% of—cases.⁵⁴⁰ The DPA also found improper conduct in eight—or 5% of—cases involving unwarranted action, and 17 cases—or 9% of—cases involving action in a manner unbecoming of an officer.⁵⁴¹

In addition to concerns about the independence and impartiality of disciplinary agencies, investigators and community members have expressed concern about the influence of the POA on the investigation and discipline of officers allegedly involved in misconduct or abuse. The POA provides "accused officers with representation in the form of defense representatives or attorneys" who "can bring more evidence to a case and advocate on behalf [of] officers in hearings."⁵⁴² Additionally, "the SFPD has an obligation to meet and confer with the POA before finalizing any changes in the disciplinary process," which could "include updating the disciplinary guidelines."⁵⁴³ One witness who testified before the BRP indicated that the disciplinary guidelines had not been updated since 1994, at least in part because of a reluctance by the SFPD to "meet and confer" with the POA.⁵⁴⁴ In addition to the POA's influence on the SFPD's organizational culture, the union plays a substantial role in misconduct investigations by often slowing or blocking the disciplinary process. For example, a former high-level police officer reported to the BRP that the POA was to blame for interfering with the SFPD's investigation of misconduct and discipline of officers involved in Videogate and other scandals.⁵⁴⁵

Indeed, the BRP expressed concern that the disciplinary process was vulnerable to manipulations by the very officers under investigation.⁵⁴⁶ The BRP uncovered misconduct cases in which the investigators allowed the statute of limitations to lapse and delayed disciplinary hearing dates until the officers under investigation retired, negotiated a settlement, or increased their years of service and consequently their pension.⁵⁴⁷ One officer, for example, claimed that once

the officer she had accused of embezzlement retired, the IAD closed its investigation of his conduct.⁵⁴⁸

2. Lack of transparency

Scant information exists about the process or procedures used by the IAD to investigate complaints lodged by SFPD officers, allegations by civilians about off-duty misconduct, or possible illegal activity by the SFPD.⁵⁴⁹ The BRP found that this lack of transparency is a “systemic problem.”⁵⁵⁰ Investigative procedures are established by internal regulations,⁵⁵¹ and have not been updated since 1994.⁵⁵² The IAD does not release public information about its processes or decisions, including data about the complaints, the number or types of cases investigated, or the outcome of the investigations.⁵⁵³ According to the BRP, this lack of transparency is “inherently detrimental to fair and effective officer discipline” because it “hinders external oversight (formal or informal) and . . . suggests a lack of self-evaluation through robust and regular audit or statistical analysis.”⁵⁵⁴

Public information also incompletely describes disciplinary decisions made by the Police Commission and chief of police. The BRP Report explains that while the SFPD publishes “the disciplinary outcome of cases sustained by the Chief on the Police Commission’s website,” it does not publish any of the facts underlying the violation, “which makes it impossible for the public to determine whether the Chief is imposing appropriate and effective punishment.”⁵⁵⁵

For over a decade, the SFPD has used an in-house data system, the Early Intervention System (EIS), to track “police officers’ documented use of force incidents, citizen complaints, lawsuits, and other ‘indicators’ that may point to future misconduct.”⁵⁵⁶ Mandated by an internal directive, the EIS is intended to identify officers who may commit misconduct by assigning points to officers based on past misconduct. The points are meant to trigger a warning in the system, prompting review and “intervention” by the EIS sergeant.⁵⁵⁷ According to news reports, a 2020 study of the system completed by the University of Chicago’s Center for Data Science and Public Policy found that the EIS was “highly inaccurate” and lacked “legitimacy among officers and supervisors.”⁵⁵⁸ According to the outside study, the system flagged officers who were not problematic and missed officers who went on to engage in misconduct.⁵⁵⁹ The BRP had previously noted that the SFPD rarely intervenes when EIS warnings are triggered—in 2015, for example, authorities intervened in cases of only nine out of 156 officers who triggered EIS alerts.⁵⁶⁰ It is unclear what constitutes an intervention.

Lack of transparency regarding disciplinary procedures and outcomes makes it difficult to get the full picture of administrative accountability for police violence in San Francisco and to identify systemic strengths or deficiencies. The public information that is available indicates that the mechanisms tasked with disciplinary action against SFPD officers involved in misconduct—the IAD, the DPA, the chief of police, and the Police Commission—lack transparency, impartiality, independence, and/or efficacy.

D. Criminal Investigation and Prosecution

Historically, another barrier to accountability has been the failure of the D.A.'s Office to prosecute SFPD officers for use of excessive force. The D.A.'s Office has rarely brought charges against SFPD officers involved in on-duty shooting deaths: in the 20 years prior to 1997, for example, the D.A.'s Office failed to bring charges against any officer involved in an on-duty shooting incident.⁵⁶¹ According to information published by the D.A.'s Office, 20 officers involved in on-duty shooting incidents have been prosecuted for misconduct since 2010.⁵⁶² On November 23, 2020, District Attorney Boudin filed homicide charges against a law enforcement officer for the first time in San Francisco's history. In bringing manslaughter charges against former SFPD Officer Chris Samayoa for the 2017 fatal shooting death of Keita O'Neil, Boudin stated: "For too long, we have seen the failures of our legal system to hold police accountable for the violence committed against the members of the public they are entrusted to keep safe."⁵⁶³

The D.A.'s Office's record on bringing charges in cases of use of deadly force reflects, in part, historical challenges in conducting timely, impartial, independent, and exhaustive investigations of police killings. The BRP reported in 2016 that the SFPD, the lead investigative agency for officer-involved shooting incidents, frequently failed to notify the D.A.'s Office of shooting incidents in a timely manner.⁵⁶⁴ Before representatives of the D.A.'s Office arrived at the crime scene, police often had completed critical investigative tasks, such as interviews of involved officers. The BRP observed that during these interviews SFPD investigators frequently asked leading questions which "taint[ed] the interviews" and "reduce[d] their utility" in the independent investigation of the D.A.'s Office.⁵⁶⁵

Once initiated, the D.A.'s Office often failed to complete investigations of fatal and nonfatal shootings in a timely manner. A 2016 report identified the D.A.'s Office as "the main bottleneck" in criminal investigations of officer-involved shootings.⁵⁶⁶ Of the 18 officer-involved shootings that occurred between 2011 and 2016, city prosecutors had not concluded the investigation in 56% or 10 cases: the average length of time of the district attorney's investigation of on-duty shooting incidents was nearly two years.⁵⁶⁷ The D.A.'s Office attributed delays to a lack of resources and competing priorities.⁵⁶⁸

Historically, the credibility of the D.A.'s Office has been further eroded by serious allegations of misconduct involving San Francisco prosecutors. For example, a court overturned the 2010 murder conviction of Jamal Trulove after finding that a San Francisco prosecutor had made misleading statements about a key eyewitness's credibility at trial.⁵⁶⁹ Trulove, who had served six years of a 50-year prison sentence before his conviction was overturned, was later awarded \$10 million in damages by a jury that found he had been framed for murder by SFPD officers.⁵⁷⁰ Boudin fired the prosecutor in the Trulove case when he took office (she was hired by Santa Clara County two months later).⁵⁷¹ In another case, a San Francisco prosecutor omitted key sections of the medical examiner's opinion in a homicide investigation and changed eyewitness testimony submitted to a grand jury.⁵⁷²

Recent reforms have sought to address past wrongdoing. In 2016, the district attorney and former SFPD Chief of Police George Gascón signed a memorandum of understanding with the SFPD that required the police department to notify the D.A.'s Office within 10 minutes of an officer-involved shooting and authorized the D.A.'s Office to take the lead during interviews of officers.⁵⁷³ That same year, the district attorney announced the creation of an independent unit within the D.A.'s Office, the Independent Investigations Bureau (IIB), to investigate and review all officer-involved shootings, in-custody deaths, and other cases involving use of excessive force.⁵⁷⁴ Until 2016, the D.A.'s Office's White Collar Crime Division had headed use-of-force investigations.

In 2020, the D.A.'s Office created the Innocence Commission and the Post-Conviction Review Unit to review convictions resulting from prosecutorial and law enforcement misconduct.⁵⁷⁵ The six-member Innocence Commission is comprised by an academic, a retired judge, a medical expert, an attorney from the D.A.'s Office, a public defender from the San Francisco Public Defender's Office, and the executive director of the Northern California Innocence Project.⁵⁷⁶ The district attorney tasked the Innocence Commission with the evaluation of prosecutions in which an incarcerated person asserts that they were wrongfully convicted. The Post-Conviction Unit refers cases of alleged factual innocence, wrongful conviction, or excessive sentencing to the Commission to evaluate the claims and make a recommendation to the district attorney.⁵⁷⁷ In addition to the creation of these units, District Attorney Boudin has taken steps to improve public access to information about law enforcement misconduct. In 2020, for example, Boudin publicly released a list of prosecutions spanning 13 years that potentially had been affected by the misconduct of a forensic laboratory analyst with the Office of the Chief Medical Examiner under investigation for drug-related crimes.⁵⁷⁸ These efforts are important steps in addressing misconduct by law enforcement and prosecutors and the far-reaching negative impacts on the community.

Additionally, the D.A.'s Office has enacted reforms to address the lack of support and services available for victims of police violence and their families. Under California law, crime victims may apply for financial assistance to pay for the expenses resulting from a violent crime through the statewide California Victim Compensation Program.⁵⁷⁹ The parent, grandparent, sibling, spouse, child, or grandchild of a homicide victim, for example, who has sustained physical, emotional, or financial injuries may qualify for government assistance for funeral expenses, mental health counseling, relocation costs, income loss, and medical expenses. Financial assistance is limited to specific amounts by category, a \$70,000 overall cap, and a two-year period.

Until recently, victims of police use of force and their families were excluded from government assistance if law enforcement determined that they did not reasonably cooperate with the investigation or if the victim or the family member was involved in the events leading up to the crime. In June 2020, Boudin created a new policy directive for the D.A.'s Office, in partnership with the Trauma Recovery Center at the University of California, San Francisco, to provide funding supporting victims of police violence in San Francisco.⁵⁸⁰ At the state level, Boudin also supported S.B. 299, a bill that would expand eligibility for state compensation for crime victims to include victims of police violence.⁵⁸¹

E. Auditing the SFPD

Another barrier to accountability has been the lack of routine auditing of the SFPD. San Francisco is one of few cities that enjoys a civilian police commission with broad oversight powers and legal authority. However, there is a lack of publicly accessible information about police oversight and discipline. The lack of transparency breeds mistrust between San Francisco communities, the SFPD, and oversight bodies.

Until recently, no external body routinely audited the effectiveness of and compliance with SFPD policies and procedures.⁵⁸² The City Controller's Office, which has authority to audit city departments on its own initiative or at the request of the Police Commission or chief of police, rarely audits the SFPD, particularly for police misconduct.⁵⁸³ For example, the City Controller's Office declined to audit the SFPD following Textgate, explaining that "the Police Commission is the entity charged with overseeing the SFPD."⁵⁸⁴ Similarly, the DPA and the Police Commission have been reticent to review SFPD compliance with policies although these agencies are operationally and financially independent from the SFPD and have oversight authority. In 2016, the COPS and BRP Reports observed that there was little oversight of the SFPD for efficacy or compliance.⁵⁸⁵

While the history of oversight through auditing provides little insight into SFPD efficacy, recent policy developments offer reason for optimism. In 2016, Ballot Measure G invested the DPA with the authority to carry out performance audits and reviews of "police officer use of force, how the SFPD has handled claims of officer misconduct, and whether SFPD personnel and management have complied with federal and state law, city ordinances and policies, and SFPD policies."⁵⁸⁶ The DPA, which investigates complaints filed by the public against SFPD officers, "engaged the Office of the Controller to conduct a performance audit assessing the adequacy and effectiveness" of the SFPD's collection and reporting of use-of-force data in 2017.⁵⁸⁷ Published in October 2020, the audit reviewed 300 use-of-force incidents and 269 incidents in which the subject resisted, but no force, was reported.⁵⁸⁸ The main findings included that:

- Policy gray areas led to officers underreporting and overreporting force;
- Process weaknesses led to undercounting and overcounting uses of force;
- Inadequate data analysis led to missed opportunities for transparency and data-driven decisions; and
- Weak public reporting requirements hindered transparency and adequacy of information available to decision-makers.⁵⁸⁹

Although it appears that city authorities have publicly disclosed only one audit of police use of force, the DPA has stated that it "conducts regular performance audits on police use of force and how the Police Department handles claims of officer misconduct" and has posted a form on its website for the public to submit an audit idea.⁵⁹⁰

With regard to the Police Commission, the BRP observed that oversight activities “do not appear to be a central focus of commission activity” and accordingly that commissioners “do not view themselves as having an auditor-type oversight function.”⁵⁹¹ The Police Commission has the authority under the city charter to audit for the SFPD’s effectiveness and compliance with the commission’s policies.⁵⁹² However, as of 2016, the Police Commission had not performed an audit, nor had it requested assistance from other departments, such as the City Controller’s Office, which has a sufficient budget and over 30 full-time credentialed auditors.⁵⁹³

In addition to a historical lack of oversight from external auditing agencies, SFPD leadership did not until recently engage in regular auditing regarding biased policing. Until 2016, there was a lack of internal procedures for auditing “practices regarding biased police practices”⁵⁹⁴ such as “reviews of department-issued computers or electronic devices to identify or limit biased language,” and the SFPD had no audit of communication systems.⁵⁹⁵ The SFPD had committed to an audit of department-owned communication systems to “begin assessing for bias” but had not “significantly advanced” this process at the time of the publication of the COPS Report. Moreover, federal authorities observed that those charged with advancing the audit “did not display appropriate understanding of the importance of such an audit” and “were more focused on explaining why such an audit was not a good idea.”⁵⁹⁶ The SFPD had also not “conducted a routine analysis of complaint data to identify trends in complaints and other policing activity that would assist in identifying interactions or behaviors that could be construed as biased.”⁵⁹⁷

However, the SFPD conducted its first audit of electronic communications devices for bias in late 2016, and conducted an audit every quarter through the second quarter of 2020.⁵⁹⁸ The audits search three communications platforms used by police officers—department email, text messages on department-issued cell phones, and the California Law Enforcement Telecommunications System (CLETS)—for words on a list developed by the SFPD’s chief information officer thought to indicate potential racial bias.⁵⁹⁹ (The list of key words does not appear to be publicly available.) Once a “hit” is found by the automated program, meaning one of the listed words appears in an officer’s correspondence, SFPD personnel review the entire message to determine whether it is a biased statement or whether it is a “false-positive hit.”⁶⁰⁰ “False positives” are hits that include a word on the list but, after review by IAD personnel, are determined to be used in a context that precludes the possibility of racial bias. These quarterly audits are sent by the chief of police to the Police Commission. According to the available data covering late 2016 to summer 2020, the audit found 724 hits on CLETS (average 48 per quarter), 21,214 hits on email (average 1414 per quarter), and 691 hits on text messages (average 46 per quarter), and personnel determined only three of more than 22,000 total reviewed hits to be “potentially biased,” meaning the other hits were deemed “false positives.”⁶⁰¹ The chief of police reported to the Police Commission that all “potentially biased” hits are investigated, but no public information was found that indicated the outcome of the investigations.⁶⁰²

CONCLUSION

This Working Paper constitutes an initial effort to compile information about the history of anti-Black police violence in San Francisco with the aim of supporting a truth commission initiative that is victim-centered and responsive to the local context.

Based exclusively on desk research conducted over a period of six months by legal interns with Berkeley Law's International Human Rights Law Clinic, this paper discusses the history of anti-Black police violence with a focus on the last four decades. A more comprehensive approach would also examine the origins of police violence in San Francisco, and extend analysis to other law enforcement agencies including the San Francisco County Sheriff.

Despite the limitations of the research, close examination of incidents and reports revealed patterns in policing of Black communities and the profound and far-reaching impacts of over-policing on members of Black communities. This Working Paper examines the modalities of police violence and the intersectional identities of the victims. Relying on empirical data, it finds that racial profiling has led to shockingly disproportionate rates of police stops, arrests, incarceration, and use of force against Black men, women, and children in San Francisco. Black unhoused individuals and Black people with mental disabilities or mental health issues are also disproportionately impacted by discriminatory policing. The Working Paper also provides an overview of the organizing efforts, priorities, and demands of civil society actors, including victims and their families and racial justice coalitions. The long-standing, persistent call for structural change in policing has prompted reforms by government actors. The incremental and piecemeal nature of those reforms, however, has not effectively addressed deep frustration and persistent questioning of the SFPD's commitment to serving and protecting Black communities. Lastly, the Working Paper examines how the path toward structural change has been blocked by ineffective legal standards, biased and complicit institutions, and a police culture that fuels violence and impunity.

This Working Paper aims to make a modest contribution to a deeper understanding of the local context of racism in policing that exists in cities and towns across the country. The clinic's research focused on a limited temporal period and incidents of anti-Black SFPD violence although other communities of color have been impacted by discriminatory policing and other law enforcement agencies have perpetuated violence in San Francisco. Proponents of the truth commission will be tasked, through consultation with affected communities, with determining the commission's temporal and subject matter focus. However the commission's mandate is defined, it should reflect local priorities to foster legitimacy and credibility within San Francisco's Black communities.

APPENDIX: SFPD USE-OF-FORCE INCIDENTS TIMELINE, 1980-2020

May 21, 1979: White Night Riots

Following the announcement of the lenient sentencing of Dan White, member of the San Francisco Board of Supervisors who assassinated Mayor George Moscone and Supervisor Harvey Milk, gay rights activists led demonstrations from the Castro to City Hall, amassing thousands of protesters.⁶⁰³ When a riot broke out at City Hall, the SFPD attacked the crowd with nightsticks, and later raided and attacked patrons of a gay bar in the Castro.⁶⁰⁴ Over 100 people were injured in what came to be known as the White Night Riots.⁶⁰⁵

January 24, 1982: Super Bowl Riots

The night the San Francisco 49ers won their first Super Bowl, thousands of revelers poured into the streets, some looting and setting fire to cars and and on the streets.⁶⁰⁶ Riot police clashed with the crowds, clubbing revelers and causing about 100 injuries.⁶⁰⁷

November 1982: Creation of the Office of Citizen Complaints

Voters passed a ballot measure amending the San Francisco City Charter by creating the Office of Citizen Complaints (OCC) to investigate complaints made against SFPD officers.⁶⁰⁸ The ballot measure was motivated by pressure from a diverse coalition of minority community groups, including gay rights activists and Black and Latinx groups like the SFPD's African-American Officers for Justice.⁶⁰⁹

April 26, 1984: Rathskeller Sex Party Scandal

SFPD officers, at a celebration for the latest Police Academy class, handcuffed a gay cadet to a chair in the middle of the room and paid a sex worker to perform oral sex on him.⁶¹⁰ The scandal resulted in the termination of five officers.⁶¹¹

July 1984: Democratic National Convention Protests

Numerous protests ensued during the Democratic National Convention hosted in San Francisco.⁶¹² When protesters staged a die-in against a demonstration led by Jerry Falwell and Phyllis Schlafly, horse-mounted police officers charged into the crowd with batons, trampling several protesters.⁶¹³

August 30, 1984: Muni Assault

SFPD officers dragged a gay man off a Muni bus after he gave them a thumbs-up, then drove him to a warehouse district where they kicked, clubbed, and pepper-sprayed him.⁶¹⁴ One of the officers pleaded guilty to felonious assault and false imprisonment in March 1985.⁶¹⁵

August 31, 1984: Lord Jim's Saloon Search

About 20 plainclothes SFPD officers entered Lord Jim's saloon, some with guns drawn, and detained 60 patrons for over an hour while searching for evidence that the owner had drugged and sexually assaulted female customers, including performing full-body searches on some female patrons.⁶¹⁶ Half of the customers sued for unnecessary use of force; Mayor Dianne Feinstein ordered the police chief to investigate the incident, resulting in the reassignment of several captains.⁶¹⁷

1984: The SFPD Receives Highest Number of Citizen Complaints in State

The SFPD received over 2,000 citizen complaints, more than any other police department in the state, including the Los Angeles Police Department.⁶¹⁸

September 14, 1988: Beating of Dolores Huerta

During a protest in Union Square, an SFPD officer beat Dolores Huerta, a well-known economic justice advocate who cofounded the United Farm Workers union, with a police baton, breaking several of her ribs and rupturing her spleen.⁶¹⁹ The beating was caught on camera and broadcast widely, prompting demands to change SFPD crowd control policies and address the handling of police misconduct; multiple officers were also dismissed on account of excessive force.⁶²⁰ The police chief's brother, a deputy chief, was accused of removing a document from the personnel file of an officer being investigated as part of the incident, prompting the chief to force him to retire.⁶²¹ After the Police Commission found the officer not responsible, the OCC having concluded the opposite, activists with the ACLU, the National Lawyers Guild, and the United Farm Workers decried the decision and the facade of citizen control over the police.⁶²²

October 6, 1989: The Castro Sweep

During a protest organized by local AIDS advocacy group ACT UP demanding government action to address the ongoing AIDS epidemic, the SFPD interrupted the route, forcing protesters onto Castro Street and beating and clubbing them, seriously injuring 10 protesters.⁶²³ A class action lawsuit ensued and resulted in the suspension and resignation of several senior members of the SFPD.⁶²⁴

November 2, 1991: Killing of Michael Acosta

An SFPD officer chasing two purse snatchers to an idling car shot and killed Michael Acosta, who was sitting in the driver's seat.⁶²⁵ The officer provided conflicting testimony as to how he shot Acosta and his accounts were contradicted by expert and witness testimony.⁶²⁶ The officer was not punished by the SFPD, but Acosta's family won \$259,000 against the SFPD and the city for excessive force and funeral expenses.⁶²⁷ The federal judge in the case reversed the jury verdict for insufficient evidence, resulting in an appeal to the U.S. Supreme Court and reinstatement of the verdict.⁶²⁸

April-May 1992: Rodney King Protests and Termination of Chief Hongisto

During protests in San Francisco in response to the acquittal of the officers who beat Rodney King, the SFPD arrested hundreds of protesters, and processed them in Alameda County to prevent them from returning to protests in San Francisco.⁶²⁹ Community activists heavily criticized the treatment of the protesters, including publishing an article in LGBTQ+ newspaper the *San Francisco Bay Times* featuring a photo of SFPD Chief Richard Hongisto holding a police baton in a sexually suggestive pose.⁶³⁰ The Police Commission fired Hongisto based on allegations that he had instructed officers to remove all copies of the newspaper from newsstands in the Castro.⁶³¹

July 15, 1993: Killing of Brian Sullivan

An SFPD officer who had been the subject of over a dozen misconduct complaints opened fire into San Francisco resident Brian Sullivan's garage while Sullivan hid inside.⁶³² The officer then followed Sullivan to a side yard and shot and killed Sullivan, who was unarmed, as he climbed up a ladder to the roof.⁶³³ The subsequent homicide investigation disregarded eyewitness testimony, ballistics tests, and inconsistent accounts by the officer.⁶³⁴

June 4, 1995: Killing of Aaron Williams

Aaron Williams, a 35-year-old Black man suspected of a break-in at a vet clinic, died in SFPD custody after police hog-tied, pepper-sprayed, and gagged him.⁶³⁵ The police claimed Williams was on crack cocaine when he collapsed, but it is believed that the pepper spraying contributed to his death, and that he was left dying unattended in the police van for 20 minutes.⁶³⁶ According to the ACLU, this was the 27th death in California in the prior two-and-a-half years in which victims had been subdued with pepper spray. The killing prompted many marches, news conferences, rallies, and hearings, and the Williams family filed two wrongful death lawsuits. In 1997, the Police Commission fired the officer responsible for the killing.⁶³⁷ Three of the officers involved had been sued previously for excessive force, but the city settled two of the cases and the third was dismissed because the statute of limitations had expired.

1996: Appointment of Fred Lau

Fred Lau was appointed to chief of police and is believed to be the first Asian-American police chief of any major U.S. city other than Honolulu.⁶³⁸

April 6, 1996: Killing of Mark Garcia

Mark Garcia, 41, was killed by the SFPD after being robbed and calling the police for help.⁶³⁹ The officers who responded to the call beat him and pepper-sprayed him four times. They also stood on his back before hog-tying him and throwing him in a van.⁶⁴⁰ He died in the hospital from heart failure, and his family contended he was a victim of "custody death syndrome" associated with pepper spray, which had been blamed for the death of 32 Californians since 1993.

The family called for a ban on pepper spray and claimed the police had used excessive force. A witness reported that Garcia had nothing in his hands, which contradicted police reports that Garcia had hit the police on the head with a crack pipe.

April 16, 1996: Dismissal of “Matrix” Program Citations

Municipal Court Judge Herbert Donaldson dismissed over 39,000 citations and warrants by the SFPD through the “Matrix” program, which were issued for “quality of life” violations in the prior three years.⁶⁴¹ Initial citations were \$76, but if they went unpaid, the cost would rise to \$180.

May 1997: Acquittal of Gary Fagundes

A San Francisco jury cleared SFPD officer Gary Fagundes of four felony charges related to his alleged theft of money and property from drug dealers he had apprehended.⁶⁴²

May 1998: Death of Sheila Deto

Seventeen-year-old Sheila Deto was killed while in the passenger seat of a car.⁶⁴³ Police had cornered the car in an attempt to arrest one of the two men she was with on drug charges.⁶⁴⁴ Police fired into the car, hitting Deto in the head and killing her instantly.⁶⁴⁵

July 15, 1998: Abuse of Daniel Garcia

Mark Garcia’s nephew, Daniel Garcia, Jr., 23, filed a harassment complaint against the officer in command at the time of his uncle’s death.⁶⁴⁶ Daniel was booked for outstanding parking violations, hit over the head by a police officer during the arrest, and taken to the police station. According to Daniel, at the station, Captain Gregory Suhr, the officer in command at the time of his uncle’s death, first asked if Daniel was related to Mark, then shoved him and tried to start a fight while threatening him.⁶⁴⁷

June 12, 2001: Death of Idriss Stelley

Idriss Stelley, a 21-year-old person of color who was bipolar and possibly experiencing a mental health crisis, was shot by eight SFPD officers more than 20 times in a movie theater (some reports say 48 times).⁶⁴⁸ Stelley’s mother, Mesha Irizarry, later became an activist and created the Idriss Stelley Foundation in her son’s memory.⁶⁴⁹

February 2002: Death of Gregory Hooper

Off-duty officer Steve Lee got into a fistfight with Gregory Hooper, a Black street vendor.⁶⁵⁰ Eyewitnesses report that, after the fight ended, Lee shot the unarmed Hooper four times in the chest at point-blank range and that he fired in anger, not self-defense.⁶⁵¹ Although Lee had a history of off-duty misconduct, the SFPD and the district attorney exonerated the officer.⁶⁵²

March 2002: Death of Richard Tims

Richard Tims, a 35-year-old Black man experiencing a mental health crisis, was killed by the SFPD.⁶⁵³ According to the police, Tims had followed a 16-year-old boy off Muni, stabbed him, and Tims refused to put down his knife when the police arrived. The SFPD pepper-sprayed him; then Tims lunged at the police, and five officers opened fire.⁶⁵⁴ Vilda Curry, 39, an onlooker, was hit by a bullet and suffered permanent reproductive damage and use of her leg.⁶⁵⁵

June/July 2002: Appointment of Chief Earl Sanders

Mayor Willie Brown named Earl Sanders the first Black SFPD chief, after Chief of Police Fred Lau, who had served six years, announced his retirement.⁶⁵⁶

November 20, 2002: Fajitagate

In an incident that became known as “Fajitagate,” three off-duty SFPD officers beat two men after one of the men refused to hand over his bag of takeout food, leaving one of the men with a broken nose, concussion, and cuts and abrasions.⁶⁵⁷ The three officers, one of whom was Alex Fagan, Jr., had been out celebrating the promotion of Alex Fagan, Sr., to assistant chief of the SFPD.⁶⁵⁸ This event triggered a long scandal, fueled largely by the privileged treatment the assailants received because of their status.⁶⁵⁹ Chief Earl Sanders retired after being indicted, though charges were later dropped.⁶⁶⁰

2003: Overturning of Murder Convictions of John Tennison and Antoine Goff

The murder convictions of John Tennison and Antoine Goff, two Black men, were overturned because of the involvement of SFPD officer Napoleon Hendrix, and Chief Earl Sanders—who had previously also been an SFPD officer—in withholding evidence.⁶⁶¹ The officers falsified witness testimonies of girls who were 11 and 14 years old at the time, and withheld evidence that could have cleared the defendants, who were innocent but sentenced in 1990 to prison for 25 years to life.⁶⁶² Tennison and Goff were released in August and September 2003, respectively, and each settled wrongful conviction suits against the city for \$2-4 million. Earl Sanders was later sued for covering up exculpatory evidence and manufacturing perjured testimony.⁶⁶³

January 18, 2004: Appointment of Chief Heather Fong

Mayor Gavin Newsom replaced interim Chief Alex Fagan with Heather Fong, the first woman to run the SFPD.⁶⁶⁴

July 2005: Investigation of Journalist Josh Wolf

The Department of Homeland Security and the Federal Bureau of Investigations investigated 24-year-old journalist Josh Wolf, of Indybay, who refused to turn over footage of an anti-G8 protest during which an officer’s skull was fractured.⁶⁶⁵ Upon failure to squash the

subpoena, and subsequent refusal to comply, Wolf was held in contempt by a federal judge and sent to prison where he served 226 days, the longest term ever served by a journalist for refusing to disclose unpublished source material.⁶⁶⁶

December 2005: “Videogate”

Eighteen SFPD officers were suspended for engaging in racist and sexist parody skits.⁶⁶⁷ The skits included scenes of uniformed and plainclothes officers mocking the homeless, women, Asians, African Americans, and gay men.⁶⁶⁸ The president of the San Francisco Police Officers Association said the videos were meant as “comic relief” but acknowledged they were offensive and issued a public apology. Most of the officers had worked at the Bayview-Hunters Point station, in a largely Black and low-income district. Mayor Newsom vouched to create a panel to review the entire department’s operations and asked the San Francisco Human Rights Commission and the San Francisco Commission on the Status of Women to conduct their own investigations.⁶⁶⁹

June 2007: Demotion of Jesse Serna

SFPD officer Jesse Serna, identified as having used more force than any other officer from 1996 to 2004, was put on desk duty after a string of incidents involving use of excessive force.⁶⁷⁰ Specifically, in 2007, he called a Black man he was attempting to detain a “monkey,” and pepper-sprayed the man’s wife when she asked why he was being arrested. In 2006, he “zapped a Harvard medical student with a stun-gun in North Beach” and allegedly told the 26-year-old student to “stop acting like such a girl.”⁶⁷¹ He was later fired in 2011 at age 45.⁶⁷²

May 2008: City Settles Excessive Force Case

San Francisco paid \$235,000 to settle an excessive force case for a 2005 incident during which SFPD Officer Christopher Damonte used excessive force on schoolteacher Kelly Medora.⁶⁷³

March 2009: Two Officers Accused of Beating

A Latino man named David Magana claimed that four officers from the SFPD had beaten him “with their hands, fists, [and] nightsticks” and “kicked him with their boots all over his body” after mistakenly identifying him as a suspect.⁶⁷⁴ The case was dismissed in December of 2009.⁶⁷⁵ Two of the officers involved were Eric Reboli and Craig Tiffe, the officers who later shot and killed Amilcar Perez Lopez in 2015.⁶⁷⁶

August 2009: Appointment of Chief George Gascón

Chief Heather Fong was replaced by George Gascón.⁶⁷⁷

March 9, 2010: Drug Lab Scandal

Evidence surfaced that Deborah Madden, a technician in the SFPD crime laboratory, had been stealing cocaine for personal use.⁶⁷⁸ The drug lab closed indefinitely.

April 2010: Cases Dropped Due to Drug Lab Misconduct

An estimated 1,000 drug cases were dropped due to the alleged misconduct of the drug lab technicians, in addition to the 550 cases already dismissed due to lack of available testing with the closure of the drug lab.⁶⁷⁹

January 10, 2011: Appointment of District Attorney George Gascón

In Newsom's last days as San Francisco mayor before becoming lieutenant governor, he appointed Chief of Police Gascón as district attorney to replace Kamala Harris.⁶⁸⁰

March 2011: District Attorney Drops Misconduct Charges

District Attorney George Gascón dropped 57 charges in the midst of an investigation into alleged police misconduct, after videotapes were released showing that “narcotics officers falsified police reports in order to justify searching residences without warrants or consent.”⁶⁸¹ As a result of the investigation, eight plainclothes officers were placed on administrative duty and ordered not to have contact with the public.⁶⁸² Most of the charges pertained to misdemeanors and drug offenses.⁶⁸³ By May 27, 2011, 119 cases involving alleged misconduct had been dropped.⁶⁸⁴

April 2011: Greg Suhr Appointed Chief of Police

Greg Suhr became chief of police, replacing Interim Chief Jeff Godown, who had served since January 2011.⁶⁸⁵ Suhr, a 30-year veteran of the SFPD and captain of both the Mission and Bayview police districts, was backed by the Police Officers Association and had been indicted for allegedly conspiring to obstruct the investigation into the Fajitagate scandal.⁶⁸⁶

June 5, 2012: Killing of Derrick Gaines

Derrick Gaines, a 15-year-old Black child, was shot and killed by South San Francisco police officer Joshua Cabillo.⁶⁸⁷ Cabillo later joined the SFPD and in 2018 shot Oliver Barcenas, raising questions as to how officers with violent incidents in their past are held accountable.⁶⁸⁸ Two officers approached Gaines and his friend, claiming that they were engaging in “suspicious behavior” although they did not elaborate on what that behavior was. Gaines fled and the officers pursued him.⁶⁸⁹ When Gaines pulled out a gun, Officer Cabillo shot him once. Gaines died on the scene.⁶⁹⁰

April 10, 2013: Beating of Travis Hall

Travis Hall, a 23-year-old Black man, was unlawfully questioned, beaten, detained, and arrested by officers in the Mission.⁶⁹¹ Plainclothes officers in an unmarked car approached the car with Hall and his friends, and when Hall reached for his phone to call his mother, the officers forcefully pulled him out of the car and beat him. Hall suffered a concussion and numerous cuts and bruises.⁶⁹² One officer later told Hall's mother that they approached the car because the driver had failed to use a turn signal before parking.⁶⁹³ In 2015 the ACLU filed suit against the SFPD in federal court on behalf of Hall.⁶⁹⁴

March 21, 2014: Killing of Alex Nieto

Alex Nieto was killed by the SFPD in Bernal Heights Park.⁶⁹⁵ Officers in the area were on the lookout for a suspect with a gun. Nieto was walking in the park when four police officers encountered him.⁶⁹⁶ The officers claimed that Nieto had raised a weapon, pointed it at them, and that they were not aware that he was carrying only a Taser for his job as a nightclub security guard.⁶⁹⁷ One of the officers fired 13 rounds immediately, then reloaded and fired 10 more within 30 seconds of encountering Nieto. The four officers fired a total of 59 shots, 10 of which hit Nieto.⁶⁹⁸ Nieto's parents brought a civil suit for wrongful death and civil rights violations which went to trial in 2016. In his testimony at the trial, one of the four officers responsible said: "It was tragic. . . . But unfortunately I was forced."⁶⁹⁹ One witness who was walking his dog in the park at the time testified that he never saw Nieto raise his Taser and that his hands were in his pockets the whole time; when cross-examined he admitted he had trouble recalling specific details.⁷⁰⁰ A unanimous jury found that the officers responsible did not use excessive force.⁷⁰¹ In response to the verdict from a jury with no Black or Latinx people, Nieto's best friend Flores said: "I felt from the first day this would happen. . . . Look at their faces, there is no justice between blacks and whites."⁷⁰² Oscar Salinas, member of the Justice 4 Alex Nieto Coalition, said: "This has united the black community and the brown community. . . . The Bayview community is hurting right now with Mario Woods, the Mission community is grieving with this decision with Alex Nieto. The fight isn't over, it's just begun."⁷⁰³

October 7, 2014: Killing of O'Shaine Evans

O'Shaine Evans, a 26-year-old Black man, was shot and killed, and although the SFPD claimed Evans had been involved in a car burglary before pointing an unloaded gun at an officer, his family questioned that account.⁷⁰⁴ In 2015, his family filed a civil rights suit against the city.⁷⁰⁵

February 26, 2015: Killing of Amilcar Perez Lopez

SF police shot and killed 20-year-old Amilcar Perez Lopez, a Guatemalan national.⁷⁰⁶ According to witnesses, Perez Lopez was standing in the street around 9:45 p.m. talking with Abraham

Perez, who accused Perez Lopez of stealing his bike.⁷⁰⁷ An emergency call was made, and plainclothes officers Tiffe and Reboli, who had been named in a 2009 civil suit alleging police brutality, arrived on the scene.⁷⁰⁸ The officers claimed that Perez Lopez had been threatening Perez with a knife and that when they arrived Perez Lopez lunged towards them with the knife in the air.⁷⁰⁹ However, witnesses told a different story, and a private autopsy ordered by Perez Lopez's family showed that he had been running away from the police, not lunging towards them: he was shot "six times from behind, four times in the back, once to the head and once in the right arm, a further indication he was running away."⁷¹⁰ In June of 2015, the officers who shot him were still on active duty.⁷¹¹

March 14, 2015: "Textgate" Scandal

The *San Francisco Chronicle* reported on racist and homophobic text messages from disgraced officer Ian Furminger and four police officers still on the force.⁷¹² All four officers had been on the force for over 10 years, and two had faced prior disciplinary action.⁷¹³ The SFPD expanded the probe into the offensive text messages, with at least 10 additional officers under investigation by the internal affairs unit.⁷¹⁴ Chief Suhr recommended the dismissal of at least eight officers over the messages.

March 17, 2015: Killing of Alice Brown

Alice Brown, a 24-year-old White woman, was shot and killed by police.⁷¹⁵ Two plainclothes officers on a stolen car investigation approached her with their badges out when she was in her car, and she fled, running into buildings and cars.⁷¹⁶ The officers said they feared for their safety and the safety of other citizens, and resorted to lethal force.⁷¹⁷ Brown had a long history of drug addiction and mental illness.⁷¹⁸

May 2015: Blue Ribbon Panel Established

In the wake of investigations of racist and homophobic text messages among police officers, the D.A.'s office tasked the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement with answering the question raised by the scandal: "Was the racial and homophobic bias so clearly demonstrated by the offensive texts a reflection of institutionalized bias within the SFPD and, if so, to what extent?"⁷¹⁹

October 3, 2015: Approval of AB 953

In 2015, AB 953, the Racial and Identity Profiling Act of 2015 (RIPA), was signed into law, requiring California law enforcement agencies to annually report their traffic and pedestrian stop data to the attorney general.⁷²⁰

October 15, 2015: Killing of Herbert Benitez

Herbert Benitez, a 27-year-old Latino man, was shot and killed after he struggled with a veteran police sergeant, wrestling his gun out of his holster and prompting another sergeant to shoot him twice.⁷²¹

November 2015: Video of Beating of Man Who Surrendered

SF Public Defender's Office uploaded a video of two officers viciously beating a man who appeared to be surrendering, prompting calls for criminal charges against the officers.⁷²²

November 11, 2015: Killing of Javier Lopez Garcia

Javier Lopez Garcia, a 25-year-old Latino man, was shot and killed by police.⁷²³ Lopez Garcia had been previously incarcerated and was apparently suicidal on the day he was killed.⁷²⁴ He robbed two guns from a sporting goods store and traveled to a construction site on Cesar Chavez Avenue where at around 4 p.m. he opened fire from the sixth floor, allegedly aiming towards nearby St. Luke's Hospital.⁷²⁵ Three officers shot him when he pointed his shotgun in their direction.

December 2, 2015: Killing of Mario Woods

Mario Woods, a 26-year-old Black man, was shot by five police officers with at least 20 bullets.⁷²⁶ Police were called to a hospital at 4 p.m. to interview a stabbing victim, who said that he had been in his car in the Bayview when he encountered a man who, looking "agitated . . . and paranoid," reached into the victim's car with a knife and slashed his shoulder.⁷²⁷ Police were searching for the assailant in Bayview that evening when they spotted Woods carrying a knife waiting to board a Muni bus.⁷²⁸ Police used nonlethal beanbag guns to attempt to subdue Woods, and called for backup, and when realizing there was a crowd of people around, five officers began to fire at Woods.⁷²⁹ Twenty-seven bullet casings were found at the scene, and his autopsy report showed 20 gunshot wounds, including six in his back.⁷³⁰ His shooting was captured on cellphone video and shared widely, sparking protests and calls for Chief Suhr's resignation.⁷³¹ The events prompted Mayor Ed Lee to request the U.S. DOJ to conduct a review of the SFPD and the resignation of Chief Suhr in 2016.⁷³²

February 1, 2016: COPS Announces Investigation of the SFPD

COPS announced it would conduct an investigation into the SFPD at the request of Mayor Ed Lee and Police Chief Greg Suhr after the killing of Woods.⁷³³ Amidst widespread calls for investigation and reform of the SFPD, Sergeant Yulanda Williams was targeted by the police union for her public criticisms of the SFPD.⁷³⁴ She was one of two Black officers mentioned by name in racist text messages by her colleagues.⁷³⁵

April 7, 2016: Killing of Luis G3ngora

Luis G3ngora, a 45-year-old man living in a tent encampment in the Mission, was shot by two police officers who claimed he was charging down the street at them with a knife.⁷³⁶ Within 30 seconds, they fired four beanbag rounds at him and then seven bullets.⁷³⁷ At a news conference, police officials said G3ngora had lunged at the officers who shot; witnesses to the event contradicted this version and asserted that G3ngora had not directly threatened the officers.⁷³⁸

May 19, 2016: Killing of Jessica Williams

Jessica Williams, a 29-year-old Black woman, was shot and killed in the Bayview.⁷³⁹ Hours later, Mayor Ed Lee announced Chief Suhr's resignation amid "mounting opposition from both protesters and San Francisco officials."⁷⁴⁰ Police were searching for a stolen vehicle when they spotted a vehicle matching the description and approached it, finding Williams in the driver's seat.⁷⁴¹ Williams attempted to flee in the car, and Sergeant Justin Erb shot and killed her, allegedly to protect himself and his partner from being hit by the car.⁷⁴² District Attorney Gascón declined to file charges against Erb. However, a report by the DPA found that Erb had "used lethal force at a time when Williams's vehicle was not threatening him with imminent danger of death or serious bodily injury."⁷⁴³ The report initially recommended Erb be fired, but later the DPA negotiated with Erb's attorneys and recommended a 45-day suspension and 18-month probationary period.⁷⁴⁴ According to DPA Director Paul Henderson, Erb was the first officer to admit wrongdoing in an officer-involved shooting.⁷⁴⁵

May 21, 2016: *San Francisco Chronicle* Reviews 15 Years of Police Violence Data

The *San Francisco Chronicle* reported on 15 years of data from officer-involved shootings in the city.⁷⁴⁶ Using police data, medical reports, and reports from the D.A.'s Office, the *Chronicle* found that between 2000 and 2015 there were 95 reported police-involved shootings, 40 of which were fatal.⁷⁴⁷ "Since 2000, roughly 160 officers have been named in a shooting, out of a sworn force that has hovered around 2,200. . . . Six individuals were involved in more than one shooting."⁷⁴⁸ The report also found that more than 60% of all fatal police shootings between 2010 and 2015 involved people with mental health problems or who were acting "erratically" at the time of the shooting.⁷⁴⁹

July 11, 2016: Release of the Blue Ribbon Panel Report

The district attorney's Blue Ribbon Panel released its report recommending serious reform to "rebuild public trust that's been broken after a series of scandals and longtime practices of policing of communities of color."⁷⁵⁰

October 12, 2016: Release of the COPS Report

In a report requested by Mayor Lee, the DOJ's Office of Community Oriented Policing criticized the SFPD for "bias against African-American residents in its use of force and during traffic stops" but "stopped short of saying it was the result of racism."⁷⁵¹ The report found that the majority of deadly use-of-force incidents by the SFPD involved persons of color from May 1, 2013, to May 31, 2016, with nine of 11 individuals victims of officer-involved shootings being people of color.⁷⁵²

October 14, 2016: Killing of Nicholas McWherter

In the first fatal police shooting since the killing of Jessica Williams, police shot and killed Nicholas McWherter, a 26-year-old White man experiencing mental illness.⁷⁵³ McWherter had

reportedly been living in his van in a residential neighborhood in the Sunset District.⁷⁵⁴ He was armed, and he fought with security guards at a nearby store after trying to buy a knife; he then fled and shot a police officer in the head.⁷⁵⁵

November 8, 2016: The OCC Becomes the DPA

The Office of Citizen Complaints was renamed the Department of Police Accountability as part of an amendment to the city charter.⁷⁵⁶ The amendment also “removed the Department of Police Accountability from the police department’s budget” and “provided to the Department of Police Accountability the power to conduct periodic audits” of the SFPD.⁷⁵⁷

December 1, 2017: Killing of Keita O’Neil

Forty-two-year-old Keita O’Neil had exited a stolen vehicle and was running from a patrol car when he was shot and killed by SFPD Officer Christ Samayoa. Police body camera footage showed Samayoa drawing his gun from inside a patrol car and shooting O’Neil in the head as he ran beside the car.⁷⁵⁸

May 24, 2018: No Charges Against Officers Who Killed Mario Woods

The D.A.’s Office announced that the officers who shot and killed Mario Woods would not face criminal charges because “they had reason to believe Woods posed a danger.”⁷⁵⁹

July 8, 2019: AB 392 Becomes Law

California Senate signed into law AB 392, The California Act to Save Lives, requiring that police officers use lethal force only when necessary and strengthening the standard from the prior “objectively reasonable” standard.⁷⁶⁰

December 7, 2019: Jamaica Hampton Shot, Survives

Twenty-four-year-old Jamaica Hampton was shot by police multiple times in the Mission District; although he survived the injuries he sustained, he underwent surgery to amputate his leg.⁷⁶¹

ENDNOTES

- 1 Larry Buchanan, Quoctrung Bui & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020).
- 2 See, e.g., Amna A. Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CALIF. L. REV. 1781 (2020); Noha Aboueldahab, *The United States Needs a Truth Commission. It Should Be Televised.*, FOREIGN POL'Y (July 24, 2020).
- 3 See Eduardo González & Kelebogile Zvobgo, *As America Seeks Racial Justice, It Can Learn from Abroad*, FOREIGN POL'Y (Mar. 14, 2021).
- 4 For an overview of past international and U.S. truth commissions, see, for example, *id.*; Aboueldahab, *supra* note 2.
- 5 See González & Zvobgo, *supra* note 3; Zinaida Miller, *Transitional Justice, Race, and the United States*, JUST SEC. (June 30, 2020).
- 6 Press Release, S.F. Dist. Att'y, District Attorney Boudin Joins Grassroots Law Project and Leading Reform District Attorneys to Announce Truth, Justice & Reconciliation Commissions to Address Decades of Harm Caused by Law Enforcement and Prosecutorial Overreach (July 1, 2020).
- 7 Miller, *supra* note 5.
- 8 Seth Rosenfeld, *S.F. Pays Big When Cops Shoot Civilians*, SFGATE (Dec. 29, 1996) (“San Francisco police on average fatally shot 4.1 people for every 100 murders in The City each year from 1990 to 1995 - about twice the rate of Los Angeles, New York and Oakland, though lower than San Diego’s average of 5.3 and San Jose’s average of 5.8.”).
- 9 For a more comprehensive account, see generally DOUGLAS HENRY DANIELS, *PIONEER URBANITES: A SOCIAL AND CULTURAL HISTORY OF BLACK SAN FRANCISCO* (1980); JAN BATISTE ADKINS, *AFRICAN AMERICANS OF SAN FRANCISCO* (2012).
- 10 See DANIELS, *supra* note 9, at 13.
- 11 See *id.* at 33; ADKINS, *supra* note 9, at 7.
- 12 See DANIELS, *supra* note 9, at 33.
- 13 See *id.* at 104, 165–67.
- 14 See *id.* at 104, 169; Stephen E. Barton, *The Neighborhood Movement in San Francisco*, 2 BERKELEY PLAN. J. 85, 90 (1985).
- 15 See Todd Whitney, *A Brief History of Black San Francisco*, KALW (Feb. 24, 2016).
- 16 See DANIELS, *supra* note 9, at 165; ADKINS, *supra* note 9, at 7.
- 17 *San Francisco City and County: 1950–1960*, BAY AREA CENSUS.
- 18 See DANIELS, *supra* note 9, at 104.
- 19 Clement Lai, *The Racial Triangulation of Space: The Case of Urban Renewal in San Francisco’s Fillmore District*, 102 ANNALS ASS’N AM. GEOGRAPHERS 151, 157 (2012).
- 20 See *id.* at 157–58; Mona Lynch et al., *Policing the ‘Progressive’ City: The Racialized Geography of Drug Law Enforcement*, 17 THEORETICAL CRIMINOLOGY 335, 341 (2013).
- 21 Lynch et al., *supra* note 20, at 341.

22 See *id.* at 341–42, 346; Rebecca M. Bodenheimer, *San Francisco, Gentrification in (1940s–1970s)*, OXFORD AFR. AM. STUD. CTR. (May 31, 2018). By 1967, Black residents made up 97% of the Hunters Point population. Lynch et al., *supra* note 20, at 346.

23 See Lynch et al., *supra* note 20, at 341–42, 346; Barton, *supra* note 14, at 93.

24 *San Francisco City and County: 1950–1960*, *supra* note 17.

25 *San Francisco City and County: 1970–1980*, BAY AREA CENSUS; see also NOEL A. DAY & ZENOPHON A. ABRAHAM, COMM. ON AFR. AM. PARITY, HUM. RTS. COMM’N OF S.F., *THE UNFINISHED AGENDA: THE ECONOMIC STATUS OF AFRICAN AMERICANS IN SAN FRANCISCO 1964–1990*, at Executive Summary-2 (1993) (describing the Black population’s peak in 1970).

26 “Redlining” is the process by which government agencies declare specific neighborhoods hazardous for investment, making it difficult for residents of those neighborhoods to receive loans for homeownership and prompting systemic disinvestment. For further discussion of redlining in San Francisco, see, for example, *Redlining and Gentrification*, URB. DISPLACEMENT PROJECT.

27 See Dan Kopf, *The African-American Exodus from San Francisco*, FORBES (May 11, 2016); DAY & ABRAHAM, *supra* note 25, at Executive Summary-2 (describing how rental costs were reasonable until around 1980, when rents escalated to almost 90% of the per capita income of Black San Franciscans); *Loss of Black Population*, ANTI-EVICTION MAPPING PROJECT (displaying the simultaneous increase in San Francisco’s total population and decrease in its Black population).

28 Lai, *supra* note 19, at 160.

29 See URB. DISPLACEMENT PROJECT & CAL. HOUS. P’SHP, *RISING HOUSING COSTS AND RE-SEGREGATION IN SAN FRANCISCO 4* (2018).

30 See *id.*; Bodenheimer, *supra* note 22.

31 In 1985, for example, San Francisco demolished public housing and failed to construct 2,000 promised homes, making only 1,200 units available and forcing hundreds of families to relocate. Bodenheimer, *supra* note 22.

32 URB. DISPLACEMENT PROJECT & CAL. HOUS. P’SHP, *supra* note 29, at 1, 4.

33 See Bodenheimer, *supra* note 22; Talia Avakian, *America’s 20 Most Expensive Cities for Renters*, BUS. INSIDER (Aug. 25, 2015).

34 Leslie Fulbright, *Black Population Deserting S.F., Study Says*, SFGATE (Aug. 10, 2008).

35 See Thomas Fuller, *The Loneliness of Being Black in San Francisco*, N.Y. TIMES (July 20, 2016).

36 *San Francisco, California Population 2021*, WORLD POPULATION REV. In the Bayview, the Black population, which comprised 72% of the neighborhood’s population in 1980, has declined to 27% of residents. Adam Brinklow, *San Francisco Has Done Everything to the Bayview Except Fix Problems*, CURBED S.F. (Feb. 18, 2020).

37 Fuller, *supra* note 35.

38 *Id.*

39 SHERYL E. DAVIS, *BLACK TO THE FUTURE 15* (2016). Other studies suggest that Black representation in public housing may be even higher. See, e.g., Fulbright, *supra* note 34 (“African Americans make up nearly half of the residents in public housing.”).

40 *San Francisco, California Population 2021*, *supra* note 36.

41 *See, e.g.*, MARK SCHLOSBERG, ACLU N. CAL., A DEPARTMENT IN DENIAL: THE SAN FRANCISCO POLICE DEPARTMENT’S FAILURE TO ADDRESS RACIAL PROFILING 7 (2002).

42 S.F. POLICE DEP’T PRO. STANDARDS & PRINCIPLED POLICING UNIT, 2020 QUARTER 1 REPORT 18 (2020) [hereinafter SFPD Q1-2020 REPORT].

43 *See, e.g.*, SCHLOSBERG, *supra* note 41, at 7.

44 *Id.* at 2 (“[W]hile African Americans comprise 7.8% of San Francisco’s population, African Americans represent 15.2% of the drivers stopped by SFPD. Whites, on the other hand, comprise 49.7% of the population and are stopped 47.6% of the time.”).

45 Darwin Bond Graham, *Black People in California Are Stopped Far More Often by Police, Major Study Proves*, GUARDIAN (Jan. 3, 2020).

46 *See* SCHLOSBERG, *supra* note 41, at 7; BLUE RIBBON PANEL ON TRANSPARENCY, ACCOUNTABILITY, & FAIRNESS IN L. ENF’T, REPORT OF THE BLUE RIBBON PANEL ON TRANSPARENCY, ACCOUNTABILITY, AND FAIRNESS IN LAW ENFORCEMENT 30 (2016) [hereinafter BRP REPORT].

47 *See* SFPD Q1-2020 REPORT, *supra* note 42, at 5; Off. of Att’y Gen., State of Cal. Dep’t of Just., *RIPA Stop Data: How Do Stops Unfold?*, OPEN JUST. (2020); SHERYL E. DAVIS, S.F. HUM. RTS. COMM’N, REINVESTMENT OF SAN FRANCISCO POLICE DEPARTMENT BUDGET TO SUPPORT THE AFRICAN AMERICAN/BLACK COMMUNITY 8 (2020); Joaquin Palomino, *Nearly Half of SF Police Use-of-Force Cases Last Year Involved Black People*, S.F. CHRON. (June 12, 2020). Given the atypical circumstances of public life starting in March 2020, when the city issued a shelter-in-place order in response to the Bay Area’s COVID-19 outbreak, City & Cnty. of S.F. Dep’t of Pub. Health, Order of the Health Officer, No. C19-07 (Shelter in Place) (Mar. 16, 2020), this Working Paper does not highlight SFPD data from the remainder of the year.

48 SCHLOSBERG, *supra* note 41, at 3, 9.

49 *See* BRP REPORT, *supra* note 46, at 30 (showing that over 13% of Black people stopped were searched, whereas less than 2% of White people stopped were searched).

50 *Id.*

51 *See* DAVIS, *supra* note 47, at 8 (2019 quarter 4 data); Palomino, *supra* note 47; SFPD Q1-2020 Report, *supra* note 42, at 5.

52 Susan Sward, *High Black Arrest Rate Raises Call for Inquiry*, SFGATE (Dec. 17, 2006).

53 *See, e.g.*, BRP REPORT, *supra* note 46, at 28 (“Black adults in San Francisco are more than seven times as likely as White adults to be arrested.”); *What Policing Costs: A Look at Spending in America’s Biggest Cities: San Francisco, CA*, VERA INST. JUST. [hereinafter *What Policing Costs: San Francisco, CA*] (“In San Francisco, Black people were arrested at a rate 6.12 times higher than white people.”); Melanie Woodrow, *Data Analysis: Black People 4x More Likely to Be Arrested than White People in Bay Area*, ABC7 News (June 12, 2020).

54 BRP REPORT, *supra* note 46, at 28.

55 *See* *What Policing Costs: San Francisco, CA*, *supra* note 53; BRP REPORT, *supra* note 46, at 28.

56 BRP REPORT, *supra* note 46, at 28. During traffic stops in the first quarter of 2020, SFPD arrested
17% of Black people and only 9% of White people. SFPD Q1-2020 Report, *supra* note 42, at 16.

57 BRP REPORT, *supra* note 46, at 28.

58 Lynch et al., *supra* note 20, at 337. For a sweeping account of the impact of the War on Drugs
on Black communities across the United States, see MICHELLE ALEXANDER, *THE NEW JIM CROW*
(2010).

59 MIKE MALES & WILLIAM ARMALINE, CTR. ON JUV. & CRIM. JUST., *SAN FRANCISCO'S ARREST RATES*
OF AFRICAN AMERICANS FOR DRUG FELONIES WORSENS (2012).

60 Lynch et al., *supra* note 20, at 336.

61 *Id.*

62 *See* BRP REPORT, *supra* note 46, at 31.

63 *See* Ezekiel Edwards & Shilpi Agarwal, *Racist Drug Laws Lead to Racist Enforcement in Cities Across*
the Country, ACLU (Feb. 21, 2020); Press Release, U.S. Atty's Off. for the N. Dist. of Cal., U.S.
Attorney Tackles Drug Dealing Around Schools in Tenderloin (Dec. 9, 2013).

64 *See* Edwards & Agarwal, *supra* note 63; BRP REPORT, *supra* note 46, at 31.

65 *See* Edwards & Agarwal, *supra* note 63; Vivian Ho & Bob Egelko, *Federal Judge Finds Evidence of*
Racial Bias by S.F. Police, SFGATE (June 30, 2016).

66 Edwards & Agarwal, *supra* note 63.

67 Devon Carbado, *What Exposes African Americans to Police Violence?*, 51 HARV. C.R.-C.L. L. REV. 159,
171 (2016).

68 *Id.* at 164.

69 *See id.* at 171.

70 *San Francisco Police Department*, POLICE SCORECARD [hereinafter *SFPD Scorecard*].

71 *Id.*

72 SFPD data on the use of force is limited and may not fully illustrate how force is used against
Black people in San Francisco. For example, Department General Orders (DGOs) do not require
reporting every use of force. BRP REPORT, *supra* note 46, at 65. The SFPD also did not begin pro-
viding demographic information in use of force reports until 2016. *See* S.F. POLICE DEP'T GEN.
ORD. (DGO) 5.01, at 18 (rev. Dec. 21, 2016) (Use of Force). In 2016, the Blue Ribbon Panel con-
cluded that the SFPD failed to collect adequate data on use-of-force incidents. For example, it
failed to report all use-of-force incidents, including when an officer drew and pointed a weapon
at a civilian, and to collect demographic information about civilians. BRP REPORT, *supra* note 46,
at 65-66.

73 CMTY. ORIENTED POLICING SERVS. (COPS), U.S. DEP'T OF JUST., *AN ASSESSMENT OF THE SAN*
FRANCISCO POLICE DEPARTMENT 30 (2016) [hereinafter *COPS REPORT*]. The DOJ noted that it
was impossible to fully assess “[w]hether members of racial or ethnic minorities (or both) in
San Francisco were subjected to greater (or more severe) levels of force compared to White
people” because of SFPD’s inadequate data-collection practices. *Id.*

74 *San Francisco City and County: 2000-2010*, BAY AREA CENSUS.

- 75 Palomino, *supra* note 47.
- 76 See SFPD Q1-2020 REPORT, *supra* note 42, at 20.
- 77 See *id.* at 28.
- 78 See Anti-Eviction Mapping Project, *Killings by Police Officers, San Francisco and Oakland*, ARCGIS (view “San Francisco Map” data); see also *supra* note 25 and accompanying text. White people made up the next-largest group of victims, at 31%. Anti-Eviction Mapping Project, *supra*.
- 79 BRP REPORT, *supra* note 46, at 69.
- 80 *Id.*
- 81 Gabriel L. Schwartz & Jaquelyn L. Jahn, *Mapping Fatal Police Violence Across U.S. Metropolitan Areas: Overall Rates and Racial/Ethnic Inequities, 2013-2017*, PLOS ONE (June 24, 2020).
- 82 *Intersectionality*, MERRIAM-WEBSTER. Legal scholar Kimberlé Williams Crenshaw coined the term in 1989. See Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989).
- 83 This section focuses on these identities in accord with well-documented patterns of police violence. It does not intend to suggest that the lived experiences of other intersectional identities do not justify inquiry. One important example is the policing of Black LGBTQ+ people in San Francisco. Accounts abound regarding the SFPD’s policing of Black LGBTQ+ individuals. See, e.g., Julia Carrie Wong, *Black Lives Matter Pulls out of San Francisco Gay Pride over Policing*, GUARDIAN (June 24, 2016) (“‘The San Francisco police department has proven time and again – by racially profiling and murdering black people, black trans people – that they cannot keep us safe,’ said Shanelle Matthews, a spokesperson for Black Lives Matter . . .”); Tooru Nemoto, Birte Bödeker & Mariko Iwamoto, *Social Support, Exposure to Violence and Transphobia, and Correlates of Depression Among Male-to-Female Transgender Women with a History of Sex Work*, 101 AM. J. PUB. HEALTH 1980, 1984 (2011) (finding that over 65% of surveyed trans women in San Francisco and Oakland with a history of sex work reported having experienced harassment by the police); AMNESTY INT’L, STONEWALLED: POLICE ABUSE AND MISCONDUCT AGAINST LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE IN THE U.S. 168 n.744 (2005) (discussing a San Francisco police misconduct hotline that reported that over one-third of lesbian callers identified as African American or Latina); SHANNON MINTER & CHRISTOPHER DALEY, NAT’L CTR. FOR LESBIAN RTS. & TRANSGENDER L. CTR., TRANS REALITIES: A LEGAL NEEDS ASSESSMENT OF SAN FRANCISCO’S TRANSGENDER COMMUNITIES app. C (2003) (finding that 44% of Black respondents reported gender-identity-based discrimination by the police). One possible explanation for the lack of data is that many Black LGBTQ+ San Franciscans do not come forward to report police misconduct out of fear of mistreatment or the belief that nothing will be done. See Amnesty Int’l, *supra*, at 150 (“AI is concerned at reports in . . . San Francisco that suggest many people do not come forward with complaints about police officer abuse and misconduct, particularly LGBT people of color . . .”).
- 84 See Julian Mark, *Should the San Francisco Police Department Apologize to the Black Community?*, MISSION LOC. (Feb. 14, 2020) (39% of instances in the last quarter of 2019); SFPD Q1-2020 REPORT, *supra* note 42, at 28 (150 of 487 instances, or about 31%, in the first quarter of 2020).

- 85 See Phil Matier & Andy Ross, *Mario Woods' Last Moments: 'You Better Squeeze That ... and Kill Me,'* SFGATE (Feb. 9, 2016); Evan Sernoffsky, *SF Police Shootings: No Charges for Officers in Mario Woods, Luis Góngora Pat Killings,* SFGATE (May 25, 2018).
- 86 See Matier & Ross, *supra* note 85; Julia Carrie Wong et al., *Mario Woods, Black Man Killed by Police, 'Had 20 Gunshot Wounds,'* GUARDIAN (Feb. 12, 2016); Katy Steinmetz, *The Shooting of Mario Woods Brings Ferguson to San Francisco, Activists Say,* TIME (Dec. 16, 2015).
- 87 Vivian Ho, *Mario Woods Had 20 Bullet Wounds, Drugs in System, Autopsy Shows,* SFGATE (Feb. 11, 2016); Jaxon Van Derbeken, *San Francisco Police Release Investigation Documents for Mario Woods Shooting,* NBC BAY AREA (June 5, 2019). That Woods did not respond to four beanbag blasts and pepper spray led Woods's family to believe that he may have been in an altered mental state at the time of the shooting. Ho, *supra*. Woods had previously experienced multiple psychiatric issues and his autopsy revealed methamphetamine, marijuana, cough medicine, antidepressants, caffeine, and nicotine in his system at the time of his death. *Id.*
- 88 Wong et al., *supra* note 86; Ho, *supra* note 87; Sernoffsky, *supra* note 85.
- 89 Sernoffsky, *supra* note 85.
- 90 See SFPD Q1-2020 REPORT, *supra* note 42, at 28.
- 91 *Id.*
- 92 MICHAEL MALES, CTR. ON JUV. & CRIM. JUST., SAN FRANCISCO'S DISPROPORTIONATE ARREST OF AFRICAN AMERICAN WOMEN PERSISTS 1-2 (2015). These numbers remained about the same just before the March 2020 shelter-in-place order, at 43% of all female arrests. See SFPD Q1-2020 REPORT, *supra* note 42, at 36.
- 93 MALES, *supra* note 92, at 1.
- 94 *Id.*; see also AMNESTY INT'L, *supra* note 83, at 168 n.744 (noting that in 1996 the San Francisco Task Force on Prostitution determined that the SFPD selectively enforced solicitation laws against Black, transgender, and immigrant women).
- 95 MALES, *supra* note 92, at 3.
- 96 *Id.* at 2.
- 97 BRP REPORT, *supra* note 46, at 35.
- 98 *Id.* at 28; see also *supra* note 54 and accompanying text.
- 99 BRP REPORT, *supra* note 46, at 28.
- 100 MALES & ARMALINE, *supra* note 59, at 1.
- 101 *Id.* ("San Francisco's African American female youth account for over 40% of the felony drug arrests of African American female youths in California, and have arrest rates 50 times higher than their counterparts in other counties.").
- 102 See, e.g., Lynch et al., *supra* note 20, at 336.
- 103 Jane Meredith Adams, *Crackdown on Homeless Dividing San Francisco,* CHI. TRIB., Jan. 1, 1994, at SW1; John King, *S.F. Abandons Matrix Program,* SFGATE (Jan. 12, 1996).

- 104 Adams, *supra* note 103; King, *supra* note 103.
- 105 Adams, *supra* note 103; King, *supra* note 103.
- 106 See COAL. ON HOMELESSNESS, PUNISHING THE POOREST: HOW THE CRIMINALIZATION OF HOMELESSNESS PERPETUATES POVERTY IN SAN FRANCISCO 55 (Lisa Marie Alatorre et al. eds., 2015); Nuala Bishari, *Tenderloin Protest Highlights Impact of Homeless Sweeps on Black Residents*, S.F. EXAM’R (June 23, 2020).
- 107 COAL. ON HOMELESSNESS, *supra* note 106, at 58.
- 108 See Bishari, *supra* note 106.
- 109 COAL. ON HOMELESSNESS, *supra* note 106, at 15, 55.
- 110 See *id.* at 55–56.
- 111 *Id.* at 56.
- 112 *Id.* at 55, 58–59.
- 113 *Id.* at 58.
- 114 Joaquin Palomino, *SF’s Police-Involved Shootings: Practices and Patterns*, S.F. CHRON. (May 21, 2016).
- 115 Ray Delgado, *Death at Metreon: Cops Shoot S.F. Man Who They Say Lunged at Them with a Knife*, SFGATE (June 14, 2001).
- 116 Lynch et al., *supra* note 20, at 346. While this section, and most studies, focus on over-policing, under-policing remains a critical concept warranting further inquiry in San Francisco. For an early discussion of under-policing in Hunters Point in the mid- to late 20th century (the same period in which Black communities were displaced by “urban renewal” projects), see Arthur E. Hippler, *The Game of Black & White at Hunters Point*, 7 TRANS-ACTION 56, 56, 58–59 (1970). A recent analysis by the *Washington Post* of the dearth of homicide arrests in U.S. cities demonstrates the impact of under-policing in San Francisco. Eleven years of SFPD arrest data identified the Bayview-Hunters Point as one of three zones with a high concentration of homicides yet low arrest rates. *Murder with Impunity*, WASH. POST (July 24, 2018). SFPD made arrests in about 40% of homicides involving Black victims and around 70% of homicides involving White victims, even though Black victims made up over 50% of total homicides and White victims less than 20%. See *id.*
- 117 Lynch et al., *supra* note 20, at 344.
- 118 See *id.*
- 119 See Joaquin Palomino, *Racial Disparities in SF Traffic Searches Raise Concerns of Bias*, S.F. CHRON. (Apr. 8, 2016). Of just under 1,800 consent searches (those where the SFPD receives permission to search the driver’s vehicle), 369—about 20%—took place in the Bayview-Hunters Point, exceeding the numbers in any other neighborhood; 290—slightly over 15%—took place in the Downtown/Civic Center area. *Id.*
- 120 COPS REPORT, *supra* note 73, at 129.
- 121 Anti-Eviction Mapping Project, *supra* note 78 (compare “Killings by Police, San Francisco” map data with “Neighborhoods by Murder” data).

122 *See id.*

123 COPS REPORT, *supra* note 73, at 302; *see also* SCHLOSBERG, *supra* note 41, at 8 (displaying that, in the relevant 2001-2002 period, Black drivers were stopped at a rate of about 50% in the Bayview despite making up less than 40% of the population, and at a rate of about 20% in the Tenderloin despite making up approximately 10% of the population).

124 *See* BRP REPORT, *supra* note 46, at 19, 32.

125 *Id.* at 34.

126 *Id.* at 33 (“I don’t like to do the race thing, but it’s real. If a suspect description is an unknown male, or even Black male, officers may stop someone that really doesn’t fit the description at all; you shouldn’t stop a white Honda when the description is a green Chevy.”).

127 *Id.* at 35.

128 Lynch et al., *supra* note 20, at 340.

129 *Id.*

130 *See* Rebecca Solnit, *Death by Gentrification: The Killing that Shamed San Francisco*, *GUARDIAN* (Mar. 21, 2016).

131 *See* Press Release, City & Cnty. of S.F., Office of the Mayor, Mayor Lee Launches New Open311 Platform to Improve City’s 311 Customer Service (Aug. 8, 2013); Abdallah Fayyad, *The Criminalization of Gentrifying Neighborhoods*, *ATLANTIC* (Dec. 20, 2017); *311 Reports in SF by Neighborhood 2008-2016*, ANTI-EVICTION MAPPING PROJECT.

132 *See* Fayyad, *supra* note 131; *311 Reports in SF by Neighborhood 2008-2016*, *supra* note 131. These neighborhoods also experienced the greatest numbers of traffic searches in San Francisco from 2013 to 2015. Palomino, *supra* note 119.

133 *See supra* note 42 and accompanying text.

134 Solnit, *supra* note 130.

135 *Id.*

136 *Id.*

137 *Id.*

138 Lynch et al., *supra* note 20, at 344-45.

139 *Id.* at 348-49.

140 *Id.* at 349.

141 *Id.*

142 *Id.*

143 *Id.*

144 *Id.* at 347-48.

145 *Id.* This method of policing was encouraged by city officials such as former Mayor (now Governor) Gavin Newsom. *Id.* at 348.

146 *Id.* at 347–48.

147 *See id.* at 348.

148 Documentation of civilian complaints of police misconduct can be found in the monthly and annual reports on the Department of Police Accountability’s website. *See Reports & Statistics, CITY & CNTY. S.F. DEP’T POLICE ACCOUNTABILITY.* For further discussion of civilian oversight of the SFPD, see Part III.B.1.

149 *SFPD Scorecard, supra* note 70.

150 MAPPING POLICE VIOLENCE (Feb. 27, 2021) (follow hyperlink and enter “San Francisco Police Department (CA)” into the “Police Killings by the” search bar in the middle of the page).

151 *See ALLYSON COLLINS, HUM. RTS. WATCH, SHIELDED FROM JUSTICE: POLICE BRUTALITY AND ACCOUNTABILITY IN THE UNITED STATES* 358–59 (Cynthia Brown ed., 1998) (“In the . . . twenty years [leading up to 1998], the [SFPD] found only one intentional, on-duty shooting unjustified – out of a total of one hundred During the same period, the district attorney’s office had not prosecuted any officer for an on-duty shooting . . .”).

152 Press Release, S.F. Dist. Att’y, DA Boudin Announces the Historic Filing of Homicide Charges Against the Former Police Officer Who Shot and Killed Keita O-Neil (Nov. 23, 2020).

153 COLLINS, *supra* note 151, at 369 (“During the three-year period [from 1993 to 1995], there were twenty-seven claims [against SFPD officers] resulting in total payments of \$1,929,057. In 1993, the city paid \$446,324; in 1994, the city paid \$755,500; and in 1995, the city paid \$727,233. The cases included charges of unnecessary force, unwarranted or unlawful action, sexual harassment, conduct reflecting discredit, neglect of duty, racial slurs, and discourtesy.”).

154 Lisa Fernandez, *A Look at the Most Notable Police Payouts in the Bay Area*, KTVU (Dec. 30, 2020).

155 *See id.*; Michael Barba, *SF to Pay \$400K Settlement to Mother of Mario Woods over Fatal Police Shooting*, S.F. EXAM’R (June 3, 2019).

156 Julian Mark, *SF to Pay Millions for Lies, Misconduct by SFPD Officers*, MISSION LOC. (Apr. 2, 2019).

157 *See Policy: Independent Investigations Bureau*, S.F. DIST. ATT’Y.

158 *Policy: The Innocence Commission*, S.F. DIST. ATT’Y.

159 Press Release, S.F. Dist. Att’y, District Attorney Boudin Announces Expansion of Services, Including Victim Compensation, to Victims and Witnesses of Police Violence (June 9, 2020).

160 *See San Francisco Negro Police in Revolt: Blow Whistle on Fellow Cops, Tell of Extra Arms, “Killer Cop Image”*, OAKLAND POST (Oct. 23, 1968).

161 For example, city officials established the Office of Citizen Complaints, a police oversight mechanism, in response to activists’ calls for police accountability. Decades later, activists pushed for ballots measures to improve oversight.

162 Although reports and news articles refer to San Francisco’s long-standing tradition of activism, these reports rarely mention advocacy groups by name. For example, the COPS assessment team conducted outreach to identify and engage key stakeholders in the community, “including

- leaders from faith-based organizations, school districts, nonprofit organizations, and social service organizations.” While the report acknowledges that “[t]eam members spoke with leaders and members of a variety of community groups,” it does not specify the names of community groups or leaders. COPS REPORT, *supra* note 73, at 268; *see also* Janet O, *Hundreds March in SF to Protest SFPD’s Fatal Shooting of Mario Woods*, ABC7 NEWS (Jan. 30, 2016); Edwin Rios, *Hunger Strike in San Francisco Puts a Spotlight on Police Brutality*, MOTHER JONES (Apr. 27, 2016).
- 163 The list of individuals and groups is by no means comprehensive. This section is an initial effort to compile some of the groups that have been actively organizing in recent years.
- 164 *See, e.g., Our Coalition Demands for Reform*, JUST. FOR LUIS GÓNGORA PAT; Justice 4 Jessica Nelson-Williams, 29, Slaughtered by SFPD 5-19-16, FACEBOOK.
- 165 Sarah Ravani, *The Unlikely Activist*, S.F. CHRON. (Feb. 11, 2018).
- 166 *Mario Woods’ Mom: ‘I Will Never Let You Forget His Name’*, ABC7 NEWS (May 29, 2018).
- 167 *See* Abraham Rodriguez, *Family Remembers SFPD Shooting Victim with a Memorial and Hot Chocolate for the Homeless*, MISSION LOC. (Jan. 9, 2019); Ida Mojada, *Family of Luis Góngora Pat Will Receive \$140K Settlement*, SFGATE (Apr. 11, 2019) (quoting Luis Armando Poot Pat, “Not all cops are bad. But when you don’t make accountable bad police in the police department, you impact all of the community.”); *A Statement from the Family of Luis Góngora Pat: Board of Supervisors, Defund the Police, Significantly*, EL TECOLOTE (Aug. 20, 2020).
- 168 *See also Families of Men Killed in SFPD Shootings Want AG Becerra to Investigate*, CBS SF BAY AREA (May 30, 2018).
- 169 *See, e.g.,* Michaela Payne, *Community Activists Unite to Demand Police Accountability*, S.F. EXAM’R (July 20, 2016).
- 170 *See, e.g.,* *Tempers Flare at Activism Awards Ceremony*, EL TECOLOTE (Aug. 12, 2016).
- 171 *See, e.g.,* *Case Status*, JUST. FOR LUIS GÓNGORA PAT.
- 172 Jaeh Lee, *After the Shooting: A Year in the Life of Gwen Woods*, CAL. MAG. (Aug. 3, 2017).
- 173 *Mario Woods’ Mom: ‘I Will Never Let You Forget His Name’*, *supra* note 166.
- 174 *Id.*
- 175 *See, e.g.,* BRP REPORT, *supra* note 46; COPS REPORT, *supra* note 73, at vi (“When we lose the people’s trust, we lose their cooperation. Put simply: If people do not believe they are treated fairly, they will not work with us and we cannot maintain the safety of the public.”).
- 176 BRP REPORT, *supra* note 46, at 1. The Textgate scandal erupted in 2014 when the media revealed that up to 14 SFPD officers had sent and received dozens of “blatantly racist and homophobic text messages” between 2011 and 2012. *Id.* at 3. The prosecutors had submitted the texts during a corruption investigation of former SFPD Sergeant Ian Furminger in support of a motion to deny bail. *Id.* A few days after the filing, media outlets began to investigate and publish stories about the texts. *Id.*
- 177 *Id.* at 17.
- 178 *Id.*

179 *Id.* at 7.

180 *Id.* at 18.

181 *Id.*

182 *Id.*

183 *Id.*

184 *Id.* at 19.

185 *Id.*

186 *Id.*

187 *Id.*

188 *Id.*

189 *Id.*

190 *Id.* at 20.

191 *Id.* at 20-21.

192 *Id.*

193 Vivian Ho, *Justice Department to Review SFPD in Wake of Mario Woods Killing*, SFGATE (Jan. 31, 2016); Timothy Williams, *San Francisco Will Have U.S. Review Police Tactics*, N.Y. TIMES (Feb. 1, 2016); *see also infra* Section III.B.3 (ad hoc city and federal initiatives).

194 COPS REPORT, *supra* note 73, at ix.

195 *Id.* at 1.

196 *Id.* at 268.

197 *Id.* at 116.

198 *Id.* at 102.

199 Julian Mark, *SF Bayview Residents Feel Abandoned After Abrupt Reassignment of Respected Police Captain*, MISSION LOC. (Jan. 22, 2019).

200 Mary Curtius, *Despite Progressive Policies, S.F. Police, Public at Odds*, L.A. TIMES (July 27, 1997).

201 *Id.*

202 COPS REPORT, *supra* note 73, at 5.

203 Dave Welsh, *Black and Brown Unity Against Police Impunity*, S.F. BAY VIEW (Mar. 27, 2016).

204 For example, news articles that describe historic and recent protests, marches, and other direct actions do not identify the specific groups responsible for planning the events. *See, e.g.*, Rachel Gordon, *Students, Activists Seek Apology for '02 Near-Riot at Marshall High*, SFGATE (Jan. 26, 2012); *San Francisco Mission Protest: Activists Slam Gentrification and Police*, KQED (June 2, 2014); Daniel Hirsh & Laura Wenus, *Protesters of Police Violence Blockade Mission Station*, MISSION LOC. (Mar. 23, 2015) (describing a “broad coalition of organizations” and a “broad mix of activist groups concerned with police violence” but only naming two organizations: Causa Justa and Justice 4 Alex Nieto).

205 See Letter from MegaBlack SF to London Breed, Mayor of S.F. (July 10, 2020) [hereinafter Mega-
Black SF Letter].

206 *About*, MEGABLACK SF.

207 MEGABLACK SF, MEGABLACK SF FRAMEWORK (2020).

208 *Reparations*, MEGABLACK SF.

209 PHELICIA JONES, *SF Supervisors Have Failed to Act on SFPD Failure to Complete DOJ COPS by
California DOJ Deadline*, S.F. BAY VIEW (May 24, 2021); *accord* Wealth and Disparities in the Black
Community, FACEBOOK.

210 Wealth and Disparities in the Black Community, *Press Conference 2021-01-25*, FACEBOOK (Jan. 27,
2021).

211 ANTI-POLICE TERROR PROJECT.

212 *Id.*

213 *Id.*

214 HOPE SF.

215 *Id.*

216 See MegaBlack SF Letter, *supra* note 205; see also DAVIS, *supra* note 39.

217 *About: Our Mission*, RAFIKI COAL.

218 *About: Our History*, RAFIKI COAL.

219 *About: Our Mission*, *supra* note 217.

220 *About Us*, CAUSA JUSTA JUST CAUSE.

221 *Who We Are*, HAYWOOD BURNS INST.

222 *Id.*

223 *What Is Black to the Future?*, BLACK FUTURE.

224 DAVIS, *supra* note 39.

225 *Id.* at 12.

226 *Our Mission and Values*, SF BLACK WALLSTREET.

227 Included in this conception of anti-violence is global anti-militarism and anti-imperialism. See
Who We Are, ANSWER COAL.

228 *CUAV's History*, CMTY. UNITED AGAINST VIOLENCE.

229 *About Us*, CMTY. UNITED AGAINST VIOLENCE.

230 *Our Coalition Work*, CMTY. UNITED AGAINST VIOLENCE.

231 *Who We Are*, *supra* note 227.

232 *Covering the Police*, MISSION LOC.; *Local News & Views*, S.F. BAY VIEW.

233 See, e.g., Laura Wenus & Cristiano Valli, *Singer Janelle Monáe Leads Mission March Against Police
Violence*, MISSION LOC. (Aug. 23, 2015) (“Evictions, gentrification and police brutality are all tied

- together. We cannot talk about one without talking about the others.” (quoting Oscar Salinas, an organizer)).
- 234 Letter from Coal. of Righteous Roots to London Breed, S.F. Mayor; William Scott, S.F. Police Chief; S.F. Bd. of Supervisors & Chesa Boudin, S.F. Dist. Att’y (June 3, 2020) [hereinafter Coal. of Righteous Roots Letter].
- 235 *Id.*
- 236 See COPS REPORT, *supra* note 73, at 18.
- 237 See Vivian Ho, *Family of S.F. Police Shooting Victim Blast Chief Suhr’s Account*, SFGATE (Oct. 9, 2014); Oliver Laughland, *Chronicle of a Death Untold: Why Witnesses to Killings of Latinos by Police Stay Silent*, GUARDIAN (June 2, 2015).
- 238 *Luis’s Story*, JUST. FOR LUIS GÓNGORA PAT.
- 239 Aaron Levy-Wolins, *San Francisco Protesters Take a Knee for George Floyd, Demand Police Reforms*, SFBAY.CA (June 1, 2020); see also Natalie Yemenidijan & Kat Snow, *Hundreds Demand Police Accountability in San Francisco March*, KQED (July 8, 2016).
- 240 Tim Redmond, *Rally Denounces DA’s Failure to Charge Killer Cops*, 48 HILLS (May 29, 2018).
- 241 *Id.*; see also Julian Mark, *SF Police Accountability Activists Silence Panel on Police Accountability*, MISSION LOC. (June 14, 2018).
- 242 See Curtius, *supra* note 200.
- 243 Sward, *supra* note 52.
- 244 *Id.*
- 245 *Id.*
- 246 *Id.*
- 247 BRP REPORT, *supra* note 46; COPS Report, *supra* note 73.
- 248 A June 2020 letter from the San Francisco Bar Association to Mayor London Breed for recommendations on police reform stated that the 272 COPS recommendations were “years behind schedule and in need of revival.” Letter from the Bar Ass’n of S.F. to London Breed, Mayor of S.F. (June 9, 2020).
- 249 Phelicia Jones, co-founder of Justice 4 Mario Woods Coalition and Wealth and Disparities in the Black Community, met with Mayor Breed in January of 2021, who said she believed that the majority of the COPS recommendations would be implemented by spring 2021. Phelicia Jones, *Why Are SF Supervisors Hesitant to Demand Racial Equity in Policing and Hold SFPD Accountable?*, S.F. BAY VIEW (Jan. 24, 2021). Supervisor Ahsha Safai’s draft resolution, introduced in January 2021, has proposed March 2023 as the deadline to complete reforms. City & Cnty. of S.F. Bd. of Supervisors, Res. File No. 210039, at 3 (2021).
- 250 Press Release, City & Cnty. of S.F. Off. of the Mayor, Mayor London Breed Announces Roadmap for Police Reforms (June 11, 2020).
- 251 *Id.*
- 252 Joe Eskenazi, *Reform/Defund/Abolish the San Francisco Police Department: What We Can Do, What We Can’t — and What We Won’t*, MISSION LOC. (June 15, 2020).

- 253 *Id.*
- 254 Jonathan Curiel, *Call for ‘Reparations’ / Prop F Seeks Tax Breaks for Bayview-Hunters Point*, SFGATE (Feb. 29, 2000); *see also* League of Women Voters, *Proposition F: Bayview Hunters Point Reparations*, SMARTVOTER (2000).
- 255 League of Women Voters, *supra* note 254.
- 256 Darryl Fears, *Aging Sons of Slaves Join Reparations Battle*, WASH. POST (Sept. 30, 2002).
- 257 *Id.*
- 258 *Id.*
- 259 DeNeen L. Brown, *‘Uncomfortable Truth’: The New Push for a Slavery Reparations Commission in Congress*, WASH. POST (Feb. 10, 2021).
- 260 Commission to Study and Develop Reparation Proposals for African Americans Act, H.R. 40, 117th Cong. (2021).
- 261 Joshua Sabatini, *SF Supervisor Pushes for a Reparations Plan for Black Residents*, S.F. EXAM’R (Jan. 17, 2020).
- 262 *Id.*
- 263 Azul Dahlstrom-Eckman, *District 10 Supervisor Shamann Walton Leans into His Job*, POTRERO VIEW (July 2020).
- 264 *Id.*
- 265 Olga R. Rodriguez, *San Francisco Approves Task Force to Study Reparations for Black Residents*, KQED (May 5, 2021).
- 266 *Id.*
- 267 *See* Coal. of Righteous Roots Letter, *supra* note 234; *see also* MegaBlack SF Letter, *supra* note 205.
- 268 *What Policing Costs: San Francisco, CA*, *supra* note 53.
- 269 Megan Cassidy & Joaquin Palomino, *SF’s Spending and Hiring Spree on Police Comes to an End, but Where Will Cuts Come From*, S.F. CHRON. (June 13, 2020).
- 270 *What Policing Costs: San Francisco, CA*, *supra* note 53.
- 271 S.F. HUM. RTS. COMM’N, INVESTMENT OF FUNDS TO SUPPORT THE BLACK COMMUNITY IN SAN FRANCISCO: COMMUNITY ENGAGEMENT/INPUT STATUS UPDATE 16 (2020).
- 272 *Id.*
- 273 MegaBlack SF Letter, *supra* note 205.
- 274 *Id.*
- 275 *Reparations*, *supra* note 208.
- 276 Jessica Zimmer, *San Francisco Human Rights Commission Issues Grants from City Reallocation Fund*, POTRERO VIEW (Apr. 2021).
- 277 *SFPD History*, CITY & CNTY. S.F. POLICE COMM’N.
- 278 *San Francisco Police Commission*, CITY & CNTY. S.F. POLICE COMM’N.
- 279 Of the seven members, four are nominated by the mayor, and at least one of those four must be

a retired judge or attorney with trial experience. The other three members must be nominated by the Rules Committee. The district attorney, sheriff, and public defender may all recommend individuals to the mayor or Rules Committee for nomination to the Commission. Each member of the Commission serves a four-year term, unless removed by the mayor. S.F. Charter § 4.109.

280 *Id.*

281 *Police Commission Disciplinary Actions “Veronese” Reports*, CITY & CNTY. S.F. POLICE COMM’N.

282 *FAQs(Frequently Asked Questions) About OCC*, CITY & CNTY. S.F. OFF. CITIZEN’S COMPLAINTS (Apr. 2, 1997).

283 PETER FINN, *CITIZEN REVIEW OF POLICE: APPROACHES AND IMPLEMENTATION* 55 (2001).

284 *Id.*

285 *Id.* at 55-61.

286 After the highly publicized fatal police shooting of Mario Woods in December 2015, Luis Góngora Pat was killed by officers in April 2016 and Jessica Williams was killed by officers in May 2016. *See Wong et al., supra* note 86; Kale Williams & Vivian Ho, *S.F. Police Shooting Unfolded in 30 Seconds, Video Shows*, SFGATE (Apr. 8, 2016); Kevin Schultz, *Woman Killed by S.F. Police Sergeant IDd as Jessica Williams*, 29, SFGATE (May 20, 2016).

287 *San Francisco, California, Citizen Complaints Office Investigations of Police Shootings, Proposition D (June 2016)*, BALLOTPEDIA.

288 *Id.*

289 *Id.*

290 *Chronicle Recommends: Yes on S.F. Prop. G*, S.F. CHRON. (Oct. 7, 2016).

291 S.F. Charter § 4.136.

292 *Chronicle Recommends: Yes on S.F. Prop. G, supra* note 290.

293 Since 2018, under California law, the DPA has maintained a public records portal that allows citizens to search for SFPD records or request records if not available. *DPA Public Records*, S.F. DEP’T POLICE ACCOUNTABILITY.

294 Julian Mark, *Police Oversight Body Makes Big Recommendations—But Will the SFPD Listen?*, MIS-SION LOC. (Jan. 9, 2019).

295 DGOs are meant to be the “most authoritative and permanent directives, established, revised and adopted by the Police Commission after a public hearing” with input from the DPA, the Police Commission, the D.A.’s Office, and the POA, and other stakeholders. *General Orders*, S.F. POLICE DEP’T.

296 *Id.*

297 BRP REPORT, *supra* note 46, at 18.

298 *Agency Overview*, CITY & CNTY. S.F. HUM. RTS. COMM’N.

299 *Commission Overview*, CITY & CNTY. S.F. HUM. RTS. COMM’N.

300 CITY & CNTY. S.F. HUM. RTS. COMM’N.

301 CITY & CNTY. OF S.F. HUM. RTS. COMM’N, SAN FRANCISCO HUMAN RIGHTS COMMISSION RESPONSE
TO HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE QUESTIONNAIRE.

302 *Id.*

303 *Id.*

304 *Agency Overview, supra* note 298.

305 DAY & ABRAHAM, *supra* note 25.

306 *Id.* at 2.

307 *Agency Overview, supra* note 298.

308 *Policy and Social Justice Division Overview, CITY & CNTY. S.F. HUM. RTS. COMM’N.*

309 *See S.F. HUM. RTS. COMM’N, supra* note 271, at 16.

310 *See supra* Introduction.

311 HILLARD HEINTZE, SAN FRANCISCO POLICE DEPARTMENT COLLABORATIVE REFORM INITIATIVE:
PHASE II—18 MONTH PROGRESS REPORT (2020).

312 BRP REPORT, *supra* note 46; *see also* Jaxon Van Derbeken, *Bigoted Texts ‘Disgraced’ SFPD, Chief
Says, Vowing Rapid Action*, SFGATE (Mar. 15, 2015).

313 BRP REPORT, *supra* note 46, at 4-5.

314 *Id.* at 5.

315 *Id.* Although the District Attorney established the panel, it operated as an independent entity to
ensure the objectivity of its investigations, findings, and recommendations. *Id.* at 6.

316 The three former judges were Judge LaDoris Hazzard Cordell, Justice Cruz Reynoso, and Judge
Dickran M. Tevrizian. In addition to the judges, the panel was composed of Executive Director
Anand Subramanian and General Counsel Jerome C. Roth. Lastly, several respected law firms
with “extensive experience in conducting internal investigations” participated in the panel
through issue-specific working groups. *Id.* at 5.

317 *Id.* at 6.

318 *Id.*

319 *Id.*

320 COPS REPORT, *supra* note 73, at 11.

321 *Id.* at x.

322 CMTY. ORIENTED POLICING SERVS., U.S. DEP’T OF JUST., COLLABORATIVE REFORM INITIATIVE FOR
TECHNICAL ASSISTANCE (2015).

323 Monica Davey & Mitch Smith, *Justice Officials to Investigate Chicago Police Department After
Laquan McDonald Case*, N.Y. TIMES (Dec. 6, 2015).

324 John Eligon & Timothy Williams, *Baltimore Mayor, After Freddie Gray Death, Seeks Justice Dept.
Police Inquiry*, N.Y. TIMES (May 6, 2015).

325 Matt Appuzzo, *Justice Dept., Criticizing Philadelphia Police, Finds Shootings by Officers Are Common,*

N.Y. TIMES (Mar. 23, 2015).

326 See Williams, *supra* note 193.

327 Letter from Alan Schlosser, Senior Couns., ACLU of N. Cal., to Loretta Lynch, U.S. Att’y Gen., U.S. Dep’t of Just. & Vanita Gupta, Assistant Att’y Gen., Civ. Rts. Div., U.S. Dep’t of Just. (Apr. 4, 2016).

328 *Id.*

329 *Id.*; see also Ian Millhiser, *Trump’s Justice Department Has a Powerful Tool to Fight Police Abuse: It Refuses to Use It*, VOX (June 30, 2020).

330 COPS REPORT, *supra* note 73, at xi.

331 *Professional Standards and Principled Policing Bureau*, CITY & CNTY. S.F. POLICE COMM’N.

332 *Id.*

333 SFPD COLLABORATIVE REFORM INITIATIVE: RECOMMENDATIONS STATUS—STATUS AS OF 7/22/2020 (2020). The SFPD also notes on its public website when it has achieved specific recommendations. *Collaborative Initiatives*, S.F. POLICE DEP’T.

334 HILLARD HEINTZE, *supra* note 311, at 2.

335 *CRI Current Status*, S.F. POLICE DEP’T; see also JONES, *supra* note 209.

336 See *supra* Section II.2.A.

337 Associated Press, *San Francisco’s ‘Caren Act’ Makes Placing Racist 911 Calls a Crime*, GUARDIAN (Oct. 20, 2020).

338 See *id.*; see also Alejandro Serrano, *SF Man Who Stenciled ‘Black Lives Matter’ on Home Speaks Out After Video Goes Viral*, S.F. CHRON. (June 15, 2020).

339 *San Francisco, California, Proposition D, Sheriff’s Department Oversight Board Charter Amendment (November 2020)*, BALLOTPEDIA.

340 *Id.*

341 *Id.*

342 *Id.*

343 See S. 1019, 2007-2008 Leg., Reg. Sess. (Cal. 2008); see also S. 1421, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

344 This bill adds to past laws on compiling information related to reparations by establishing a task force of nine members to “Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who Are Descendants of Persons Enslaved in the United States.” A. 3121, 2019-2020 Leg., Reg. Sess. (Cal. 2020) (enacted).

345 *ACLU Applauds State Senate Vote to Restore Public Oversight of Police*, ACLU N. CAL. (June 4, 2007).

346 Patrick McGreevy, *Effort to Open Files on Police Thwarted*, L.A. TIMES (June 27, 2007).

347 *ACLU Applauds State Senate Vote to Restore Public Oversight of Police*, *supra* note 345.

348 Liam Dillon, *Must Reads: Here’s How California Became the Most Secretive State on Police Miscon-*

duct, L.A. TIMES (Aug. 15, 2018).

349 *Proposition 47: The Safe Neighborhoods and Schools Act*, CAL. CTS.

350 *California Proposition 47, Reduced Penalties for Some Crimes Initiative (2014)*, BALLOTPEDIA.

351 *Black Priorities Project*, CAUSA JUSTA JUST CAUSE.

352 BETTY YEE, CAL. STATE CONTROLLER, PROPOSITION 47 SAFE NEIGHBORHOODS AND SCHOOLS FUND: REPORT TO THE CALIFORNIA STATE LEGISLATURE (2018).

353 Julie Watts, *Organized Retail Theft on the Rise; Cops Blame Prop 47, Safe Neighborhoods*, CBS SACRAMENTO (Sept. 25, 2019).

354 *Governor Brown Signs Groundbreaking Data Collection Bill to Combat Racial Profiling*, ACLU N. CAL. (Oct. 3, 2015).

355 *Id.*

356 *Id.*

357 AB 953: *The Racial and Identity Profiling Act of 2015*, ATT'Y GEN., STATE CAL. DEP'T JUST.

358 A. 71, 2015-2016 Leg., Reg. Sess. (Cal. 2015) (enacted).

359 S. 1421, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

360 *ACLU Applauds State Senate Vote to Restore Public Oversight of Police*, *supra* note 345.

361 A. 392, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (enacted).

362 S. 731, 2019-2020 Leg., Reg. Sess. (Cal. 2020).

363 Scott Rodd, *Here's What California Lawmakers Did on Their Last Day of Session*, CAPRADIO (Sept. 1, 2020).

364 Scott Rodd, *New California Law Will Require State Prosecutors to Investigate Police Shooting Deaths of Unarmed Civilians*, CAPRADIO (Dec. 29, 2020).

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367 *California Legislature Confronts Racial Discrimination in New Criminal Justice Reform Package*, A.B.A. (Oct. 28, 2020).

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369 *Id.*

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373 *Id.*

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- 377 See, e.g., Press Release, City & Cnty. of S.F. Off. of the Mayor, Statement from Mayor London Breed and Supervisor Shamann Walton on the Death of Six-Year-Old Jace Young (July 6, 2020).
- 378 John Ferrannini, *There’s Still More to Do: Breed Responds to Criticism at Black Trans Lives Matter Event*, BAY AREA REP. (Sept. 25, 2020).
- 379 Andrew Naquian-Wheeler, *San Francisco Mayor London Breed on Defunding the Police, White Activism, and Fighting for Her Community*, VOGUE (July 9, 2020). Mayor Breed has expanded on her stance against dismantling the police and in favor of longer-term reform stating, “I think it’s understandable that people are feeling that way, but the fact is you have people who kill people, you have people who rob people and commit really horrible acts. And in those particular cases, there is a very strong need for law enforcement. And the question is: what kind of law enforcement do we produce out of San Francisco?” Scott Shafer, *London Breed on Racism: ‘I Have Lived This My Whole Life,’* KQED (June 11, 2020).
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- 386 Jeremy Hobson, *‘We Have to Do Better’: San Francisco Mayor Lifts Curfew as Peaceful Protests Grow*, WBUR (June 4, 2020).
- 387 Dominic Fracassa, *San Francisco Leaders Say They’ll Redirect Police Funds to City’s Black Community*, S.F. CHRON. (June 4, 2020).
- 388 S.F. HUM. RTS. COMM’N, *supra* note 271.
- 389 Maureen Pao, *San Francisco Proposes to Shift \$120 Million from Police to Tackle Racial Disparities*, NPR (July 31, 2020).
- 390 *Id.*
- 391 Elizabeth Weill-Greenberg, *Public Defender Chesa Boudin Wins San Francisco D.A. Race in Major*

- Victory for Progressive Prosecutor Movement, APPEAL (Nov. 9, 2019).
- 392 Matt Kawahara, *Boudin Bans Prosecutions Based on Sole Testimony of Untrustworthy Police Officers*, S.F. CHRON. (June 15, 2020).
- 393 Megan Cassidy, *SF District Attorney Boudin Expands Services to Help People Victimized by Police Violence*, S.F. CHRON. (June 9, 2020).
- 394 *SF District Attorney Boudin Announces New Policy Reforms, SFPOA Blasts Decision*, NBC BAY AREA (Feb. 29, 2020).
- 395 Eric Westervelt, *Are Prosecutors Too Cozy with Police? Some DAs Say Campaign Contributions Need to End*, NPR (June 18, 2020).
- 396 *San Francisco DA Chesa Boudin Condemns Looting, Says Peaceful Protests Are Needed for Change*, KRON4 (May 31, 2020).
- 397 It is not clear if Boudin ever clarified which specific charges his office would not prosecute. See Jemima McEvoy, *Peaceful Protesters in Manhattan and San Francisco Won't Be Prosecuted if Arrested*, FORBES (June 5, 2020).
- 398 Marco Siler-Gonzalez, *In First for SF, District Attorney Chesa Boudin Charges Former Police Officer with Homicide*, KQED (Nov. 23, 2020).
- 399 *Id.*
- 400 Megan Cassidy, *SFPD Officer and Man He Shot At Charged with Assault*, S.F. CHRON. (Dec. 10, 2020).
- 401 Megan Cassidy, *DA Boudin Files Criminal Charges Against SFPD Officer in 2019 Beating of Black Man*, S.F. CHRON. (Dec. 14, 2020).
- 402 Matt Charnock, *SF District Attorney Will Not File Charges in Mission District Police Killing of Jesus Delgado-Duarte*, SFIST (Feb. 7, 2021).
- 403 As one police reform advocate stated: “Boudin promised his family justice How’s this justice? And what the D.A. may not understand yet is that his decision sets our community to grieve Adolfo once again, alongside his family, with an unexpectedly renewed sense of disappointment in the role the D.A.’s office plays in perpetuating injustice.” *Id.*
- 404 Press Release, S.F. Police Dep’t, *San Francisco Police Department Unveils ‘Black Lives Matter’ Poster that Reaffirms Values, Showcases Rationale from Every Corner of SFPD 20-081* (Aug. 12, 2020).
- 405 Pao, *supra* note 389.
- 406 Olga R. Rodriguez, *San Francisco Police to Stop Responding to Non-Criminal Calls*, PRESS DEMOCRAT (June 11, 2020).
- 407 Julian Mark, *Best Buds: DA Boudin and Chief Scott Chat Publicly for First Time Since Cops Charged*, MISSION LOC. (Dec. 16, 2020).
- 408 *Id.*
- 409 J.R. Stone, *Police Commission Votes to Put Black Lives Matter Signs in Every Police Station*, ABC7 NEWS (July 15, 2020).
- 410 Tracy McCray, *What’s Going on . . .*, S.F. POLICE OFFICERS ASS’N (July 1, 2020).

411 Olga R. Rodriguez, *Ex-San Francisco Cop Charged in 2017 Fatal Shooting of Man*, AP NEWS
(Nov. 23, 2020).

412 While it will be up to the commission to define what type of justice is appropriate, this section
provides a broad and descriptive conception of accountability that encompasses any conse-
quence of misconduct. There is an extensive literature on theories of accountability. *See, e.g.*,
Jocelyn Cheung, *Police Accountability*, 78 POLICE J. 3 (2005); Willem de Lint, Book Review, 34
AUSTL. & N.Z. J. CRIMINOLOGY 105 (2001) (reviewing DEMOCRATIC POLICING AND ACCOUNTABILI-
TY: GLOBAL PERSPECTIVES (Errol P. Mendes et al. eds., 1999)).

413 *See* Joanna C. Schwartz, *Police Indemnification*, 89 N.Y.U. L. REV. 885 (2014); Erwin Chemerinsky
& Catherine Fisk, *Cities Must Be Legally Accountable for Police Reform*, S.F. CHRON. (June 16, 2020).
Fernandez, *supra* note 154.

414 DEPARTMENT OF POLICE ACCOUNTABILITY: 2019 STATISTICAL SUMMARY.

415 *Id.*

416 *See, e.g., id.*

417 *Id.*

418 *Id.*

419 *Id.*

420 *Id.*

421 The authors conducted this analysis by compiling data from the Police Commission’s quarterly
reports on disciplinary action. *Police Commission Disciplinary Actions “Veronese” Reports, supra*
note 281.

422 Julian Mark, *Officer Who Shot Jessica Williams Was Recommended for Firing. Instead, He Was*
Suspended 45 Days, MISSION LOC. (June 10, 2020).

423 An in-depth historical and technical account of police unions is beyond the scope of this Work-
ing Paper, but there is existing literature about how police unions have frustrated accountability
efforts. *See, e.g.*, Catherine L. Fisk & L. Song Richardson, *Police Unions*, 85 GEO. WASH. L. REV. 712
(2017); Katherine J. Bies, Note, *Let the Sunshine In: Illuminating the Powerful Role Police Unions*
Play in Shielding Officer Misconduct, 28 STAN. L. & POL’Y REV. 109 (2017); Nick Place, *Double Due*
Process: How Police Unions and Law Enforcement “Bills of Rights” Enable Police Violence and Prevent
Accountability, 52 U.S.F. L. REV. 275 (2018).

424 BRP REPORT, *supra* note 46, app. A at 157-59 (BRP Finding 38, BRP Finding 53, BRP Finding 67).
In contrast to its findings about other issues, however, the BRP declined to make recommenda-
tions with respect to the POA’s role. *See id.* app. A at 159-62.

425 COPS REPORT, *supra* note 73, at 6.

426 S.F. POLICE DEP’T GEN. ORD. (DGO) 5.01 (rev. Feb. 10, 2021) (Use of Force).

427 *Id.* DGO 5.02 (rev. Mar. 16, 2011) (Use of Firearms).

428 For more information on statewide police training in light of AB 392 see AB 392 and Peace
Officer Use of Force Standards, COMM’N ON POLICE OFFICERS STANDARDS & TRAINING; A. 392,
2019-2020 Leg., Reg. Sess. (Cal. 2019) (enacted).

429 AB 394 modifies California Penal Code sections 196 and 835a. S.F. POLICE DEP’T, DEPARTMENT

NOTICE 20-011: MODIFICATIONS TO CALIFORNIA’S USE OF FORCE STANDARD (AB 392) (2020). By modifying the California Penal Code sections on use of force, AB 392 overrides any less restrictive local policy in the state. *Id.* (explaining how the more restrictive law governs in instances where the DGOs and AB 392 are inconsistent).

430 This standard under AB 392 differs from DGO 5.01 in that it is not qualified based on the subject’s weapon. Two policies—DGO 5.01.I.D, *Proportionality*, and DGO 5.01.III.C, *De-Escalation*—require officers to use “other available resources and techniques” such as proportional force and de-escalation only “when encountering a subject who is armed with a weapon *other than a firearm.*” DGO 5.01 (Use of Force) (emphasis added). AB 392, in contrast, requires officers to use “available resources and techniques” other than lethal force in any circumstance, provided it is “reasonably safe and feasible to an objectively reasonable officer.” A. 392.

431 DGO 5.01 (Use of Force).

432 *Id.*

433 *San Francisco Police Commission Approves New Use of Force Policy*, CBS SF BAY AREA (Dec. 21, 2016).

434 Michael Barba, *SF Police Commission Votes to Expand Use-of-Force Policy*, S.F. EXAM’R (July 2, 2020).

435 S.F. POLICE DEP’T, DEPARTMENT BULLETIN 20-110: USE OF FORCE POLICY (AMENDS DGO 5.01) (2020).

436 COPS REPORT, *supra* note 73, at 13.

437 See generally Barbara E. Armacost, *Organizational Culture and Police Misconduct*, 72 GEO. WASH. L. REV. 453 (2004).

438 David Brooks, *The Culture of Policing Is Broken*, ATLANTIC (June 16, 2020).

439 *San Francisco Negro Police in Revolt*, *supra* note 160.

440 *Id.*

441 *Id.*

442 *S.F. Cops in Hot Water over Video*, CBS NEWS (Dec. 8, 2005).

443 BRP REPORT, *supra* note 46, app. B, at 166-67.

444 Carolyn Marshall, *San Francisco Police Officers Are Suspended over Skits*, N.Y. TIMES (Dec. 9, 2005).

445 *Id.*

446 *Id.*

447 COPS REPORT, *supra* note 73, at 60.

448 Government’s Opposition to Defendant Furminger’s Motion for Bail Pending Appeal, United States v. Furminger, No. 14-cr-00102 (N.D. Cal. Mar. 16, 2015), ECF No. 247, 2015 WL 10768467.

449 *Id.*

450 *Id.*

451 *Delayed Reporting of Racist, Homophobic SFPD Text Messages Could Jeopardize Findings*, CBS SF BAY

AREA (Apr. 17, 2015).

452 Timothy Williams, *San Francisco Police Officers to Be Dismissed over Racist Texts*, N.Y. TIMES (Apr. 3, 2015).

453 *How a San Francisco Union Brought Shame to the City’s Police Department*, CAL. POL’Y CTR. (Aug. 5, 2020). None of the four officers were ultimately fired for their involvement in Textgate. Officer Michael Robison resigned, Jaxon Van Derbeken, *Michael Robison, SFPD Officer in Offensive-Text Scandal, Resigns*, SFGATE (Mar. 19, 2015); Officer Michael Celis appears to have retired, Michael Barba, *Years After Racist Text Messaging Scandal, SF Police Officers to Face Discipline*, S.F. EXAM’R (Dec. 5, 2018); and Rain Daughtery was suspended, then convicted in 2019 of bank robbery, Ashley McBride, *San Francisco Cop Sentenced to 30 Months in Prison for Two Bank Robberies*, S.F. CHRON. (May 31, 2019).

454 Jonah Owen Lamb, *Bayview Officer Accused of Making Racial Slur Inside Police Station*, S.F. EXAM’R (May 10, 2016).

455 COPS REPORT, *supra* note 73, at 57.

456 BRP REPORT, *supra* note 46, at 148.

457 *Id.* at 1, 139.

458 *Id.* at 140.

459 *Id.*

460 *Id.*

461 *Id.*

462 *Id.*

463 *Id.* at 141.

464 *Id.*

465 *Id.*

466 Michael Barba, *Implicit Bias Trainer Finds ‘Extreme’ Degree of Anti-Black Sentiment within SFPD*, S.F. EXAM’R (Feb. 12, 2020).

467 Julian Mark, *Former Bias Trainer Says ‘Reinforced Narratives About Black People as Criminals by Nature’ Thrived in San Francisco Police Culture*, MISSION LOC. (Dec. 17, 2020); see also *Police Commission: Department of Police Accountability Update on Racial Bias Complaint—Paul Henderson/Dante King*, CITY & CNTY. S.F. (Dec. 16, 2020) [hereinafter *Police Commission Hearing*].

468 Armacost, *supra* note 437, at 468.

469 *Id.* at 147.

470 BRP REPORT, *supra* note 46, at 142.

471 *Id.* at 144.

472 *Id.*

473 *San Francisco Police Upset over Protest Resolution*, ABC7 News (Dec. 16, 2014).

474 BRP REPORT, *supra* note 46, at 144; see also *Police Union Strong-Arms Board of Supervisors over Controversial Resolution on Police Brutality Protests*, S.F. EXAM’R (Feb. 13, 2015).

475 BRP REPORT, *supra* note 46, at 145.

476 *Id.* at 144 (citations omitted).

477 *Id.* at 145.

478 *Id.* at 146.

479 *Id.* at 147.

480 *Id.* at 146-47.

481 S.F. CAMPAIGN & GOVERNMENTAL CONDUCT CODE § 4.115.

482 COPS REPORT, *supra* note 73.

483 BRP REPORT, *supra* note 46, at 143.

484 *Id.*; Musa al-Gharbi, *Police Punish the ‘Good Apples,’* ATLANTIC (July 1, 2020).

485 BRP REPORT, *supra* note 46, at 143.

486 *Id.*

487 *Id.*

488 *Id.*

489 *Id.* at 144.

490 *Id.*

491 Though the “Not on My Watch” website is no longer in operation, the 2017 Department Bulletin describes the reasoning behind the pledge and contains the pledge itself. S.F. POLICE DEP’T, DEPARTMENT BULLETIN NO. A 17-228, “NOT ON MY WATCH” PLEDGE (2017).

492 BRP REPORT, *supra* note 46, at 144.

493 *Id.*

494 *Id.* at 143.

495 *Id.* at 142.

496 *Id.* at 141.

497 See Katey Rusch & Laurence Du Sault, *How Did This California Police Department Hire So Many Officers with Troubling Pasts?*, MERCURY NEWS (Nov. 11, 2019); Timothy Williams, *Cast-Out Police Officers Are Often Hired in Other Cities*, N.Y. TIMES (Sept. 10, 2016).

498 City & Cnty. of S.F. Bd. of Supervisors, Res. No. 291-20 (2020).

499 Brooks, *supra* note 438.

500 *Id.*

501 *Id.*

502 COPS REPORT, *supra* note 73, at 52.

503 *Id.*

504 *Id.*

505 *Id.* Training in biased policing includes the following modules: racial profiling, hate crimes, and cultural competency; equal employment opportunity and discrimination; community group interaction, including homeless and transgender community groups; youth interaction; procedural justice; and body-worn camera policy and operation.

506 *Id.*

507 *Id.* at 53.

508 Barba, *supra* note 466.

509 *Id.*; *see also* Mark, *supra* note 467; *Police Commission Hearing, supra* note 467.

510 Seth Stoughton, *How Police Training Contributes to Avoidable Deaths*, ATLANTIC (Dec. 12, 2014).

511 *Id.*

512 *Id.*

513 *Id.*

514 *Id.*

515 *Id.*

516 *Id.* It is assumed the rate of assault to SFPD officers is approximately proportionate to the national rates, though no data specific to the SFPD was found.

517 *Id.*

518 *Id.*

519 *See* discussion *supra* Section II.A.

520 BRP REPORT, *supra* note 46, at 86.

521 *Id.* at 85.

522 *Id.*

523 *Id.* at 86.

524 BARBARA ATTARD & KATHRYN OLSON, OVERVIEW OF CIVILIAN OVERSIGHT OF LAW ENFORCEMENT IN THE UNITED STATES (2013).

525 S.F. Police Comm'n, Res. No. 97-04 (2004); *see also* *IAD Sustained Complaints: Chief's Decision*, CITY & CNTY. S.F. POLICE COMM'N (listing reports of the IAD's sustained complaints); COPS REPORT, *supra* note 73, at 119.

526 COPS REPORT, *supra* note 73, at 119.

527 *Id.*

528 *Compare id.* (reporting 25 complaints of unnecessary force in 2013 through 2015), *with IAD Sustained Complaints: Chief's Decision, supra* note 525 (showing that none of the IAD's sustained complaints between 2013 and 2015 were determined to be incidents of unnecessary use of force). Sustained cases are cases that have been investigated and closed; they do not include cases that were withdrawn, mediated, referred, or purely informational. A sustained case

means the DPA found, through its investigation, that more likely than not the officer broke a rule or law.

529 BRP REPORT, *supra* note 46, at 90.

530 COPS REPORT, *supra* note 73, at 157.

531 BRP REPORT, *supra* note 46, at 90.

532 *Id.* at 97. The COPS Report did not make such a recommendation.

533 One of Defund SFPD Now’s demands is to transfer the IAD to civilian oversight. DEFUND SFPD NOW. A POLICY PROPOSAL TO DEFUND, DISBAND, AND DISARM THE SAN FRANCISCO POLICE DEPARTMENT (2020).

534 CITY & CNTY. S.F. DEP’T POLICE ACCOUNTABILITY.

535 BRP REPORT, *supra* note 46, at 105.

536 *Id.*

537 CITY & CNTY. OF S.F. DEP’T OF POLICE ACCOUNTABILITY, ANNUAL REPORT FOR 2019, at 2.

538 A complaint often includes more than one allegation; there are four types of allegations: unwarranted action, neglect of duty, use of force, and conduct unbecoming of an officer.

539 CITY & CNTY. OF S.F. DEP’T OF POLICE ACCOUNTABILITY, *supra* note 537, at 3.

540 *Id.* at 14.

541 *Id.*

542 BRP REPORT, *supra* note 46, at 85.

543 *Id.* at 94.

544 *Id.*

545 *Id.* at 146.

546 *Id.* at 91.

547 *Id.*

548 *Id.* at 92.

549 *Id.* at 89.

550 *Id.*

551 See S.F. POLICE DEP’T GEN. ORD. (DGO) 2.07 (effective July 20, 1994) (Discipline Process for Sworn Officers).

552 BRP REPORT, *supra* note 46, at 89.

553 *Id.*

554 *Id.*

555 *Id.* at 90.

556 Julian Mark, *SFPD System Meant to Prevent Misconduct Is Eviscerated as ‘Highly Inaccurate’ by Outside Researchers*, MISSION LOC. (Feb. 7, 2020).

557 BRP REPORT, *supra* note 46, at 89.

558 Mark, *supra* note 556.

559 *Id.*

560 BRP REPORT, *supra* note 46, at 94.

561 COLLINS, *supra* note 151.

562 *Policy: Independent Investigations Bureau, supra* note 157 (decision letters).

563 Press Release, *supra* note 152.

564 COPS REPORT, *supra* note 73, at 18.

565 BRP REPORT, *supra* note 46, at 73.*Id.*

566 CITY & CNTY. OF S.F. CIV. GRAND JURY 2015-2016, INTO THE OPEN: OPPORTUNITIES FOR MORE
TIMELY AND TRANSPARENT INVESTIGATIONS OF FATAL SAN FRANCISCO POLICE DEPARTMENT OFFI-
CER-INVOLVED SHOOTINGS 34 (2016).

567 The district attorney completed the shortest investigation after 387 days. The longest investiga-
tion concluded after almost two-and-a-half years (887 days). *Id.* at 35.

568 *Id.*

569 Jaxon Van Derbeken, *Ex-Reality TV Show Contestant Acquitted of Murder in S.F. Retrial*, SFGATE
(Mar. 11, 2015).

570 Ann Brown, *Jamal Truelove Framed by Police, Awarded \$10M After 6 Years in Prison for Murder He
Didn't Commit*, MOGULDOM NATION (Apr. 11, 2018).

571 *See* Gabe Greschler, *Why Did San Francisco's New District Attorney Fire Seven Prosecutors?*, KQED
(Jan. 12, 2020); Robert Salonga, *Santa Clara County DA Draws Fire for Hiring SF Prosecutor Behind
Jamal Truelove Wrongful Conviction*, MERCURY NEWS (Mar. 18, 2020).

572 *See* Press Release, S.F. Pub. Def., Attorney Andrew Ganz Suspended from Bar for Prosecutorial
Misconduct (Oct. 31, 2018); Darwin Bond Graham & Brian Krans, *'What Will It Take for You to
Call This a Homicide?'*, APPEAL (Mar. 11, 2020).

573 BRP REPORT, *supra* note 46, at 73.

574 *Policy: Independent Investigations Bureau, supra* note 157.

575 *See* Press Release, S.F. Dist. Att'y, District Attorney Boudin Announces Formation of Post-Con-
viction Unit and Innocence Commission (Sept. 17, 2020); *Policy: Conviction Review 1170(d)*, S.F.
DIST. ATT'Y.

576 *See* Press Release, *supra* note 575.

577 The Innocence Commission was launched in September 2020 by Boudin with the charge of
reviewing potential wrongful conviction cases. *Policy: The Innocence Commission, supra* note 158.

578 Nina Morrison & Sarah Chu, *How to (Really) Fix a Drug Scandal: San Francisco's District Attorney
Sets a Strong Example*, INNOCENCE PROJECT (Dec. 18, 2020).

579 *Victim Compensation*, S.F. DIST. ATT'Y.

580 Press Release, *supra* note 159.

581 SENATOR CONNIE M. LEYVA, SENATE BILL 299: EQUAL ACCESS FOR VICTIMS OF POLICE VIOLENCE
(2021); *see also* Press Release, S.F. Dist. Att’y, D.A. Boudin Announces His and Three Other Pros-
ecutors’ Cosponsorship of A.B. 767, a Bill to Support Victims of Police Violence (Aug. 7, 2020);
A. 767, 2019-2020 Leg., Reg. Sess. (Cal. 2020) (no longer moving forward in the state Assembly).

582 BRP REPORT, *supra* note 46, at 99.

583 *Id.*; *see Report Search*, CITY & CNTY. S.F. OFF. CONTROLLER (search for “police” in Controller’s
report database from 1986 to 2021).

584 BRP REPORT, *supra* note 46, at 102.

585 *Id.* at 101.

586 CITY & CNTY. OF S.F. DEP’T OF POLICE ACCOUNTABILITY, *supra* note 537, at 28.

587 *Id.* at 28.

588 CITY & CNTY. OF S.F. OFF. OF THE CONTROLLER, CITY SERVS. AUDITOR & CITY & CNTY. OF S.F.
DEP’T OF POLICE ACCOUNTABILITY, THE POLICE DEPARTMENT NEEDS CLEARER GUIDANCE AND
MORE PROACTIVE GOVERNANCE FOR BETTER USE-OF-FORCE DATA COLLECTION AND REPORTING 1, 5
(2020).

589 *Id.* at 6.

590 *Audits, Reviews, and Analysis*, CITY & CNTY. S.F. DEP’T POLICE ACCOUNTABILITY.

591 BRP REPORT, *supra* NOTE 46, AT 101.

592 S.F. Charter § 4.109 (authorizing the Police Commission to “prescribe and enforce any
reasonable rules and regulations that it deems necessary to provide for the efficiency of
the Department”); BRP REPORT, *supra* note 46, at 101-02.

593 BRP REPORT, *supra* note 46, at 101-102.

594 COPS REPORT, *supra* note 73, at 57.

595 *Id.*

596 *Id.*

597 *Id.*

598 *Audits of Electronic Communication Devices for Bias*, S.F. POLICE DEP’T.

599 *Id.*

600 *Id.*

601 The three hits originated from text messages sent by officers in 2017 and 2019. *See id.*

602 Letter from William Scott, Chief of Police, to Police Comm’n, City & Cnty. of S.F. 1
(Apr. 15, 2020).

603 Kim Corsaro, *Remembering “White Night” - San Francisco’s Gay Riot*, S.F. BAY TIMES (May 18,
2006).

604 *Id.*

605 *Id.*

- 606 Wayne King, *San Francisco Gets Superhigh as 49ers Victory Makes It City of Champions*, N.Y. TIMES, Jan. 26, 1982, at A10.
- 607 *Id.*
- 608 COLLINS, *supra* note 151, at 365.
- 609 See FINN, *supra* note 283, at 55; Sofia Aguilar, *Policing that Matters: Making Civilian Oversight Work* (May 19, 2017) (Master's thesis, University of San Francisco).
- 610 See Ivan Sharpe, *Report of Sex Prank at Police Academy Party*, S.F. EXAM'R, Apr. 29, 1984, at B1; Mark A. Stein, *Department Rocked by Scandals: Question Gnaws at S.F.—Are Police out of Control?*, L.A. TIMES (Apr. 15, 1985).
- 611 Stein, *supra* note 610.
- 612 Gary Roush, *Democratic Convention Crackdown 1984*, FOUND SF.
- 613 *Id.*
- 614 See Dennis J. Opatrny, *2 Describe Bludgeonings and Accuse Policemen*, S.F. EXAM'R, Nov. 28, 1984, at B8; Stephanie Poggi, *Police Sentenced for Attacks on Gay Men*, GAY CMTY. NEWS, May 1985, at 2.
- 615 Stein, *supra* note 610.
- 616 *Officers Reassigned in Coast Police Scandal*, N.Y. TIMES, Sept. 9, 1984, at 31; STEIN, *supra* note 610.
- 617 *Officers Reassigned in Coast Police Scandal*, *supra* note 616; Stein, *supra* note 610.
- 618 Stein, *supra* note 610.
- 619 BRP REPORT, *supra* note 46, app. B at 165.
- 620 *Id.*
- 621 *Police Chief Forces Brother Out*, L.A. TIMES, Nov. 15, 1989, at 20.
- 622 David Bacon, *'There Is No Civilian Control over Police,' Say Huerta's Supporters*, PEOPLE'S DAILY WORLD, Mar. 21, 1989, at 6-A.
- 623 BRP REPORT, *supra* note 46, app. B at 165.
- 624 *Id.*
- 625 COLLINS, *supra* note 151, at 359.
- 626 *Id.*
- 627 *Id.*
- 628 Seth Rosenfeld, *Cops Fail to Police Selves in Shootings*, SFGATE (Dec. 30, 1996).
- 629 BRP REPORT, *supra* note 46, app. B at 165–66; Katherine Bishop, *700 Arrested in San Francisco Violence*, N.Y. TIMES, May 1, 1992, at A20; *Hundreds Arrested in San Francisco Protest*, N.Y. TIMES, May 10, 1992, at A23.
- 630 BRP REPORT, *supra* note 46, app. B at 165–66; *San Francisco Police Chief Is Dismissed*, N.Y. TIMES (May 16, 1992).
- 631 *San Francisco Police Chief Is Dismissed*, *supra* note 630.

632 COLLINS, *supra* note 151, at 361.
633 *Id.*
634 *Id.*
635 Ellen Knickmeyer, *FBI Investigates After Shackled, Sprayed Man Dies in Custody*, AP NEWS (June 8, 1995).
636 *Id.*
637 Susan Sward, *S.F. Panel Fires Officer in Aaron Williams Case*, SFGATE (June 28, 1997).
638 Jim Herron Zamora, *Fred Lau Overcame Height Restrictions to Fulfill Dream of Joining Force*, SFGATE (Jan. 1, 1996).
639 Eric Brazil, *Police Misused Pepper Spray, Family Charges*, SFGATE (Apr. 27, 1996).
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