



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Barbara Attard

SUBJECT: SEE BELOW

DATE: September 7, 2007

**SUBJECT: CITY COUNCIL'S RESPONSE TO THE CIVIL GRAND JURY REPORT
ENTITLED "POLICE MISCONDUCT MAY BE UNDERREPORTED"**

RECOMMENDATION

Accept the City Council's formal response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Police Misconduct May Be Underreported," as authored by the City Manager and City Attorney, with the additional consideration of this memo authored by the Independent Police Auditor.

BACKGROUND

On June 28, 2007 the Santa Clara County Civil Grand Jury (Civil Grand Jury) provided the City with its final report, including findings and recommendations, entitled "Police Misconduct May Be Underreported."

The IPA is in agreement in large part with the September 5 memo authored by the City Manager and the City Attorney in coordination with the Independent Police Auditor. Regarding Recommendation #9, the IPA offers the following clarification.

ANALYSIS

Clarification Regarding City Manager and City Attorney Statement for Finding and Recommendation #9:

The City Attorney opinion issued September 4, 2007 does not acknowledge the authority of the IPA to audit officer-involved shootings.

At the June 21, 2007 Special Council Meeting, the City Council directed the City Attorney to return to the City Council at the first meeting in August with a report on the litigation impacts of moving all in-custody death cases that are a result of a use of force to the same level of auditing by the IPA as officer involved shootings. The City Attorney was further directed to analyze the countywide protocol for in-custody deaths, as well as other critical incidents.

September 7, 2007

Subject: Response to the Civil Grand Jury Report Entitled "Police Misconduct May Be Underreported"

Page 2

In 2004 the Council had authorized the following involvement by the Independent Police Auditor (IPA) after an officer involved shooting:

- (1) The Independent Police Auditor (IPA) will be notified immediately after an officer-involved shooting by the Internal Affairs Commander;
- (2) The IPA may respond to the scene of the officer-involved shooting and contact the Internal Affairs Commander at the outer perimeter of the crime scene;
- (3) The IPA and Internal Affairs Commander will then be briefed as to the details of the incident by on-scene personnel;
- (4) The IPA will be provided with a copy of the Internal Affairs administrative investigation document of the officer-involved shooting for auditing purposes as soon as practical after the criminal case has been concluded, but prior to the closing of the administrative investigation;
- (5) The IPA will coordinate outreach efforts immediately after an officer-involved shooting incident and the SJPD will ensure that it participate in these forums; . . .

Council Action at presentation of IPA 2004 Year End Report

CONCLUSION

The City wishes to thank the members of the 2006-2007 Santa Clara County Civil Grand Jury for their efforts to review and analyze these important issues and bring substantive recommendations to the City Council. The City is sincerely interested in the concerns and perceptions of the individuals interviewed by the Grand Jury.



BARBARA ATTARD
Independent Police Auditor

For additional information on this report please contact Diane Doolan, Office of the Independent Police Auditor, at 794-6226.