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City and County of San Francisco

## POLICE DEPARTMENT

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WILLIAM SCOTT  
CHIEF OF POLICE

February 3, 2022

The Honorable Rob Bonta  
OFFICE OF THE ATTORNEY GENERAL  
455 Golden Gate, Suite 11000  
San Francisco, CA 94102-7004

Transmitted via email to: [Rob.Bonta@doj.ca.gov](mailto:Rob.Bonta@doj.ca.gov)

### **Re: Request for guidance on independent investigations for OIS and other incidents**

Dear Attorney General Bonta,

I write to request your office's guidance on replacing the San Francisco District Attorney's Office (SFDA) as the lead investigative agency in criminal investigations of San Francisco Police Department (SFPD) officers who are involved in officer-involved shootings (OIS), in-custody deaths, and certain specified uses of force.

Since 2019, a Memorandum of Understanding<sup>1</sup> (MOU) has been in place between the SFDA's Office and SFPD. Under the provisions of successive MOUs that became effective in 2019 and 2021, the SFDA's Office has been the lead investigative agency in criminal investigations of SFPD officers involved in applicable incidents.

Due to very serious and concerning facts that emerged on Thursday, January 27, 2022 — during testimony under oath from a member of the SFDA's Office assigned to the Independent Investigations Bureau (IIB), which is responsible for investigating incidents covered by the MOU — I have exercised my authority to terminate the MOU. Guiding my decision was testimony and corroborating evidence this SFDA investigator provided in court that the SFDA's Office has concealed or withheld evidence from SFPD investigators and misled our department as to the status of investigations in which our mutual cooperation was agreed upon in the MOU. Revelations from this hearing — which were widely reported in the news media — risk

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<sup>1</sup> Memorandum of Understanding between the San Francisco District Attorney's Office and the San Francisco Police Department regarding the Investigation of Officer-Involved Shootings, In-Custody Deaths, and Uses Of Force Resulting In Serious Bodily Injury, July 27, 2021, <https://www.sanfranciscopolice.org/sites/default/files/2022-02/SFPDMOUAgreement20220202.pdf>; and Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department regarding the Investigation of Officer-Involved Shootings, In-Custody Deaths, and Uses Of Force Resulting In Serious Bodily Injury, May 4, 2019, <https://www.sanfranciscopolice.org/sites/default/files/2022-02/SFPDMOUAgreementWithDAGascon.pdf>.

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undermining public confidence in the legitimacy of a criminal justice system intended to assure fairness for everyone, including our officers.

For your reference, and for additional context of specific reasons guiding my decision to terminate this MOU, I am including links to SFPD's written notification to San Francisco District Attorney Chesa Boudin and accompanying statements to the news media and public regarding the intent behind my decision.

- [SFPD Chief Bill Scott's letter to S.F. District Attorney Chesa Boudin](#) (Feb. 2, 2022)
- SFPD News Release: [SFPD Chief Bill Scott terminates MOU with D.A.'s Office over court revelations that prosecutors withheld evidence in investigations 22-015](#) (Feb. 3, 2022)
- SFPD Statement: [Follow-up on SFPD Chief's MOU termination decision](#) (Feb. 3, 2022)

I strongly believe that independent investigations in officer-involved shootings and similarly serious incidents are essential to affirm public confidence in our criminal justice system generally and our department specifically, understanding that the public deserves full confidence in the integrity of these investigations. I was personally involved in drafting and collaborating with former SFDA George Gascón on the first such MOU in 2019. I was also personally involved in drafting and collaborating with SFDA Boudin to reach an agreement on a new MOU in which the SFDA's Office would continue to lead certain criminal investigations as described above. I remain committed to pursuing an agreement with MOU partners who, acting in good faith, will abide by the terms and conditions specified in the MOU so that we may conduct ancillary criminal investigations.

We have no higher obligation to those we serve than to assure the integrity of these processes. As noted in the preamble of both MOUs, the "public has a right to expect that a thorough and neutral examination will be conducted." In my view, the revelations that emerged in court last week betray that public expectation.

Based on facts I have outlined — and that I welcome the opportunity to elaborate upon further — I also respectfully request that the California Department of Justice expand its role beyond the scope of Assembly Bill 1506's provisions to include, at least temporarily, a formal MOU with SFPD to replace the SFDA as the lead investigative agency in criminal investigations of SFPD officers who are involved in OIS incidents, in-custody deaths, and certain specified uses of force.

Alternatively, I would request your office's guidance on acceptable options in conformance with the recommendations of our Collaborative Reform Initiative, which could include reciprocal agreements with other counties to fulfill the promise of independent investigations worthy of the public's trust into OIS cases and other applicable incidents involving SFPD officers.

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As stated in page two of your office's Division of Criminal Law Special Prosecution Section Protocols, the role of a prosecutor is "a solemn one," citing from a landmark case that the prosecutor...

- "...is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done." (*Berger v. United States* (1935) 295 U.S. 78, 88.)

I have full confidence that your department is worthy of that powerfully stated truth. I thank you for your consideration, and I welcome the opportunity to discuss my request further with you and your office.

Sincerely,



WILLIAM SCOTT  
Chief of Police