



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox

**SUBJECT: POLICE REFORMS WORK PLAN
AND REIMAGINING COMMUNITY
SAFETY UPDATE**

DATE: December 5, 2023

Approved

Date

12/6/23

INFORMATION

The purpose of this memorandum is to update the City Council and community on the status of the Police Reforms Work Plan. The Police Reforms Work Plan is an assembly of the various referrals from the City Council to the Administration regarding police reforms maintained by the Administration to guide our collective work. The most recent version of the Police Reforms Work Plan Major Tasks document is included as an **Attachment**.

The Police Reforms Work Plan includes a list of tasks assigned to or between the City Manager's Office, the Police Department, and/or the Independent Police Auditor (IPA), along with each task's source of direction. Given that the Administration maintains this work plan, it only includes police reform items directed to the City Manager, with the exception of the IPA's Independent After Action Report, which is included for reference.

The Police Reforms Work Plan includes 20 work items. Since this work plan was initiated, 18 of the items have been completed. The completed items, with associated completion dates, are listed below.

- Item 1: Independent Police Auditor Expansion of Authority and Scope (August 4, 2020)
- Item 2: Police Items on City Council's Regular Agenda (August 4, 2020)
- Item 3: Santa Clara County Board of Supervisors/District Attorney Letter (July 13, 2020)
- Item 4: Video Clip Release and Review (June 22, 2021)
- Item 5: Public Disclosure of Body Worn Camera Footage and Other Videos/Audios (September 15, 2020/November 10, 2020)
- Item 6: Recent Protests: Police Department After Action Report (September 15, 2020)
- Item 7: Recent Protests: Independent After Action Report (March 1, 2022)
- Item 8: Police Duty Manual Amendments (September 15, 2020)
- Item 9: Community Engagement Processes Plan (September 29, 2020)
- Item 10: Use of Force Review (March 1, 2022)

- Item 11: Less-Than-Lethal Uses of Force Options (February 9, 2021)
- Item 12: Public Safety Community Process and Relations / Future of Policing (Reimagining Public Safety) (April 25, 2022)
- Item 14: Rules of Professional Conduct for Officers (November 13, 2020)
- Item 16: Public Database: Police Officer Actions (August 11, 2022)
- Item 17: Body-Worn Camera Footage Audits (April 11, 2021)
- Item 18: Labor Negotiations (May 11, 2021)
- Item 19: Independent Investigation of Police Misconduct (November 14, 2023)
- Item 20: Police Officer Disciplinary Appeal Process (May 11, 2021)

The matrix below lists the work plan for outstanding items 13 and 15 and summarizes the current status of each item.

Police Reforms Work Plan: Outstanding Items

#	Title	Status	Notes
13	Police Department Participation in Government Alliance on Race and Equity Process/Racial Equity Training	In Progress	<p>The Police Department selected a consultant, Idea Analytics, to provide diversity, equity, and inclusion training to the Police Department. A training plan was originally expected to be completed by June 2022, but coordination delays significantly extended the project timeline. The department now expects that a training plan will be completed by February 2024 and all training implemented department-wide by June 2024.</p> <p>Projected Completion Date: June 2024</p>
15	Internal Database: Police Officer History Database	In Progress	<p>The Police Department selected a vendor, Benchmark Analytics, to create a database that tracks officers with histories of misconduct and/or use of force. The database is currently being implemented as a pilot program while final improvements and technical revisions are completed. It is expected to be fully implemented by June 2024.</p> <p>Projected Completion Date: June 2024</p>

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The City Manager's Office and Police Department continue to advance these last two work plan items, which, upon completion, will conclude the Police Reforms Work Plan. The Administration will update City Council in June 2024 with an informational memorandum to provide a final update.



LEE WILCOX
Assistant City Manager

For questions, please contact Lee Wilcox, Assistant City Manager, at (408) 535-4873.

Attachment: Police Reforms Work Plan Major Tasks

Attachment
POLICE REFORMS WORK PLAN MAJOR TASKS
(Shaded tasks are complete)

Tasks	Description	Source of Direction	Who
1. Independent Police Auditor Expansion of Authority and Scope	Return to Council by the first week of August with ballot language articulating the expansion of authority for the Independent Police Auditor. This language should provide a higher level of transparency and accountability over “use of force” investigations and access to police records, including body worn camera footage, as achieved through negotiation with the Police Officers’ Association. Further explore additional expansion of IPA authority within the legal parameters mandated by the California Supreme Court’s decision in Seal Beach Peace Officers Association v. Seal Beach. This can include language to allow for future expansion of authority through a meet and confer process that doesn’t require a Charter Amendment.	06/09/20 City Council Memorandum (Mayor, Jones, Peralez, Diep, and Carrasco); Item 3.6, #7 06/16/20 City Council Memorandum (Mayor); Item 3.3, Page 6	City Manager’s Office/ City Attorney’s Office
2. Police Council Items on Regular Agenda	Require that all future Council actions approving SJPD requests, such as the purchase of new equipment or acceptance of equipment from the Pentagon, be agendized on the regular agenda rather than the consent calendar.	06/12/20 City Council Memorandum (Diep); Item 3.1, #2	City Manager’s Office
3. Santa Clara County Board of Supervisors/District Attorney Letter	Write a letter on behalf of the Mayor and City Council directed to the Santa Clara County District Attorney Office and the County Board of Supervisors with the following requests: <ul style="list-style-type: none"> • Consider a non-punitive approach towards resolving cases in which peaceful demonstrators from the George Floyd protests ended up detained and in police custody due to the San Jose curfew violations. • Consider the creation of an Independent Investigation Bureau similar to that of San Francisco’s District Attorney’s Independent Investigations Bureau, which seeks to bolster community trust through transparency and accountability. • Consider developing a restorative justice process that seeks to build trust and mutual understanding between our police and community. • Acknowledge the importance of our County’s District Attorney’s Office role in responding to allegations of officer misconduct in a manner that supports public safety and builds community trust. 	06/12/20 City Council Memorandum (Jimenez); Item 3.1, #5	City Manager’s Office

Tasks	Description	Source of Direction	Who
4. Video Clips Release and Review	<p>To provide greater transparency to the public and accountability:</p> <ul style="list-style-type: none"> • For the approximately half-dozen video clips that have raised substantial public concern on social media regarding potential SJPD misconduct or possible unlawful use of force, release to the public any videos in possession or readily available to SJPD that provide a fuller picture of the incident, such as longer duration (particularly the period prior to the video clip in question), alternative view angles, etc., within two weeks, so long as consistent with what is allowable under California state law. <p>Those videos should include, at a minimum,</p> <ol style="list-style-type: none"> a. The incident involving the collision between the police motorcycle and the running pedestrian, and b. The incident involving a physical altercation between police and a male who is pulled back behind the police line by multiple officers, and subjected to repeated blows by police, and c. The incident involving an officer responding to a protestor with expletives. <ul style="list-style-type: none"> • At the earliest opportunity for public hearing – whether at our upcoming Independent Police Auditor use of force review or for the after-action report public hearing, present to the Council and public, the IPA and SJPD findings relating to investigations and investigation reviews of each of those clips. 	06/09/20 City Council Memorandum (Mayor, Jones, Peralez, Diep, and Carrasco); Item 3.6, #5	Police Department/City Manager’s Office/ City Attorney’s Office/Independent Police Auditor
5. Public Disclosure of Body Worn Camera Footage and Other Videos/Audios	<p>To enable Council to evaluate how and whether to mandate expedited public disclosure of body-worn camera footage of incidents of substantial public concern, such as major protests or controversial uses of force:</p> <ul style="list-style-type: none"> • Return to Council in closed session to receive assessment from the City Attorney of the requirements of POBAR and other state legal restrictions on release of evidence, and of any legal risks to the City and City taxpayers; • Return to Council in open session to discuss resources required to rapidly reproduce video that complies with legal requirements, i.e., privacy mandates to obscure faces and identities of people other than the police officers involved in the incident. 	<p>08/18/20 City Council Memorandum (Mayor, Jones, Diep, Carrasco); Item 4.3, #7</p> <p>08/18/20 City Council Verbal Direction (Mayor); Item 4.2</p> <p>08/26/20 Rules Committee Memorandum (Mayor); Item G.4, #2, #3</p>	Police Department /City Manager’s Office/City Attorney’s Office

Tasks	Description	Source of Direction	Who
	<p>Evaluate and set up process, as appropriate, for release of all department generated videos (e.g., body worn camera and helicopter) where there are incidents of significant public concern rather than holding videos back due to ongoing investigations.</p> <p>Within 2 weeks of Council vote on this item (<i>by September 29</i>), the City Manager shall release body-worn camera or other City-generated video and audio clips regarding each of the incidents of extraordinary public interest identified in paragraph 1 (<i>a. the incident involving the collision between the police motorcycle and the running pedestrian, and b. the incident involving a physical altercation between the police and a male who is pulled back behind the police line by multiple officers, and subjected to repeated blows by the police, and c. the incident involving an officer responding to a protester with expletives, including "shut up, bitch."</i>) under the following conditions:</p> <ul style="list-style-type: none"> • All video sources shall be provided, but where multiple such sources exist and production of all sources would unduly consume time and labor, the City shall identify the three videos that most clearly and fully capture the event; • At least ten minutes of footage prior to the actual interaction or event shall be provided in each case, to ensure the viewer has the benefit of the full context of the incident; • Provision of this video shall be limited only by the exceptions outlined in state law under SB 748 for responses to Public Records Act requests for video of "critical incidents," mandating disclosure except where would doing so would "substantially interfere" with an ongoing criminal or administrative investigation, such as "endangering a witness' or confidential source's safety," as demonstrated by clear and convincing evidence. <p>Return to Council with an ordinance or Council Policy requiring release of body-worn camera footage under similar conditions similar to those described in Paragraph 2 (<i>Paragraph 3 above</i>) for all incidents that the Council deems to be "police incidents of extraordinary public interest," unless Staff recommends different conditions based on public input and Staff's experience.</p>		

Tasks	Description	Source of Direction	Who
6. Recent Protests: Police Department After Action Report	Develop and agendize for City Council consideration a Police Department After Action Report of the recent protests	Police Department/ City Manager’s Office	Police Department / City Manager’s Office
7. Recent Protests: Independent After Action Report	Produce an independent after action incident report of the recent protests.	06/16/20 City Council Memorandum (Peralez); Item 3.3, #3 06/16/20 City Council Memorandum (Carrasco); Item 3.3, #3	Independent Police Auditor
8. Police Duty Manual Amendments	<p>Adopt the following items into the San Jose Police Duty Manual. If any of the items are subject to meet and confer, the City Administration is directed to begin the adoption process immediately:</p> <ul style="list-style-type: none"> • Create a policy that establishes a minimum age at which minors can be placed in handcuffs. • Restructure the San Jose Police Hiring Protocols and Standards to meet the following goals: <ul style="list-style-type: none"> a. An emphasis on hiring well-rounded, experienced officers that range in age, have high educational attainment, and come from diverse backgrounds and demographics. b. Establish a policy within Section C 1418.5 of the Duty Manual that prohibits the practice of hiring recruits with body art that is considered racist and/or associated with hate groups. <p>Explore amending the SJPD duty manual to explicitly:</p> <ul style="list-style-type: none"> • Prohibit officers from covering their badge and requiring officers to provide their name and badge number upon request. • Prohibit the use of “no knock” entries where a warrant has been required, unless there is a reasonable and articulable belief that evidence may be destroyed by knocking. By default, officers must announce themselves. <p>Amend the SJPD Duty Manual to prohibit the use of kinetic impact projectiles (KIP), i.e., rubber or foam bullets, within a dense crowd as a measure of crowd control, and to make this action immediate.</p>	06/12/20 City Council Memorandum (Jimenez); Item 3.1, #2a, #2b 06/12/20 City Council Memorandum (Diep); Item 3.1, #1a, #1b 06/17/20 Rules Committee Memorandum (Mayor, Jones, Peralez, Diep, Carrasco); Item G.7, #1	Police Department/ City Manager’s Office
9. Community Engagement Processes Plan	Return to discuss how to commence community processes—informed by experts, consultants, and research—to: <ul style="list-style-type: none"> • Publicly review use of force policy in the Duty Manual, and explore potential reforms, and 	08/18/20 City Council Memorandum (Mayor, Jones, Diep, Carrasco); Item 4.3, #5	City Manager’s Office/ Independent Police Auditor

Tasks	Description	Source of Direction	Who
	<ul style="list-style-type: none"> Reimagine public safety response, such as by supplanting SJPD response to many non-criminal matters with civilian response. <p>Return to Council by September 29, either through a report to Council or information memo, with an outreach plan for community engagement specific to reimagining policing. This should include, but not be limited to:</p> <ul style="list-style-type: none"> Create a timeline and sequence for outreach that includes a process and a clear strategy for including neighborhoods that have historically endured high rates of crime and poverty. Incorporate the selection of a new Chief of Police into the timeline to ensure that the new Chief will be engaged directly in that community dialogue. Explore partnerships with San Jose State University and recommendation-neutral community-based institutions that have familiarity with SJPD and the San Jose community, as an additional “high touch” strategy to reach out to communities that may not be heard through the digital platforms currently used. <p>Confer on sequencing of the use of force review, reimagining public safety, and selection of a new Chief of Police to determine the best possible timeline and potential to involve the same consultant(s) for community engagement aspects of all of these portions of the workplan.</p>	<p>08/18/20 City Council Memorandum (Mayor, Jones, Diep, Peralez, Carrasco); Item 4.3, #2, #3</p>	
<p>10. Use of Force Review</p>	<p>Establish a process, consistent with that advocated by the Obama Foundation’s My Brother’s Keeper Alliance Mayoral Action Pledge, to:</p> <ul style="list-style-type: none"> Review our “use of force” policies, engage our community on proposed changes, seek the feedback of our community on the findings, and produce recommendations to reform those policies consistent with the best thinking nationally. Include in the review of policies: duty to intervene, exhaust all alternatives before shooting, require officers to report when they point a firearm, and all other policies on the Police Use of Force Project’s list not currently adopted. The process should engage the entire community, including faith leaders, social justice advocates, leadership within our 	<p>06/09/20 City Council Memorandum (Mayor, Jones, Peralez, Diep, and Carrasco); Item 3.6, #6</p> <p>06/12/20 City Council Memorandum (Jimenez); Item 3.1, #3</p> <p>06/12/20 City Council Memorandum (Arenas); Item 3.1, #1a, #1b</p>	<p>Independent Police Auditor/ Police Department/ City Manager’s Office</p>

Tasks	Description	Source of Direction	Who
	<p>communities of color, criminal justice experts, the police union, the police rank-and-file, the Chief of Police, and the Independent Police Auditor.</p> <ul style="list-style-type: none"> Engage San Jose youth in the reform process, including, but not limited to, already established City committees, programs, Mayor’s Gang Prevention Task Force, and youth groups within the City’s jurisdiction. Present findings and recommendations for reforms to the Council for adoption. <p>Return to Council by September 29, either through a report to Council or information memo, with a timeline and update on the release of a request for proposal (RFP) to select a consultant to conduct a use of force review and recommendations on additional amendments to the SJPD Duty Manual or other protocols that further align San Jose with 21st Century Policing best practices.</p>	<p>06/12/20 City Council Memorandum (Esparza); Item 3.1, #1a, #1b</p> <p>06/16/20 City Council Memorandum (Mayor); Item 3.3, Page 5, 6</p> <p>08/18/20 City Council Memorandum (Mayor, Jones, Diep, Peralez, Carrasco); Item 4.3, #1</p>	
11. Less-Than-Lethal Uses of Force Options	Utilize funding from the SJPD budget to investigate, explore, and report back to the Council about any emerging less-than-lethal options that could reduce the need for police to rely upon the use of a baton, projectiles, or firearms.	06/16/20 City Council Memorandum (Mayor); Item 3.3, Page 6	Police Department/ City Manager’s Office
12. Public Safety Community Process and Relations/ Future of Policing (Reimagining Community Safety)	<p>Create a Public Safety Community Process tasked with evaluating and recommending new ways in which our police department intervenes with social issues and reduces social conflicts that are noncriminal in nature.</p> <p>Establish a process that broadly engages our community on what the future of policing should look like in San Jose.</p> <p>Explore and return to Council with recommendations on initiatives to help improve community/police relations and opportunities for taking ongoing community feedback as a continuation to the My Brother’s Keeper process as referenced in the Mayor’s memo.</p>	<p>06/16/20 City Council Memorandum (Jones); Item 3.3, #1</p> <p>06/12/20 City Council Memorandum (Peralez); Item 3.6</p> <p>06/12/20 City Council Memorandum (Arenas); Item 3.1, #6</p> <p>06/12/20 City Council Memorandum (Esparza); Item 3.1, #6</p>	Police Department/ City Manager’s Office/ Independent Police Auditor
13. Police Department Participation in GARE Process/Racial Equity	<p>Expand San Jose Police Department’s participation in the GARE Process, in coordination with the Office of Racial Equity. Among the goals SJPD participation in the GARE Process should be:</p> <ul style="list-style-type: none"> Producing internal policies to support diverse recruitment and policies that remove barriers to promotion for officers of color. Ongoing improvements to community policing and community relations. 	<p>06/12/20 City Council Memorandum (Arenas); Item 3.1, #3</p> <p>06/12/20 City Council Memorandum (Esparza); Item 3.1, #3</p>	Police Department/ City Manager’s Office

Tasks	Description	Source of Direction	Who
14. Rules of Professional Conduct for Officers	Begin the process creating Rules of Professional Conduct for SJPD officers – like the rules that govern the legal and medical professions – consisting of specific and objective standards by which San Jose residents can expect officers to behave and be judged.	06/12/20 City Council Memorandum (Diep); Item 3.1, #3c	Police Department/ City Manager’s Office
15. Internal Database: Police Officer History Database	Engage with the San Jose Police Officers’ Association to either join an already established database that tracks officers with histories of misconduct and use of force, or take leadership in creating one.	06/12/20 City Council Memorandum (Jimenez); Item 3.1, #4	Police Department/ City Manager’s Office
16. Public Database: Police Officer Actions	<p>Work to create a public, searchable database that allows the public easy access to information on when SJPD officers are involved in serious uses of force, sexual assault, and dishonesty related to investigations, consistent with what is now legally accessible to the public via Public Records Act requests per SB 1421.</p> <p>Begin a conversation with the Police Officers’ Association to identify what other information on police misconduct may be included in this database in light of the Police Officer’s Bill of Rights.</p>	06/12/20 City Council Memorandum (Diep); Item 3.1, #3a, #3b	Police Department / City Manager’s Office
17. Body-Worn Camera Footage Audits	Return with a recommendation on a process for random audits of officer-worn body camera footage.	<p>06/12/20 City Council Memorandum (Arenas); Item 3.1, #2</p> <p>06/12/20 City Council Memorandum (Esparza); Item 3.1, #2</p>	Police Department/ City Manager’s Office
18. Labor Negotiations	Return to Council in Closed Session to direct City negotiators to commence labor negotiations, to the extent required by the Meyers-Milias Brown Act and related provisions of state law, with the POA and any other relevant bargaining units.	08/18/20 City Council Memorandum (Mayor, Jones, Diep, Carrasco); Item 4.3, #4	City Manager’s Office
19. Independent Investigation of Police Misconduct	<p>Provide Council with specific recommendations for how the Independent Police Auditor (IPA) would take over investigations of police misconduct from SJPD’s internal affairs that would incorporate the following elements:</p> <ul style="list-style-type: none"> • Reallocating resources to introduce investigatory capacity within the IPA by the conclusion of negotiations; • Enabling the IPA to make factual findings based on its investigations of misconduct allegations; and • Enabling the IPA to continue to report concerns between her factual findings and the Department’s disciplinary decisions to the Council and public. 	<p>08/18/20 City Council Memorandum (Mayor, Jones, Diep, Carrasco); Item 4.3, #1</p> <p>11/18/20 Rules Committee Memorandum (Mayor, Carrasco); Item G.4, #2</p>	City Manager’s Office/ Independent Police Auditor/City Attorney’s Office

Tasks	Description	Source of Direction	Who
	<p>Report back to the City Council in public session by March 1, 2021 with a proposed workplan, policy formulation, possible budget impacts, and negotiation schedule for the expansion of the authority of the Independent Police Auditor to include investigation of police misconduct.</p>		
<p>20. Police Officer Disciplinary Appeal Process</p>	<p>Provide Council with specific recommendations to reform the officer disciplinary appeal process—particularly after a termination decision—to either:</p> <ul style="list-style-type: none"> • Identify and implement an alternative to binding arbitration for disciplinary appeals, and/or • Reform the arbitration process to enable greater accountability and transparency, in: <ul style="list-style-type: none"> a. Arbitrator selection; b. Limitation of the arbitrator’s scope of review, such as by requiring deference to the factual findings of the IPA; c. Public disclosure of arbitration decisions; d. Appeal of arbitration decisions to a court of competent jurisdiction; and/or e. Other worthwhile reforms made apparent through discussions with the community and in negotiation with the POA. <p>Include on the list of items to be negotiated in the upcoming Police Officers Association contract the reform of the arbitration process used to challenge disciplinary and termination decisions of the Chief of Police to enable full transparency and accountability.</p>	<p>08/18/20 City Council Memorandum (Mayor, Jones, Diep, Carrasco); Item 4.3, #2</p> <p>11/18/20 Rules Committee Memorandum (Mayor, Carrasco); Item G.4, #3</p>	<p>City Manager’s Office/ Independent Police Auditor/City Attorney’s Office</p>