



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Debra Figone  
Barbara Attard

**SUBJECT:** SEE BELOW

**DATE:** October 24, 2007

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**SUBJECT: STAFF PROGRESS REPORT OUTLINING THE STATUS OF ALL THE 21 RECOMMENDATIONS ADOPTED AT THE JUNE 21, 2007 SPECIAL COUNCIL MEETING (COUNCIL REFERRAL #21, JUNE 21, 2007)**

### RECOMMENDATION

Accept the progress report, as authored by the City Manager and Independent Police Auditor (IPA), regarding Council Referral #21 from the June 21, 2007 Special Council Meeting on Various Police Related Reports, which states:

**Council Referral #21:** Direct the City Manager to collaborate with the IPA on a report outlining the status of all the recommendations adopted at the Special Council meeting. This report is to be brought forward in conjunction with the IPA's mid-year report.

### OUTCOME

Acceptance of this report will satisfy Council Referral #21 resulting from the June 21, 2007 Special City Council Meeting on Various Police Related Reports.

### BACKGROUND

At the June 21, 2007 Special Council Meeting on Various Police Related Reports, the City Council had the opportunity to discuss San Jose Police Department (SJPD) and Office of the Independent Auditor (IPA) authored reports related to police services, use of force response, classification of complaints or allegations, investigative quality, and SJPD procedures. The City Council directed implementation of 21 referrals to a combination of the City Manager, IPA, and SJPD.

**ANALYSIS**

Since the June 21 meeting, staff from the City Manager's Office (CMO), SJP, IPA, and City Attorney's Office have been working on the Council referrals.

This memorandum and attached matrix provide Council with an update on the completed, outstanding, or ongoing directives. As a note, staff has completed 15 referrals and anticipates completing the remaining six directives by January 2008. Five of the directives reflect ongoing work that the organization will continue to support. Below is a list of outstanding directives, with discussion of staff's efforts to complete these referrals included in Attachment A.

<b>COUNCIL REFERRALS</b>	<b>STAFF LEAD</b>	<b>TARGET COMPLETION DATE</b>
<b>Council Referral #2:</b> Direct the Chief to establish policies on the types of inquiries that should be made a part of the early warning and intervention counseling system.	SJP	January 2008. This referral will be addressed along with Council Referral #18.
<b>Council Referral #7:</b> Direct the City Manager and Independent Police Auditor to work together to develop information packets for individuals contacting the IPA or Internal Affairs Unit (IA).	IPA, SJP & CMO	January 2008
<b>Council Referral #10:</b> Direct the City Manager to work with the IPA and IA to develop a standardized script that explains the inquiry process, which IPA and IA staff will read at the time of intake.	IPA, SJP & CMO	January 2008
<b>Council Referral #17:</b> Direct the Chief to explore alternate terminology for "Inquiries," such as "information request" or "informational query."	SJP	January 2008. This referral will be addressed along with Council Referral #18.
<b>Council Referral #18:</b> Direct the City Manager to work with the Police Chief and IPA to develop a revised complaint process that determines classification based upon objective criteria and definitions for complaint categories. They are to bring regular updates on their progress to the Public Safety Finance and Strategic Support Committee. This will allow the IPA to be involved at the beginning of the process while the City Manager and Chief of Police are developing the criteria. Final recommendations are to be brought back to the City Council within 6 months.	IPA, SJP & CMO	January 2008
<b>Council Referral #20:</b> Direct the City Manager to accept the Police Department's self-initiated practice, as of April 2007, of tracking police officers' names on Inquiries for a six-month period, and direct the City Manager to report on the status of this effort once six months of data are available, along with a staff resource and "value added" impact report.	SJP & CMO	January 29, 2008. This report was originally anticipated to be presented to the City Council in December 2007; however, staff will be better prepared to present a comprehensive report with information pertaining to this referral as well as a discussion on the revised classification definitions and objective criteria.

### **EVALUATION AND FOLLOW-UP**

A final staff report, including the final disposition of all recommendations, will be presented to the full Council on January 29, 2008.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This report does not meet any of the criterions above. Information will be posted on the City's website for the November 6, 2007 Council Agenda process.

### **COORDINATION**

This report has been coordinated with the Independent Police Auditor and Office of the City Attorney. In addition, a copy of this report was shared with the Human Rights Commission.

### **CEQA**

Not a project.



DEBRA FIGONE  
City Manager



BARBARA ATTARD  
Independent Police Auditor

*For additional information on this report, contact Deanna J. Santana, Deputy City Manager at 535-8280; or Barbara Attard, Independent Police Auditor at 794-6226.*



# ATTACHMENT A

## June 21 Special Council Meeting Referrals

Status Report as of October 23, 2007

### High Level Status Report

Completed: 15

January 2008 CompletionTimeframe: 6

Referral#	Referral	Staff Lead(s)	Target Date	Status	Notes
<b>OPEN COUNCIL REFERRALS</b>					
2	Direct the Chief to establish policies on the types of inquiries that should be made a part of the early warning and intervention counseling system	SJPD	January 2008	Open	This Referral will be addressed along with Referral #18.
7	Direct the City Manager and Independent Police Auditor to work together to develop information packets for individuals contacting the IPA or Internal Affairs Unit (IA).	IPA, SJPD & CMO	January 2008	Open	<p>The IA Unit has begun researching materials to be included in the packet. A list of documents for the proposed packet are listed below; packet concept has been shared with the IPA.</p> <ul style="list-style-type: none"> <li>-Agency brochures</li> <li>-Frequently Asked Questions</li> <li>-Complaint Intake Forms</li> <li>-SJPD (IA) Mission Statement &amp; Guiding Principals</li> <li>-IPA Mission Statement</li> <li>-Complaint/Investigation Process</li> <li>-Retaliation Policy Statement</li> <li>-Revised Definitions</li> <li>-Retention File Statement</li> <li>-Voluntary Mediation Program</li> <li>-Request forms for audio recording of interviews</li> </ul> <p>Note: Materials will also be made available online and in Spanish and Vietnamese.</p>
10	Direct the City Manager to work with the IPA and IA to develop a standardized script that explains the inquiry process, which IPA and IA staff will read at the time of intake	IPA, SJPD & CMO	January 2008	Open	A draft script will be developed once Council Referral #18 has been completed. The Complainant Packet can serve as a talking tool for intake officers and IPA staff.
17	Direct the Chief to explore alternate terminology for "Inquiries," such as "information request" or "informational query"	SJPD	January 2008	Open	This Referral will be addressed along with Referral #18.

18	Direct the City Manager to work with the Police Chief and IPA to develop a revised complaint process that determines classification based upon objective criteria and definitions for complaint categories. They are to bring regular updates on their progress to the Public Safety Finance and Strategic Support Committee. <i>This will allow the IPA to be involved at the beginning of the process while the City Manager and Chief of Police are developing the criteria.</i> Final recommendations are to be brought back to the City Council within 6 months.	IPA, SJPD & CMO	January 2008		<p>The first status report was presented to the Public Safety, Finance and Strategic Support Committee on October 18, 2007. The next report is scheduled for presentation in December 2007 and final Council action on January 29, 2008. Below are other key milestones:</p> <p><b>October 31, 2007:</b> Completion of proposed definitions for the SJPD's Citizen Complaint Classifications.</p> <p><b>November 2007:</b> Detailed status report on all 21 referrals will be presented to the City Council along with the IPA's Mid Year Report. Council Referral 21: Direct the City Manager to collaborate with the IPA on a report outlining the status of all the recommendations adopted at the Special Council meeting. This report is to be brought forward in conjunction with the IPA's Mid-Year Report.</p> <p><b>November - December 2007:</b> Development and completion of objective criteria related to the proposed definitions for the SJPD's Citizen Complaint Classifications.</p> <p><b>December 20, 2007:</b> Second progress report on Council Referral #18 will be presented to the Public Safety, Finance and Strategic Support Committee.</p> <p><b>January 15 or 19, 2008:</b> Release of proposed definitions and objective criteria related to the SJPD's Citizen Complaint Classifications.</p> <p><b>January 29, 2008:</b> A final staff report, including recommendations, will be presented to the full Council for action.</p>
20	Direct the City Manager to accept the Police Department's self-initiated practice, as of April 2007, of tracking police officers' names on inquiries for a six-month period, and direct the City Manager to report on the status of this effort once six months of data are available, along with a staff resource and "value added" impact report.	CMO & SJPD	January 2008	Open	Scheduled for presentation to Council in January 2008. This report was originally anticipated to be presented to the City Council in December 2007; however, staff will be better prepared to present a comprehensive report with information pertaining to this referral, as well as a discussion on the revised classification definitions and objective criteria (Council Referral #18).
<b>COMPLETED AND ONGOING COUNCIL REFERRALS</b>					
4	Direct the Chief to continue to incorporate rudeness awareness training and reinforce the need for respectful treatment into regular training for all officers.	CMO & SJPD	September 2007	Completed (ongoing)	Customer training is provided to officers on an ongoing basis throughout their employment with the SJPD. Training is also provided to new recruits during the Police Academy.

5	Add regular monitoring of major downtown nighttime events like Cinco de Mayo and Mardi Gras to the work plan of the Human Rights Commission (HRC).	CMO	Ongoing	Completed (ongoing)	<p>At the September 20, 2007 HRC meeting, the Commission approved the following:</p> <ol style="list-style-type: none"> <li>1. Add regular monitoring of major downtown nighttime events like Cinco de Mayo and Mardi Gras to the workplan of the Human Rights Commission (HRC).</li> <li>2. Collect the names of Commissioners interested in participating in <i>monitoring activities at the meeting prior to the event</i> for submission to the Chief of Police and have Commissioners present their observations/reports at the following meeting.</li> </ol> <p>A friendly amendment was added, that Commissioners who prefer to conduct their own independent monitoring, do so, and report their findings/observations to the Commission.</p>
12	Direct the Police Department to present its rudeness prevention training to the Human Rights Commission	CMO & SJPD	July and August 2007	Completed (ongoing)	<p>Overviews of the Police Department's training modules have been presented to the Commission on two separate occasions (July, August and September 2007). Presentations included discussion of the Police Department's training modules on racial profiling, customer service, communication skills, Crisis Intervention Council, etc. Some of these modules are also being covered during the Citizen's Police Academy. Commissioners have also been invited to observe live Police Academy training sessions with Police staff providing ongoing training updates. Finally, Commissioners have been provided with copies of the Department's Diversity Training DVDs. Police staff will follow up with Commissioners next year on whether a refresher presentation is needed.</p>

14	Add review of the Police Department's cultural diversity training to the work plan of the Human Rights Commission.	CMO	July 2007	Completed (ongoing)	<p>This referral was discussed at the July HRC meeting. Staff explained that the State requires cultural diversity training (CDT) and this is one of the first courses taught to recruits at the Academy. The course is 2 days long and includes hands on training as well as field trips to the different diverse communities in San Jose. Additionally, SJPD CDT will be available for HRC review in 2008.</p> <p>In October 2007, staff provided each Commissioner with DVD copies of the three award winning video series on the Muslim, Sikh and Vietnamese cultures. The training videos, aimed to help officers better understand the different communities in the City and how to communicate more effectively with the City's diverse population, are presented during daily briefings to all Patrol Division officers and will soon be available on the Department's intranet and internet sites. This two-pronged approach of outreach provides training to teach officers about the members of the various cultures with whom they might interact, and it also serves as an outreach tool to the various members of the community who volunteer their beliefs and culture. Production is in process for segments in the Eastern European and Gay, Lesbian, Bisexual and Transgender (GLBT) community. Future segments are planned on the African-American and Latino/Hispanic communities.</p> <p>Finally, the Department is in the process of developing a Courtesy Training DVD that will serve to supplement existing training already in place. The Courtesy Training DVD will be disseminated to both officers and members of the public.</p>
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19	Require an independent and annual evaluation of key performance measures of the SJPD citizen complaint process	CMO & SJPD	October 16, 2007	Completed (ongoing)	The IA Unit has undertaken additional performance management work and review. Specifically, the CMO and IA Unit have engaged Management Partners to conduct an evaluation of the performance measures used by the IA Unit, which includes comparative review of other police department's performance measures, with respect to IA Unit activity, as compared to SJPD. Management Partner's independent review of the IA Unit's current three performance measures concludes that the first measure be eliminated and the second and third be modified to be more meaningful. Staff is in the process of evaluating the consultant report and any changes to performance measures will be submitted as part of the budget development process.
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**COMPLETED COUNCIL REFERRALS**

1	Confirm the Independent Police Auditor's (IPA) right to challenge the Police Department's classification of complaints and inquiries, with ultimate resolution by the City Manager	Council	June 21, 2007	Completed	No additional action required.
3	Direct the Chief to develop a specific policy prohibiting retaliation against complainants	CMO, SJPD	August 2007	Completed	The Chief of Police created a policy to prohibit actual or attempts to threaten, intimidate, mislead, or harass potential or actual complainants and/or witnesses. The Policy was distributed in September 2007.
6	Continue use of the mediation process and publicize its availability.	CMO & SJPD	September 2007	Completed	<p>This Referral will be addressed along with Referral #7. A memo was distributed to staff informing them of the mediation program. Information about the program will also be included in the Complainant Packet referenced in Referral #7. A mediation session is scheduled for November 2007 for a Rude Conduct allegation.</p> <p>As background, the Voluntary Mediation Program is an alternative process for resolving citizen complaints where the alleged misconduct is minor in nature, involves officer demeanor or comportment; or where there is misunderstanding about an enforcement action, neglect of duty or police procedure. Allegations such as rude conduct, improper procedure, missing property, damaged property, or racial profiling are some examples that may be considered for mediation. Use of Force complaints and allegations of criminal behavior are not eligible for mediation and officers may only participate in one session in a 12-month period.</p> <p>NOTE: This year's IA budget for mediation is \$5,000; the average cost for a mediation session is about \$1,500. Publicizing the program could result in increase use of the program. Budget adjustment may be needed.</p>

8	Restrict the inclusion of data regarding the dispute of routine traffic citations from reports of complaints and inquiries until the matter is addressed by the traffic court. Complaints that are strictly disputes of the citation should be resolved by the traffic court and eliminated from the reports of complaints and inquiries	SJPD	June 21, 2007	Completed	The Internal Affairs Unit has implemented this directive.
9	Direct the IPA and IA to develop a packet of intake materials to be given to complainants at both agencies that would include complaint definitions, an explanation of the process, and necessary forms	IPA, SJPD & CMO	January 2008	Completed	This Referral is the same as Referral #7 and will be addressed with that referral.
11	Confirm the IPA's existing authority to review officer-involved shooting and in-custody death cases. Direct 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 and clarify the distinction between in-custody deaths and critical incident.	SJPD in conjunction with the CAO and the DA's Office	September 18, 2007	Completed	On September 18, 2007, the City Council accepted the City Attorney's legal opinion regarding this referral and directed the City Manager to review all death cases that follow the use of force, with the strong recommendation that the Independent Police Auditor (IPA) participate in the review, to the same level of review by the IPA in officer involved shootings, within the limits of the Charter. The IPA's involvement is limited to participation in the officer involved shooting review panel, or a similar panel if created for in custody deaths, except when a complaint is filed therefore triggering an audit or a full review. This direction is subject to discussions with the Police Officers' Association. Staff from the Police Department, City Attorney's Office, CMO and Employee Relations met in September to begin developing the process for the Officer-involved Incident Training Review Panel (OII Review Panel). Anticipated completion time is early 2008.
13	Direct the Independent Police Auditor to add further information- such as whether a complaint was filed, date and city of incident- to data collected at all future public forums regarding the Police Department and to convey this information explicitly in post-forum reports. This same information should be included in reports brought forward by the Human Rights Commission.	IPA		Completed	The IPA will ensure that information regarding date and city of incident is collected at future forums organized by the IPA.
15	Accept the SJPD's self-initiated process to re-establish the Citizens' Police Academy, and grant priority for participation to HRC members	SJPD	July 16, 2007	Completed	Letters were hand delivered to HRC Commissioners on July 19 inviting them to register for the Citizen Police Academy. Classes began on Tuesday, September 26, 2007 (6 p.m. to 10 p.m.) and are held weekly at the Police Department. A graduation ceremony is scheduled on December 4, 2007. Six HRC Commissioners registered to participate in the Academy.  The Citizens' Police Academy is designed to expose individuals to the many facets of the San Jose Police Department, including its mission, hiring procedures, training, organizational structure, and operations.

16	Direct the Chief to conduct deeper data analysis for an annual use of force report. This analysis should include, but is not limited to, the location of arrest, residence of those arrested, and time of day the arrest occurred	SJPD	October 2007	Completed	SJPD has worked with Macias Consulting Group to ensure that data collected facilitates a statistically valid method to extract interpretation, meaning, etc. SJPD will also begin to use Macias Consulting Group to issue select data related reports to ensure that a complete, and correct, independent statistical analysis is provided to the public. The Police Department has made the necessary changes to the Crime Report template and other data collection materials to ensure proper data collection.
21	Direct the City Manager to collaborate with the IPA on a report outlining the status of all the recommendations adopted at the Special Council meeting. This report is to be brought forward in conjunction with the IPA's mid-year report.	IPA, SJPD & CMO	November 6, 2007	Completed	This report constitutes completion of this referral.

