

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer A. Maguire

SUBJECT: POLICE REFORMS WORK PLAN

DATE: July 13, 2020

Approved



Date

7/13/2020

INFORMATION

BACKGROUND

In response to City Council direction on June 9, June 12, and June 16, 2020, regarding police reforms, the Administration has assembled the various referrals into a Police Reforms Work Plan to guide our collective work. Attached is the work plan for the City Council's reference, with the major tasks identified, a description of each referral with any approved budget amount noted, the source of the direction, and who will be the lead on each task.

Although many of the tasks will need further detailed work plans, consultant assistance, and/or more time to initiate and complete, work has already begun, has been partially completed, or completed on the following items:

- Independent Police Auditor Expansion of Authority and Scope;
- Police Council Items on Regular Agenda;
- Santa Clara County Board of Supervisors/District Attorney Letter;
- Video Clips Release and Review;
- Recent Protests: Police Department After Action Report; and
- Police Duty Manual Amendments.



JENNIFER A. MAGUIRE
Assistant City Manager

For questions, please contact Jennifer Maguire, Assistant City Manager, at (408) 535-8185.

Attachment: Police Reforms Work Plan

POLICE REFORMS WORK PLAN

Major Tasks

Tasks	Description	Source of Direction	Who
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 (Liccardo, 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
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

Tasks	Description	Source of Direction	Who
Santa Clara County Board of Supervisors/District Attorney Letter	<p>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:</p> <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
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. Those videos should include, at a minimum, <ul 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. • 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 (Liccardo, Jones, Peralez, Diep, and Carrasco); Item 3.6, #5	Police Department/ City Attorney’s Office/Independent Police Auditor

Tasks	Description	Source of Direction	Who
Recent Protests: Police Department After Action Report	Develop and agenda 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
Recent Protests: Independent After Action Report	Produce an independent after action incident report of the recent protests. (\$150,000)	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

Tasks	Description	Source of Direction	Who
Use of Force Review	<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 communities of color, criminal justice experts, the police union, the police rank-and-file, the Chief of Police, and the Independent Police Auditor. • 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>(\$150,000)</p>	<p>06/09/20 City Council Memorandum (Liccardo, 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>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>	Independent Police Auditor (Lead Coordinator)/ Police Department/ City Manager’s Office/
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

Tasks	Description	Source of Direction	Who
Public Safety Community Process and Relations/ Future of Policing	<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. (\$100,000)</p>	<p>06/16/20 City Council Memorandum (Jones); Item 3.3, #1</p> <p>06/12/20 City Council Memorandum (Perez); 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
Police Department Participation in GARE Process	<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
<p>Police Duty Manual Amendments</p>	<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 established 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>	<p>06/12/20 City Council Memorandum (Jimenez); Item 3.1, #2a, #2b</p> <p>06/12/20 City Council Memorandum (Diep); Item 3.1, #1a, #1b</p> <p>06/17/20 Rules Committee Memorandum (Liccardo, Jones, Peralez, Diep, Carrasco); Item G.7, #1</p>	<p>Police Department/ City Manager’s Office</p>

Tasks	Description	Source of Direction	Who
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
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
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
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