

Panel Finds SFPD 'Code of Silence,' Outsized Influence of Police Union



(Justin Sullivan/Getty Images)

By Alex Emslie
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A panel appointed to investigate bias in the San Francisco Police Department says it encountered roadblocks throughout its yearlong inquiry, according to a hefty report released Monday.

The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement, convened last year by District Attorney George Gascón, said it encountered obstruction from both the department and its rank-and-file officers' union, the San Francisco Police Officers Association.

"[T]he Panel did not always receive the cooperation it hoped for from the SFPD management and the union that represents most officers, the San Francisco POA," the report says, cataloguing a back-and-forth between department command staff and panel attorneys in which former Police Chief Greg Suhr advised that any officer interviews be scheduled through the union, which had its own thoughts on the panel's legitimacy.

"The San Francisco Police Department, for all practical purposes, is really run by the POA. ... The POA leadership sets the tone for the Police Department, and historically, it's been an ugly one."

— LaDoris Cordell, Retired Superior Court judge

"The [Blue Ribbon Panel] has no legal standing or authority to conduct an independent investigation of any organization including the SFPD," POA President Martin Halloran wrote in the union's June newsletter.

Halloran dismissed a synopsis of the panel's preliminary findings in May as "a biased, one-sided, and illegitimate work of fiction" produced by people handpicked by Gascón. On Monday, Halloran called the panel a "kangaroo court" and compared the release of its report with the killing of five police officers in Dallas last week.

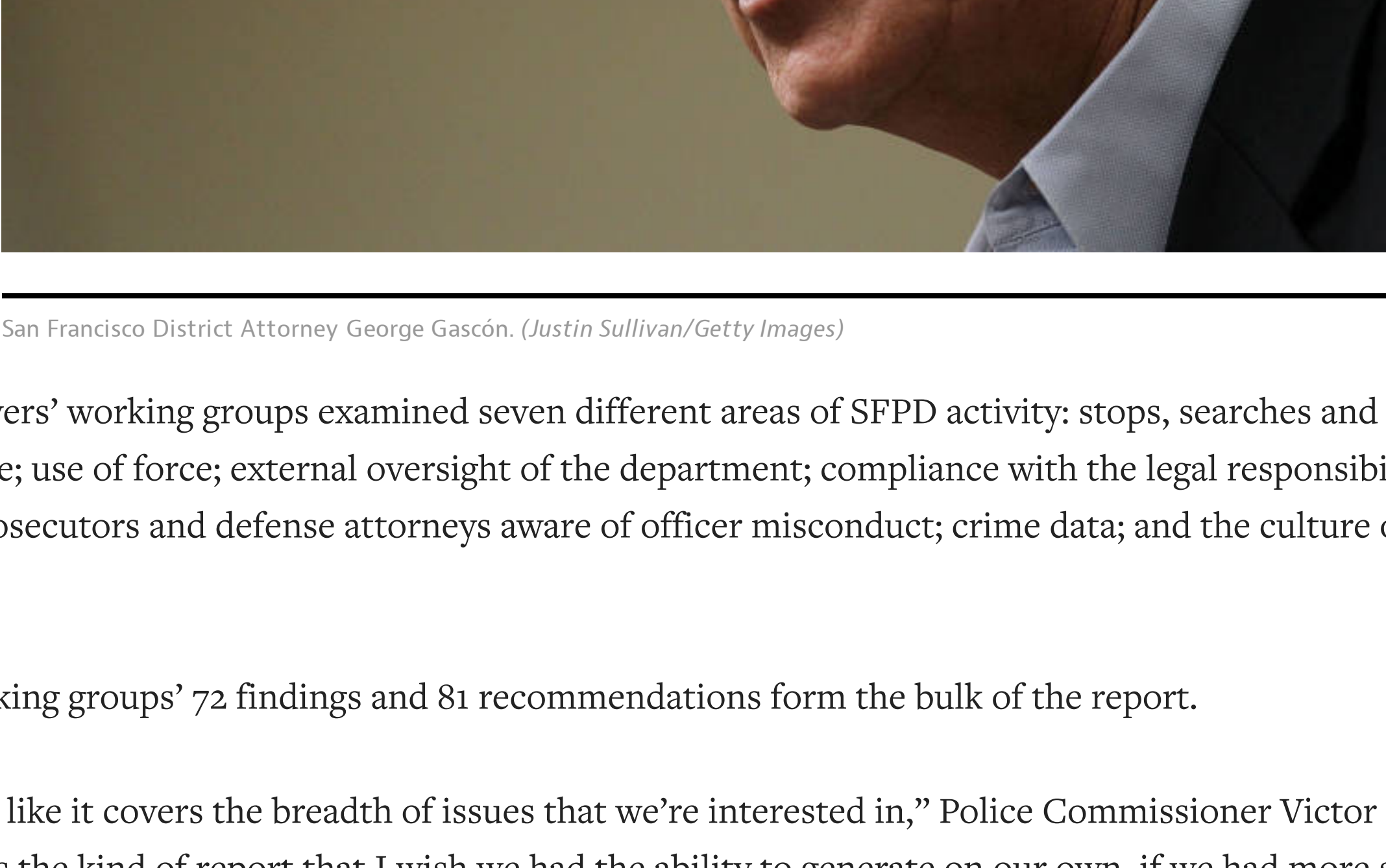
"On Thursday, a sniper in Dallas took aim at police officers and murdered five in cold blood," Halloran said in a written statement. "Today, George Gascón is taking aim at police officers in San Francisco with half-truths and distortions."

The panel's independence from Gascón — and accusations that his criticism of the SFPD is driven by political ambitions — was repeatedly questioned by the POA and, to some degree, by the department. The panel's report says the sustained questions of legitimacy and written responses to scant public testimony offered by current SFPD officers had a chilling effect on its ability to interview more current officers.

"The San Francisco Police Department, for all practical purposes, is really run by the POA," said retired Superior Court Judge LaDoris Cordell who, along with retired U.S. District Judge Dickran Tevrizian and retired California Supreme Court Judge Cruz Reynoso constituted the panel.

"The POA leadership sets the tone for the Police Department, and historically, it's been an ugly one," Cordell said.

Gascón appointed the panel, supported by attorneys from seven Bay Area law firms, several weeks after a batch of racist, homophobic and otherwise bigoted text messages, swapped among more than a dozen officers, came to light through a federal court filing.



San Francisco District Attorney George Gascón. (Justin Sullivan/Getty Images)

The lawyers' working groups examined seven different areas of SFPD activity: stops, searches and arrests; discipline; use of force; external oversight of the department; compliance with the legal responsibility to make prosecutors and defense attorneys aware of officer misconduct; crime data; and the culture of the SFPD.

The working groups' 72 findings and 81 recommendations form the bulk of the report.

"It looks like it covers the breadth of issues that we're interested in," Police Commissioner Victor Hwang said. "It's the kind of report that I wish we had the ability to generate on our own, if we had more staffing and perhaps a policy analyst working with us."

In its review of SFPD culture, the panel found "the SFPD blurs the line between it and the POA. ... Because the department has consistently ceded the ground of discourse to the POA, theirs is the dominant law enforcement voice heard on [reforms]."

The report adds that "several witnesses stated that the SFPD and POA functioned like a 'good old boys' club,' making it difficult to impose discipline."

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"The 'code of silence' — informal pressure for officers to 'fall in line' and not report observed misconduct — makes it difficult to identify and respond to bias within the department," the report says.

The panel found the Police Department's internal disciplinary process "opaque" and the rules governing it outdated. The report says discipline — i.e., findings of misconduct — are not rigorously tracked.

The attorneys found the same lack of reliable data when it came to how often, and on whom, San Francisco police officers use force.

"They collect data in a fashion where it would be nearly impossible for an outside observer, an auditor, to actually look at the data and see whether the SFPD is applying force more often, and more severely against people of color, gay people, LGBT people, and other groups," attorney Colin West said. "There's a saying that if you hide a flaw, people will assume the worst. This data couldn't be collected in a manner better designed to hide flaws that might exist in the police culture when it comes to people of color and the application of uses of force."

The panel made 15 recommendations around improving use-of-force data collection, training and policies. But what could be the biggest change to officer-involved shooting investigations is listed as a finding, not a recommendation: "Officer-involved shooting investigations conducted by the District Attorney's Office suffer from a lack of independence and an outdated notification system."

Gascón says both issues are currently at play in the district attorney's investigation of the fatal February 2015 police shooting of Amilcar Perez Lopez. The district attorney recently told KQED that his office was not properly notified that an officer-involved shooting had occurred, and by the time a district attorney's investigator arrived on scene, Perez Lopez's body had been removed by the city's medical examiner. Gascón called the treatment of the crime scene a "serious breach of protocol."

The panel report includes a memorandum of understanding drafted by Gascón's office that would make the district attorney's office the "lead agency on the scene of any officer-involved shooting," according to the report. SFPD homicide inspectors currently lead police shooting investigations.

"The SFPD and the SFDA understand that the public can no longer be expected to trust a criminal investigation of a law enforcement officer's use of deadly or alleged excessive force led by that officer's employing agency, or by a neighboring or allied police agency," the draft MOU says. "As the chief law enforcement officer for the City and County, the District Attorney bears responsibility for bringing charges against any persons who commit crimes in San Francisco, and pursuing justice for all. Therefore, the office of the San Francisco District Attorney (SFDA) shall be the primary criminal investigative agency for all officer-involved fatal incidents and significant uses of force."

Various city leaders have been seeking an alternative agency to lead police shooting investigations, but so far, suggestions of a neighboring law enforcement agency or the State Attorney General's Office have not reached agreement, let alone implementation.

"The Police Commission has moved collaboratively with people from across our City to adopt meaningful reforms for SFPD," Commission President Suzy Loftus said via text message. "That work continues in earnest as we embark on the search for our permanent Chief. As we continue the work ahead, we will carefully review today's report and these findings."

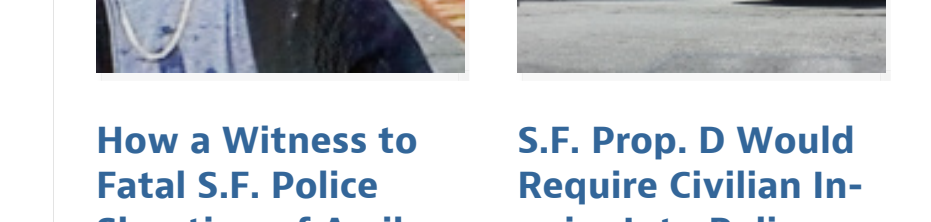
San Francisco Mayor Ed Lee thanked the "Blue Ribbon Committee" for its efforts in a written statement, and noted a redrafting of SFPD's use-of-force policies that recently passed the Police Commission, enhanced bias and cultural competency training, body cameras on the horizon and increased funding for the department's civilian oversight.

An SFPD spokesman said the department would analyze the panel's report and forward it to the U.S. Department of Justice, a division of which is conducting a review of the Police Department's policies.

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This report was updated to include statements from LaDoris Cordell, Victor Hwang, Colin West, Suzy Loftus, Ed Lee and the San Francisco Police Department.

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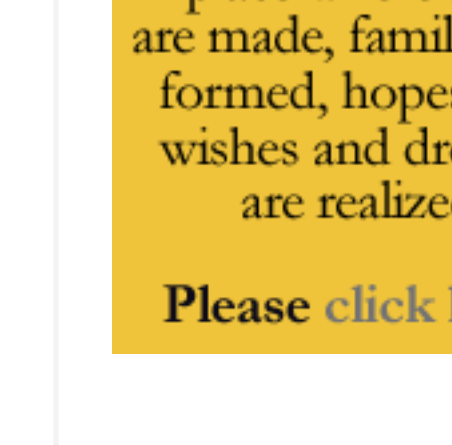
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